



MARIPOSA COUNTY

Planning • 209-966-5151



RESOLUTION - ACTION REQUESTED 2019-662

MEETING: November 19, 2019
TO: The Board of Supervisors
FROM: Sarah Williams, Planning Director
RE: Land Division Application No. 2019-113 and Land Conservation Act Application No. 2019-114

Public Hearing: Adopt a Resolution Approving Land Division Application No. 2019-113 and Land Conservation Act (LCA) Application No. 2019-114, Finding that the Project is Exempt from Environmental Review. Proposal is to Subdivide One (1) 981 Acres Parcel into Two (2) Parcels, Parcel 1 - 160 Acres and Parcel 2 - 821 Acres and to Modify the Current LCA Contract by Creating Two Separate LCA Contracts. Located at 5027 Agua Fria Road in Mariposa (APN 012-120-0510). David Butler, Applicant. David, Daniel, and Bonnie Butler, Owners.

FINANCIAL IMPACT:

None

ATTACHMENTS:

Staff Report (DOCX)

Attachment A - Vicinity Map (PDF)

Attachment B - BOS Resolution (DOCX)

Attachment C - Notice of Exemption (DOCX)

Attachment D - Tentative Map (PDF)

Attachment E - Site Photos (PDF)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS**

Resolution
No. 2019-662

A resolution approving Land Division Application (LDA) No. 2019-113 and Land Conservation Act (LCA) Contract Modification No. 2019-114 with the recommended findings, conditions and procedural steps; David Butler, applicant/owner; Daniel and Bonnie Butler, owners; Assessor Parcel Number 012-120-051.

WHEREAS, applications for a Land Division and Land Conservation Act contract modification were received on June 28th 2019 from David Butler, for property located at 5027 Agua Fria Road also known as Assessor Parcel Number 012-120-051. The project proposes to subdivide one (1) 981 acres parcel into two (2) parcels, Parcel 1- 160 acres and Parcel 2- 821 acres; and

WHEREAS, Land Conservation Act Contract Modification No. 2019-114 proposes to amend Land Conservation Act Contract No. 2012-091A to create separate contracts for each of the two proposed parcels; and

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

WHEREAS, the Planning Department prepared a report for the Agricultural Advisory Committee in accordance with the review procedures of the committee; and

WHEREAS, the Agricultural Advisory Committee held a duly noticed public meeting on August 29th 2019; and

WHEREAS, the Agricultural Advisory Committee did unanimously recommend that the Planning Commission make a recommendation to the Mariposa County Board of Supervisors to approve the project; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for October 25th 2019; and

WHEREAS, a Staff Report and draft Notice of Exemption were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, 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, the draft Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS, the Planning Commission of the County of Mariposa adopted Resolution No. 2019-016 recommending that the Board of Supervisors approving Land Division Application No. 2019-113 and Land Conservation Act Contract Modification No. 2019-114 and establish new Agricultural Preserves on the resultant parcels and enter into Land Conservation Act Contracts with the applicant covering the subject properties; and

WHEREAS, a duly noticed Board of Supervisors public hearing for the project was scheduled for November 19th 2019; and

WHEREAS, the Board of Supervisors 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; and

WHEREAS, the Board of Supervisors considered the August 29th 2019 Agricultural Advisory Committee and October 25th 2019 Planning Commission recommendations to approve the Land Division Application No. 2019-113 and Land Conservation Act Contract Modification No. 2019-114.

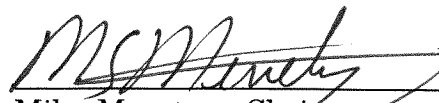
NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby find the project is exempt from environmental review and direct staff to file a Notice of Exemption.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors approves Land Division Application No. 2019-113 and Land Conservation Act Contract Modification No. 2019-114 and establish modified Agricultural Preserves on the resultant parcels and enter into new Land Conservation Act Contracts with the applicant covering the subject property.

