

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

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION**

Resolution

No. 2012-013

A resolution conditionally approving Conditional Use Permit No. 2012-083; Sierra Propane, applicant. Assessor Parcel Number 012-050-064.

WHEREAS an application for a Conditional Use Permit was received on May 17, 2012 from Sierra Propane for a property located at 5672 Gold Leaf Drive in Mariposa, also known as Assessor Parcel Number 012-050-064; and

WHEREAS the project proposes to install an 18,000 gallon above-ground propane tank and provide temporary storage for 8-10 residential-sized, empty propane tanks in the Planned Development Zone 87-1 and Airport Overlay; and

WHEREAS Planned Development Zone 87-1 was approved by the Mariposa County Board of Supervisors through the adoption of Ordinance No. 696 on October 13, 1987 after duly noticed public hearings were held before the Mariposa County Planning Commission and the Mariposa County Board of Supervisors; and

WHEREAS the storage of propane and propane tanks is compatible with the uses permitted by the PDZ; and

WHEREAS Planned Development Zone 87-1 requires a use permit for all uses in this zone to be issued by the Mariposa County Planning Commission; and

WHEREAS the Planning Commission determined in accordance with Section 15162 of the California Environmental Quality Act Guidelines and local administrative procedures that because the project complied with all applicable conditions and mitigation measures of the Mitigated Negative Declaration for Planned Development Zone 87-1 and there has been no change to the circumstances of the PDZ, the project was therefore exempt from additional environmental review; 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 the 3rd day of August 2012; and

WHEREAS a Staff Report and 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, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS Section 17.112.010 of the Mariposa County Zoning Ordinance identifies the Mariposa County Planning Commission as the final county review authority for this application;

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby find that the project is exempt from environmental review; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Conditional Use Permit No. 2012-083; 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 Rudzik, seconded by Commissioner Francisco, this resolution is duly passed and adopted this 3rd day of August, 2012 by the following vote:

AYES: TUCKER, MARSDEN, FRANCISCO, RUDZIK

NOES: NONE

EXCUSED: ROSS

ABSTAIN: NONE



Les Marsden, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

Exhibit 1—Project Findings for CUP 2012-083

1. **FINDING:** Adequate open space is provided by this proposal. (§17.112.040.A, Mariposa County Zoning Code)

EVIDENCE: The proposed project leaves adequate open space as it will cover less than 10% of the total area of the parcel. The only portion of the parcel not left as open space are the graded areas where the driveway and building pad are, which is where the propane tanks will be stored. The applicant will provide for a method of screening the site from public view. Screening will be in the form of non-combustible fencing or landscaping or a combination of both; this, in combination with the site's topography and natural vegetation, will effectively screen the project.

2. **FINDING:** The site is physically suited for the proposed development. (§17.112.040.B, Mariposa County Zoning Code)

EVIDENCE: A portion of the parcel has been previously graded through a permit process and includes a driveway and building pad. The site has sufficient access for the level of traffic that will be generated by the proposed use. The site is in a Planned Development Zone of Mariposa County, which has been planned and designed to accommodate industrial activity in the County. Surrounding land uses are compatible with the project.

3. **FINDING:** Adequate provisions have been made for sewage disposal and the handling of solid waste. (§17.112.040.C, Mariposa County Zoning Code)

EVIDENCE: An engineered septic system has already been installed under permit by the Health Department. The on-site septic system will be shared with the parcel across Gold Leaf Drive. There is an on-site easement from the road to the septic system for the benefit of the occupants of the parcel across the street.

4. **FINDING:** The proposed development will have adequate potable water for public use and fire protection. (§17.112.040.D, Mariposa County Zoning Code)

EVIDENCE: There is a fire hydrant in the industrial park that is located approximately 200 feet from the parcel along Gold Leaf Drive that was installed along with a shared water system as part of the conditions of approval for the land division that created this parcel. The project will not connect to the shared water system because there will be no customers coming to the project site nor will there be any full-time employees on-site. There is a shared well on-site. In addition, the Health Department expressed no concerns about the availability of water. The Planned Development Zone has standards for fire prevention and protection; however, no structures will be built on-site which would require the installation of a sprinkler system. The project site will be protected from fire by use of the fire hydrant located in the vicinity of the site that was installed for the protection of the parcels within the industrial park.

5. **FINDING:** The project proposal complies with all standard and special setback requirements and adequate buffers have been provided for adjacent land uses. (§17.112.040.E, Mariposa County Zoning Code)

EVIDENCE: The Planned Development Zone creates setback standards for the parcels governed by it. There are no structures proposed for the site. The propane storage tank and the smaller, empty propane tanks will be located approximately in the center of the parcel. The applicant will be required to landscape and screen the propane tanks and parking area from view. The location of the parking and propane tanks and the use of screening will ensure an appropriate buffer exists to the adjacent land uses. The natural features of the property will also help serve as an effective screen. Thus, this project will meet all setback requirements set forth in Planned Development Zone 87-1.

