

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

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STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION

Resolution

No. 2012-002

**A resolution conditionally approving Land Division Application No. 2011-031; Steve McQueen, applicant. Assessors Parcel Number 012-160-092.**

WHEREAS, an Land Division Application was received on February 09, 2011 from Steve McQueen for a property located at 4028 Guadalupe Creek Road in the Bridgeport area, also known as Assessors Parcel Number 012-160-092; and

WHEREAS, the original project request was to divide the 17.73 acre parcel into 3 parcels of 7.1 acres (Parcel 1), 5.4 acres (Parcel 2), and 5.2 acres (Parcel 3); and

WHEREAS, access to the site is from Guadalupe Creek Road, which is a 60 foot wide non-exclusive easement to Yaqui Gulch Road, a county-maintained road; and

WHEREAS, the original tentative parcel map for the project site shows that the existing driveway, or proposed access easement to all three lots, is approximately 0.75+/- miles to Guadalupe Creek Road; and

WHEREAS, the applicant originally proposed a 60-foot wide non-exclusive easement on-site for a "driveway and public utility purposes" serving as access to the three lots; and

WHEREAS, the proposed 60-foot wide non-exclusive easement encompasses an existing 12-foot wide driveway to existing residential homes on the site; and

WHEREAS, a biological assessment was submitted to Mariposa Planning by the applicant on June 21, 2012 to assist in the environmental review of the project; and

WHEREAS, a duly noticed public hearing was scheduled for the 16<sup>th</sup> day of December 2011; and

WHEREAS, a Staff Report and Initial Study were prepared pursuant to the California Government Code, the California Environmental Quality Act (CEQA), Mariposa County Code, and local administrative procedures. Staff recommended approval of the project with conditions based upon environmental review and agency comments received to date; and

WHEREAS, amendments to the conditions as contained in the staff report were recommended to the Planning Commission in a document to the Commission from staff dated December 16, 2011; and

WHEREAS, on December 16, 2011 the Planning Commission continued the public hearing to January 20, 2012 based upon a request from the applicant and agent; and

WHEREAS, in a letter dated January 11, 2012 and received by the Planning Department on January 17, 2012, Cal Fire submitted additional project comments that the cumulative dead end road length for parcels zoned for 5 acres to 19.99 acres shall not exceed 2,640 feet in length regardless of the number of parcels served. The distance of the proposed subdivision from Yaqui Gulch Road, a county-maintained road is approximately 4,200 feet; and

WHEREAS, on January 17, 2012 the applicant submitted a revised tentative parcel map to the Planning Department which reduces the number of proposed parcels for the project from three (3) to two (2); and

WHEREAS, the revised tentative parcel map proposed to divide the 17.73 acre parcel into parcels of 7.1 acres (Parcel 1) and 10.6 acres (Parcel 2) in size; and

WHEREAS, a memorandum was prepared by staff and submitted to the Planning Commission on January 19, 2012. The staff memorandum provided options for the commission's consideration and included a draft resolution denying the project, the CalFire comment letter received January 17, 2012 and previous comments from CalFire for a similar project; and

WHEREAS, the Planning Commission did hold a continued public hearing on the 20<sup>th</sup> day of January 2012 and considered all of the information in the public record, including the Staff Report and Initial Study prepared for the December 16<sup>th</sup> 2011 public hearing, testimony presented by the public and agencies concerning the application, the comments of the applicant's agent, and the staff memorandum packet to the Planning Commission dated January 19, 2012; and

WHEREAS, on January 20, 2012 the Planning Commission continued the public hearing to March 2, 2012 so that planning staff could work with Cal Fire in addressing dead end road length issue for this land division and future subdivision requests. The Commission also continued this matter so that staff could solicit comments on the revised 2-lot subdivision request; and