BE IT THEREFORE FINALLY RESOLVED THAT this action is based upon the findings set forth in Exhibit 1 and the conditions/steps established in Exhibit 2.

ON MOTION BY Supervisor Long, seconded by Supervisor Jones, this resolution is duly passed and adopted on November 19th 2019 by the following vote:

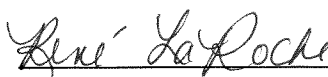
AYES:	SMALLCOMBE, JONES, LONG, CANN, MENETREY
NOES:	NONE
EXCUSED:	NONE
ABSTAIN:	NONE




 Miles Menetrey, Chair
 Mariposa County Board of Supervisors

Attest:

Approved as to Legal Form:



 René LaRoche
 Clerk of the Board of Supervisors



 Steven W. Dahlem
 County Counsel

Exhibit A

Findings for Approval

Land Division Application No. 2019-113

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

EVIDENCE: The project is a two parcel subdivision where no new physical change is proposed, authorized, required, or will occur. The proposed Land Conservation Act contract modification limits residential development and any expansion or new development proposed in the future would undergo separate review at that time for determination of site suitability for the proposed projects.

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 project is a two parcel subdivision where no physical change is proposed, authorized, required, or will occur.

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

EVIDENCE: The project is a two parcel subdivision where no physical change is proposed, authorized, required, or will occur. The existing quarry use must be operated in compliance with all State Surface Mining and Reclamation Act regulations, County regulations and County permitting for mining operations. All Health Department standards for wells and sewage disposal systems must be met. The proper maintenance to these requirements will ensure that serious health problems will not occur on the site. The project site is located in a State Responsibility Area. The project has been reviewed by the Mariposa County Fire Department and CAL FIRE. The land division has been designed to comply with all applicable fire safe requirements. The design and location of each lot and ingress/egress points to the subdivision and individual lots comply with all applicable County standards as well standards contained in PRC sections 4290 and 4291.

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

EVIDENCE: The subdivision proposes two parcels that will meet the minimum parcel size and subdivision requirements for the Agricultural/Working Landscape land use designation. The proposal will maintain the existing agricultural uses and each parcel will have a separate LCA contract, which requires commercial agricultural uses to occur on the parcels.

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

EVIDENCE: The project is a two parcel subdivision where no physical change is proposed, authorized, required, or will occur. The minimum parcel size proposed by the project is consistent with standards contained in the Mariposa County General Plan. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration.

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. No changes to easements are proposed nor required of the land division. Existing access and utility easements are sufficient to serve the project and are not being altered by the project. Additional offers of dedication are required for Aqua Fria Road and Mount Bullion Cutoff Road.

7. **FINDING:** A Parcel Map Waiver was requested by the applicant and is approved for this project pursuant to Mariposa County Subdivision Ordinance §16.12.400.

EVIDENCE: The project is a two parcel subdivision where no physical change is proposed, authorized, required, or will occur. Each of the resultant parcels will be greater than 40 acres in size. The County Surveyor is in support of the waiver.

Findings for Approval

Land Conservation Act Contract Modification No. 2019-114

This project is reviewed in accordance with Mariposa County Resolution No. 10-150 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. **FINDING:** The property is currently and will continue to be used for agricultural purposes. This applies to the entire project site.

EVIDENCE: The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan's purpose.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving

agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining the open space nature of the county. This project will result in the modification of a Land Conservation Act contract, which are 20 year commitments to agriculture and open space uses for the site because the preserve is consistent with the General Plan. The current and past use of the property is for agricultural purposes (cattle grazing). This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** Both contracts will continue to meet the minimum size (160 acres) established by the Board of Supervisors for an agricultural preserve. The use of this property must continue for cattle grazing and/or other Commercial Agricultural Uses or Compatible Uses as specified in the contract.