6. **FINDING:** Appropriate access is available or is proposed to the development. (§17.112.040.F, Mariposa County Zoning Code)

EVIDENCE: The project will take access from Copper Leaf Drive through Gold Leaf Drive, both privately-maintained, paved, 60-foot-wide easements which have been previously approved and built to County standards. Caltrans had no concerns about the project except to prohibit direct access to Highway 49. Copper Leaf Drive and Gold Leaf Drive both are in good condition and have sufficient capacity for the minimal traffic this project will generate. Further, a traffic study was conducted for the land division that created this parcel and evaluated traffic conditions at full build-out of the industrial park; the study concluded that no road modifications were necessary.

7. **FINDING:** The proposed use is consistent with the policies and standards of the general plan and any applicable specific plan. (§17.112.040.G, Mariposa County Zoning Code)

EVIDENCE: The proposed project is located in Planned Development Zone 87-1, Mariposa Industrial Park. The Planned Development Zone was designed and established for manufacturing and industrial uses in Mariposa County. Upon completion of the recommended conditions of approval, the project will be consistent with the standards of the Planned Development Zone. In addition, the Mariposa County General Plan notes that "the Board of Supervisors determined that the existing zoning on land within the Agriculture/Working Landscape and Natural Resource land use designation as of December 1, 2006 is consistent with the land use designations and ...the existing zoning designation shall remain consistent with the General Plan land use classification unless or until the owner requests a change in zone designation, or the County applies a new zone designation to the land." (County of Mariposa General Plan Section 5.1.14)

8. **FINDING:** The project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or it has been determined that the significant effects are unavoidable and acceptable due to overriding concerns. (§17.112.040.H, Mariposa County Zoning Code)

EVIDENCE: On October 21, 1987, the Board of Supervisors adopted a mitigated Negative Declaration for Planned Development Zone (PDZ) 87-1 pursuant to the California Environmental Quality Act (CEQA). The mitigated Negative Declaration considered the environmental impacts of an industrial park and its uses. This project and recommended conditions of approval will ensure that development complies with all development standards of the PDZ. No changes are being proposed to the industrial park and PDZ since the industrial park and zone was first evaluated for environmental impacts. Since the PDZ was evaluated for possible environmental impacts and an environmental determination was adopted when the PDZ was approved, no further environmental analysis is required pursuant to CEQA. As such, a Notice of Exemption will be filed for this project.

9. **FINDING:** The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county. (§17.112.040.I, Mariposa County Zoning Code)

EVIDENCE: The use permit is for an outdoor bulk propane storage and refueling facility. The Mariposa Industrial Park has been considered and approved by the Board of Supervisors as an appropriate location for industrial activities and specific development standards have been incorporated into the Planned Development Zone to ensure that industrial activity is not detrimental to the neighborhood and County. Additionally, conditions of approval are recommended to ensure compliance with all standards of the PDZ. The location of a bulk propane storage site in the industrial park will not be detrimental to the property and improvements in the neighborhood or to the general welfare of the county.

10. **FINDING:** The project is consistent with all use and development standards of Planned Development Zone No. 87-1. The project, upon compliance with all recommended conditions of approval, is consistent with the applicable standards.

EVIDENCE: The project has been reviewed in accordance with all use and development standards established by Planned Development Zone No. 87-1. The project, upon compliance with all recommended conditions of approval, is consistent with those standards.

Exhibit 2—Project Conditions for CUP 2012-083

Project Name: Sierra Propane

Project Approval Date: August 3, 2012

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies.

1. **Project:** The use permit is approved for placement of an 18,000 gallon propane tank for bulk propane storage and refueling, and for the storage of up to 10 residential-sized empty propane tanks in the Mariposa Industrial Park, Planned Development Zone No. 87-1. The property is located at 5672 Copper Leaf Drive on APN 012-050-064.

Approved hours of operation are Monday through Friday 7 a.m. to 7 p.m.

The facility shall meet all standards of the Planned Development Zone as established by Mariposa County Ordinance No. 696. Any change in configuration, materials, equipment utilization, or periods of operation may be approved by the Planning Director pursuant to the PDZ provided that any expansion does not exceed 10% of the size of the area of the approved facility (any amount of a reduction in size of area of the facility may be allowed), and provided a finding can be made that the modification does not create impacts which were not addressed in the original approval.

(Project Description; Planning Department Recommendation)

2. **Screening:** All outdoor storage and parking areas shall be visually screened from access roads, State Highway 49, and adjacent property to the maximum feasible extent. Screening shall form a complete opaque screen up to a point of eight (8) feet in vertical height but need not be opaque above that point. Landscaping is encouraged for use for screening along the Highway 49 frontage.