WHEREAS, the Planning Commission did hold another continued public hearing on the 2<sup>nd</sup> day of March 2012 and considered all of the information in the public record, including the Staff Report and Initial Study prepared for the December 16<sup>th</sup> 2011 public hearing, testimony presented by the public and agencies concerning the application, the comments of the applicant's agent, and the staff memorandum packet to the Planning Commission dated February 24, 2012; and

WHEREAS, on March 2, 2012 the Planning Commission continued the public hearing to April 6, 2012 so that planning staff could work with the applicant to collect additional fees for the processing of the revised 2-lot land division; and

WHEREAS, the Planning Commission did hold a continued public hearing on the 6<sup>th</sup> day of April 2012 and considered all of the information in the public record, including the Staff Report and an updated Initial Study prepared for the April 6, 2012 public hearing, testimony presented by the public and agencies concerning the application, the comments of the applicant and the agent; and

WHEREAS, the revised Staff Report and updated Initial Study were prepared pursuant to the California Government Code, the California Environmental Quality Act (CEQA), Mariposa County Code, and local administrative procedures.

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

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application No. 2011-031.

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

ON MOTION BY Commissioner Francisco, seconded by Commissioner Tucker, this resolution is duly passed and adopted this 6<sup>th</sup> day of April 2012 by the following vote:

AYES: Francisco, Rudzik, Tucker, and Marsden

NOES:

EXCUSED: Ross

ABSTAIN:



Les Marsden, Chairman  
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary  
Mariposa County Planning Commission

**EXHIBIT 1**  
**PROJECT FINDINGS**  
**FOR**  
**Land Division Application No. 2011-031**

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 of greater than five acres each, and considering the existing development on each parcel, the site is physically suited for low-density homes and appurtenant improvements provided that the conditions of approval are met. The proposed project is located within the Mountain Home zone and the Residential Land Use Classification. The subdivision density is designed in accordance with the Mountain Home zone and 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:** The Initial Study prepared for the project found that based on the approved project description, it would have a less than significant effect on the environment. This project is fairly limited in its scope, and will result in two parcels being created. There is access to the project site already, from a 60 foot wide non-exclusive easement to Yaqui Gulch Road, a county-maintained road. The land is currently and will continue to be used primarily for residential purposes. The project is subject to the California Department of Fish and Game filing fees for a negative declaration as required by California Fish and Game Code §711.4(d)(4) and a County Clerk fee.

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 and continued use for low-density residential purposes are not likely to cause serious health problems. Future residential uses will be required to comply with all Health Department standards for air quality. The implementation of these air quality standards will ensure that serious health problems will not occur on the site. All existing residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection.

4. **FINDING:** The proposed map is consistent with applicable general (Mariposa County General Plan, 2006) and specific plans as specified in Government Code Section 65451.

**EVIDENCE:** This project has been processed in accordance with the Mariposa County General Plan. 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:** This project has been processed in accordance with the Mariposa County General Plan. The minimum parcel size/density proposed by the project is consistent with standards contained in the County General Plan (Residential land use) and the Zoning Ordinance (Mountain Home zone). 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 County General Plan requires that access roads to all newly created subdivisions have adequate capacity.

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. The project will cause no conflict with public access rights. Affected utility companies have reviewed the proposed project, have not objected to the proposal and will be involved with review of future encroachment improvements if needed.

7. **FINDING:** This subdivision project was reviewed in accordance with the access requirements for a subdivision established by Section 16.12.160.B County Code.

**EVIDENCE:** Parcel 1 has approximately 440 feet of frontage along Guadalupe Creek Road, an existing 60 foot wide non-exclusive easement dedicated for public access and utilities by previous maps to Yaqui Gulch Road, a county-maintained road. Based on Parcel 1's frontage along Guadalupe Creek Road, and the existing dedicated easements for Guadalupe Creek Road to Yaqui Gulch Road, access to Parcel 1 complies with the access requirements for a subdivision pursuant to Section 16.12.160.B of the Subdivision Ordinance. Even though there is no driveway on Parcel 1 from Parcel 1's frontage to the existing residence, the Subdivision Ordinance requirements are technically met.