EVIDENCE: The agricultural preserves / contracts will contain indentured parcels of 160 acres and 821 acres. These contracts meet the minimum size of 160 acres or greater established by the Board of Supervisors for an agricultural preserve for grazing. The use of this property for cattle grazing, and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be for producing an agricultural commodity for commercial purposes. The resultant modified parcels will comply with all standards of the California Land Conservation (Williamson) Act and the Mariposa County Agricultural Preserve Policy. The project site has been used for agricultural purposes for at least three years (cattle grazing), for the production of a commercial agricultural commodity. Objective evidence (biennial reports) has been submitted that the properties have been used seasonally from 2013 to present for grazing.

3. **FINDING:** The modified contracts will restrict the adjusted boundaries for the same term as the existing contract on the properties.
4. **FINDING:** There is no net decrease in the total amount of acreage under contract.
5. **FINDING:** One hundred percent (100%) of the land under the original contract remains under the new contracts.
6. **FINDING:** After the amendment, both contracts will be large enough to sustain their agricultural use (dryland grazing or confined animal operations). This finding is made pursuant to review of the project by the Mariposa County Agricultural Advisory Committee at their meeting on August 29, 2019.
7. **FINDING:** The approval of the Williamson Act Contract Modification is based upon review of the project specific and site specific details of this case, as well as the estate planning needs of the applicant.

Environmental Review Finding

FINDING: This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2), (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and CEQA Guidelines Section 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment).

EVIDENCE: The project is a two parcel subdivision where no physical change is proposed, authorized, required, or will occur. Any expansion or new development proposed in the future would undergo separate review at that time.

Recommendation on Offer of Dedication

The Planning Commission recommends that the Board of Supervisors accept the offers of dedication for public access, maintenance and utilities for Agua Fria and Mt. Bullion Cutoff Roads.

Exhibit B

Conditions of Approval - LDA

1. Project approval is valid for a period of three years from November 19, 2019. This approval shall expire on November 19, 2022.

(Section 16.16.090, Mariposa County Code)

2. A (variable width) dedication of 30 feet from the centerline of Aqua Fria 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 Surveyor. If the Parcel Map is waived, the offer of dedication shall be in a form approved by the County Surveyor and recorded prior to or concurrently with the Certificates of Compliance.
 - a. The offer of dedication shall include all that portion of Aqua Fria Road which is within the proposed Parcel 1.
 - b. The offer of dedication shall include all dedication required to encompass the existing slopes.
 - c. The offer of dedication must be approved and signed by any and all beneficial interests under the trust deeds or the trustee under such trust deeds.

(Section 16.12.150, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy).

3. A dedication of a minimum of 30 feet from the centerline of Mt. Bullion Cutoff 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 Surveyor. If the Parcel Map is waived, the offer of dedication shall be in a form approved by the County Surveyor and recorded prior to or concurrently with the Certificates of Compliance.
 - a. The offer of dedication shall include all that portion of Mt. Bullion Cutoff Road which is adjacent to or within proposed Parcel 2.
 - b. The offer of dedication shall include all dedication required to encompass the existing slopes.
 - c. The offer of dedication must be approved and signed by any and all beneficial interests under the trust deeds or the trustee under such trust deeds.

(Section 16.12.150, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy).

4. 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.

(Mariposa Public Works Recommendation)

5. Certificates of Compliance shall be recorded to complete the Land Division if a Parcel Map Waiver is granted. Certificates of Compliance shall be recorded for each parcel created, Parcel 1 and Parcel 2.

Parcel Map Waiver is subject to approval of the holder or beneficial interests under the trust deeds or the trustee under such trust deeds which encumber the parcels. The acknowledgement of the Trustee must be in a form approved by the County Surveyor.

(Mariposa Public Works Recommendation)

6. 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.

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.

(Mariposa County Code, Section 16.36.030)

Procedural Steps

1. **Preparation of Legal Description (APPLICANT'S RESPONSIBILITY):** Legal descriptions shall be provided for Parcel 1 and Parcel 2 prior to recordation of the Certificates of Compliance (if parcel map is waived) and the modified Williamson Act contracts. The legal descriptions must be prepared by a licensed Land Surveyor and shall be reviewed and approved by the County Surveyor. Upon approval by the County Surveyor of

the legal descriptions, the approved descriptions and a letter of approval from the County Surveyor shall be provided to the Mariposa Planning Department.