(PDZ 87-1)

3. **Landscaping Plan:** A landscaping plan that complies with the requirements established by Planned Development Zone 87-1 shall be submitted to and approved by the Planning Director prior to issuance of a building permit. The front yard setback area of each parcel shall be landscaped with an effective combination of trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped or revegetated for erosion control. Areas used for parking shall be landscaped and/or fenced so as to interrupt or screen views from access streets, State Highway 49, and adjacent properties where possible, within 7 years of planting. Plant materials used for this

purpose shall consist of lineal or grouped masses of shrubs and/or trees. Upon approval of the landscaping plan, the landscaping shall be planted. All landscaping shown on the approved landscaping plan shall be in place prior to issuance of a building permit.

(PDZ No. 87-1; Planning Department Recommendation)

4. **Privacy Fencing:** Privacy fencing shall not be higher than twelve feet. Fencing taller than six feet may require a building permit. Fencing shall not incorporate combustible materials.

(Planning Department Recommendation; PDZ 87-1)

5. **Lighting:** Lighting was not proposed with this application. If exterior lighting is to be installed, exterior security lights shall not be higher than fifteen feet above ground. Security lights shall not be directed toward anything off-site, including neighboring parcels, Copper Leaf Drive, and State Highway 49 North. Lighting, if used, shall be full cut-off fixtures and shall not create off-site impacts. A lighting plan shall be submitted to and approved by the Planning Department prior to issuance of a building permit if lights are to be used.

(PDZ No. 87-1; Planning Department Recommendation)

6. **Signage:** No signage has been proposed with this application. If signs are to be installed, they must conform to the standards set forth in PDZ 87-1. Before any sign is installed, a sign plan shall be submitted to and approved by the Planning Department prior to installation.

(PDZ 87-1; Planning Department Recommendation)

7. **Parking:** The applicant shall install a minimum of three parking spaces on-site; either paved (10 feet by 20 feet) or graveled (500 square feet per one parking space).

(Planning Department Recommendation; Section V, PDZ 87-1)

8. **Revegetation:** All cut and fill slopes on-site shall be revegetated. If slopes are too steep and conventional seed and straw is not successful, engineered recommendations (such as blanket) may be necessary.

(PDZ 87-1; Planning Department Recommendation)

9. **Gated Access:** Any gated access shall be approved by the fire department and emergency access arrangements made prior to occupancy.

(County Fire Recommendation)

10. **Material Storage:** Storage of all materials will comply with the California Fire Code.

(County Fire Recommendation)

11. **Compliance with Building and Fire Codes:** The project, including the on-site fire access road and the availability of water within the industrial park for fire fighting on the subject parcel, shall comply with all Uniform Building and Fire Code Standards prior to issuance of a building permit. This includes all standards of PRC 4290, PRC 4291, Mariposa County Fire, the Uniform Fire Code, and any requirements of the State Fire Marshall's Office (if applicable) and shall remain in compliance for the life of the project. Failure to do so may result in revocation of this Conditional Use Permit.

(Planning Department Recommendation)

12. **Fees Due:** Prior to the issuance of a building or grading permit, all fees associated with the County's processing of this project shall be paid.

(Planning Department Recommendation)

13. **Grading:** Prior to any grading activity occurring on the project site, the applicant shall demonstrate to the satisfaction of the Mariposa County Air Pollution Control District that they are meeting the requirements of the asbestos air toxic control measures regarding construction and grading.

(California Code of Regulations Title 17, Section 93105; Health Department Recommendation)

14. **Approval Timeframe:** Project approval is valid for a period of three years from August 3, 2012. The Use granted by this Conditional Use Permit must be established by issuance of a building permit prior to August 3, 2015. If applicant is unable to establish the Use prior to August 3, 2015, he/she may apply for an extension of one and one half (1.5) years. The request for an extension must be made prior to August 3, 2015 in order to be considered.

15. **Indemnity Agreement:** The Applicants (Applicant) 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, Applicant 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 Applicant'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 Applicant 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 Thursday, August 23, 2012).** Non-compliance with this condition may result in revocation of project approval by the county.

16. **Non-Compliance Grounds for Permit Revocation:** Non-compliance with any of the conditions of approval for Conditional Use Permit (CUP) No. 2012-083 may be grounds for revocation of the CUP. This condition shall remain in effect for the life of the project.

17. **Optional Step/CEQA:** The applicants may opt to have Mariposa Planning file the Notice of Exemption (NOE) prepared for this project. This filing notifies the public that Mariposa County has determined that the California Environmental Quality Act (CEQA) does not apply to the project. While filing is not required, it shortens the statute of limitations on appeals from 180 days to 35 days. If applicants opt to file, the NOE must be posted within five days of August 3, 2012. The County Clerk's Office requires a fee of \$50.00 for the filing of the NOE. If the applicants opt to file, the applicants shall submit to Mariposa Planning a cashier's check or money order made payable to the Mariposa County Clerk's Office for that amount **within four (4) days of the approval of the Conditional Use Permit (by Tuesday, August 7, 2012).**