**EXHIBIT 2**  
**CONDITIONS OF APPROVAL**  
**FOR**  
**Land Division Application No. 2011-031**

1. A Verification of Taxes Paid Form, acquired no sooner than 30 days prior to the filing of the parcel map, shall be submitted to the County Surveyor.

(§16.12.395, Mariposa County Subdivision Code)

2. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map OR shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows:

“This subdivision project was reviewed by the Mariposa County Planning Commission and was found to be in compliance with the access requirements for a subdivision established by Section 16.12.160.B County Code. The Mariposa County Planning Commission found that Parcel 1 as shown on the Parcel Map for \_\_\_\_\_ has approximately 440 feet of frontage along Guadalupe Creek Road, an existing 60 foot wide dedicated easement Yaqui Gulch Road, a county-maintained road. Based on Parcel 1’s frontage along Guadalupe Creek Road, the Mariposa County Planning Commission found that the existing easements for Guadalupe Creek Road to Yaqui Gulch Road and access to Parcel 1 complies with the access requirements for a subdivision pursuant to Section 16.12.160.B of the Subdivision Ordinance.”

(Planning Recommendation)

3. Project approval is valid for a period of three years from April 6, 2012. This approval shall expire on April 6, 2015.

(§16.12.430, Mariposa County Subdivision Code)

4. Prior to filing 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 (\$2,101.50 as of 1/1/12) and the County Clerk fee (\$50.00 as of 1/1/12) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, April 13, 2012), 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, April 13, 2012 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$2,151.50 (effective 1/1/12), 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.

Note, the filing fees are adjusted annually, effective January 1<sup>st</sup> of each year, pursuant to Fish and Game Code.

(§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game Code)

5. The Property Owner (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 (*by 5:00 p.m. on Thursday April 26, 2012*).

Non-compliance with this condition may result in revocation of project approval by the county.

(§16.36.030, Mariposa County Subdivision Ordinance)

6. Cultural resources shall not be altered, disturbed, removed, or destroyed. If any cultural resources or archeological materials are uncovered during ground disturbance or construction activities in the future, Mariposa County authorities and/or a qualified archeologist shall be notified immediately by the applicant or his representative and construction work shall be stopped in this area until mitigation is established by appropriate professional(s) meeting the Secretary of Interior qualification standards. Should human remains be encountered, the County Coroner must also be notified within 48 hours. If the remains are Native American, the coroner must notify the Native American Heritage Commission within 24 hours.

(Recommended CEQA Condition of Approval)

7. 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 or include the disclosure statement on an additional map sheet which indicates its relationship to the parcel map. The disclosure statement shall be the following:

“This notice is not intended to affect record title interest. Water supplies for residential lands are derived from private wells on Parcels 1 and 2 as shown on the Parcel Map for \_\_\_\_\_. 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.”

(Mariposa County General Plan, Section 5.3.02.E(4))

8. The applicant shall obtain a land development Burn Permit from the Mariposa County Air Pollution Control District prior to lighting any fires to dispose of brush, grass, trees and other flammable debris generated during ground clearing activities.

(Air Pollution Control District Recommendation / Regulations)

9. If the applicant has not drilled a well on Parcel 1 for the existing residence (on Parcel 1) prior to recordation of the parcel map, an access easement for the existing well on Parcel 2 shall be created for the use and benefit of Parcel 1. The access easement shall be located such that physical access can be made to the well from the access road on Parcel 2 and the well should have physical access from both Parcel 1 and Parcel 2 for maintenance. The width of the easement shall be 20 feet minimum. Additionally, a shared maintenance agreement shall be recorded concurrently with and referenced on the Parcel Map describing the property owner's responsibilities for sharing in all costs associated with the routine maintenance and upkeep of the existing well. All testing requirements of the Health Department for any well, existing or new, shall be met prior to recordation of the parcel map.

(Planning Staff and Health Department Staff Recommendation)