(Mariposa Planning Recommendation)

- 2. Preparation of Modified Williamson Act Contracts (MARIPOSA PLANNING RESPONSIBILITY):** In order to complete this project, two amended Williamson Act Contracts will be prepared by Mariposa Planning. Mariposa Planning will coordinate obtaining the signature of the representative authorized by the Board of Supervisors to sign the modified contract. Mariposa Planning will send the original contracts to the property owner(s) involved in the application.

(Mariposa Planning Recommendation)

- 3. Signing and Notarizing the Modified Williamson Act Contracts (APPLICANT'S RESPONSIBILITY):** The contracts must be signed by the property owner(s), and the signature(s) must be notarized.

(Mariposa Planning Recommendation)

- 4. Recordation of Modified Contract and Certificates of Compliance (MARIPOSA PLANNING RESPONSIBILITY):** When the amended contracts have been signed and notarized by both parties, Mariposa Planning will record the contracts concurrently with the Certificates of Compliance required to complete Land Division Application No. 2019-114 (assuming parcel map is waived), or concurrently with the parcel map. **This step completes the Land Division and Land Conservation Act Contract Modification Process.**

(Mariposa Planning Recommendation)

- 5. OPTIONAL- Notice of Exemption (NOE) filing.** This filing notifies the public that Mariposa County has determined the project is exempt from the California Environmental Quality Act (CEQA). While filing is not required by CEQA, it may be filed to shorten the statute of limitations on appeals from 180-days to 35-days. If this option is exercised then the NOE must be posted within five days of October 25, 2019. The County Clerk's Office requires a fee of \$50.00 for the filing of a NOE. If the applicant decides to have the NOE filed, cash or a money order made payable to the Mariposa County Clerk's Office shall be submitted to Mariposa Planning within 4-days of the approval of the project.

(Mariposa Planning Recommendation)

MARIPOSA COUNTY
NOTICE OF EXEMPTION

FILED

NOV 20 2019

TO: County Clerk
County of Mariposa
P.O. Box 247
Mariposa, CA 95338

FROM: Mariposa County
Board of Supervisors
P.O. Box 784
Mariposa, CA 95338

KEITH M. WILLIAMS
MARIPOSA COUNTY CLERK

Karen M. Herman
KAREN M. HERMAN

Project Title: Land Division (LDA) No. 2019-113 and
Land Conservation Act (LCA) Contract Modification No. 2019-114

Project Location: The site is located at 5027 Agua Fria Road in Mariposa. APN 012-120-0510.

Description of Project: Land Division subdivides one (1) 981 acres parcel into two (2) parcels, Parcel 1- 160 acres and Parcel 2- 821 acres. LCA Modification modifies existing LCA Contract No. 2012-091A by creating contracts for the subdivided parcels.

Name of Public Agency Approving Project: Mariposa County Board of Supervisors

Name of Person/Agency Carrying Out Project: David Butler, applicant/owner
Daniel and Bonnie Butler, owners

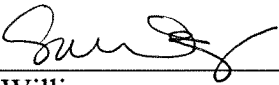
Exempt Status: CEQA Guidelines:

CEQA §15060(c)(2), 15061(b)(3) and §15317.
§15060(c)(2), (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), §15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment) and §15317 (the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act), CEQA Guidelines.

Reason Why Project Is Exempt: The project is a two lot subdivision of a parcel within an agricultural preserve where no physical change is proposed, authorized, required, or will occur. Any expansion or new development proposed in the future would undergo separate review at that time.

Lead Agency Contact Person: Jessica Carey, Assistant Planner

Phone Number: (209) 966-5151



Sarah Williams
Planning Director

11/20/19

Date