

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2009-021

A resolution conditionally approving Land Division No. 2009-098, Howard and Joy Dudley, applicants. Assessor Parcel Number 014-250-018.

WHEREAS an application for Land Division No. 2009-098 was received on July 6, 2009 from Howard and Joy Dudley, applicants and Alan Johnson/Habitat For Humanity, agent, for a property located at 4146 Sebastopol Road, also known as Assessor Parcel Number 014-250-018; and

WHEREAS Land Division Application No. 2009-098 proposes to divide a 10.05 acre parcel into two parcels of approximately 5.03 and 5.02 acres; 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 25th of September, 2009; and

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

WHEREAS a Staff Report and Initial Study 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 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 approve a Negative Declaration; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division No. 2009-098; 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 Francisco, seconded by Commissioner Marsden, this resolution is duly passed and adopted this September 25, 2009 by the following vote:

AYES: Ross, Tucker, Rudzik, Francisco, Marsden

NOES: None

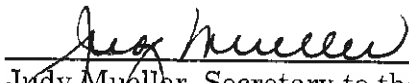
EXCUSED: None

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

Attachments:

Exhibit 1: Project findings as approved by Planning Commission

Exhibit 2: Project conditions as approved by Planning Commission

Exhibit 1

PROJECT FINDINGS for
Land Division No. 2009-098

This land division application has been processed and reviewed in accordance with standards set forth in the Subdivision Map Act and Title 16, County Subdivision Ordinance. When the required conditions are met, the project will be in compliance with the Subdivision Map Act and the County Subdivision Ordinance. Pursuant to Mariposa County Subdivision Ordinance, Section 16.16.040.B.3, and based on the evidence presented in the staff report and comments provided at the public hearings, the following Findings are recommended:

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 5.0296 acres and 5.0204 acres, 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 and the Residential Land Use. The subdivision density is designed in accordance with the Mountain Home zone and the Residential Land use.

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. 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 for a negative declaration as required by AB 3158 and Senate Bill 1535 and County Clerk fees.

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 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. All future 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: The land division is the initial step in the process to help accomplish the General Plan's Housing Element overall goal to "*Provide opportunities for an adequate supply of sound, affordable housing units for ownership and for rent in a safe and satisfying environment for the present and future residents of the County.*" The land division satisfies the following Housing Element Objectives, including: "*Provide Adequate Sites and Services*". There is no specific plan governing this property. In addition, Sebastopol Road has adequate capacity for the potential traffic volume generated by the total number of existing lots and those which are proposed by the project.

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

EVIDENCE: The minimum parcel size, minimum density, and building intensity proposed by the project is consistent with standards contained in the Residential Land use of the General Plan and the Mountain Home zone of 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 any special, specific, community, or area plan at this time.

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 proposed project and have not objected to the proposal.

Exhibit 2
**Conditions of Approval for
 Land Division Application No. 2009-098**

Project Name: Land Division for Howard and Joy Howard

Approval Date: 9-25-09

The following conditions of approval and mitigation measures were approved for this project in order to ensure compliance with county codes and policies, and to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist indicates that the conditions and mitigation measures have been complied with and implemented, and fulfills the County of Mariposa's Mitigation Monitoring requirements with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6)

Sign-Off Checklist for Conditions of Approval		
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT	MONITORING DEPARTMENT	VERIFIED IMPLEMENTED
<p>1. A declaration shall be recorded with the parcel map, referenced on the parcel map and made appurtenant to Parcel A and Parcel B. The declaration shall state the following: "Approved access for residential development of Parcel A and Parcel B, as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records is from Sebastopol Road. No access will be allowed from these parcels to State Highway 49." The County Engineer will confirm that this condition has been met prior to map recordation. (Planning Department Recommendation)</p>	PUBLIC WORKS	
<p>2. All portions of the on-site easement road for Sebastopol Road within Parcels A and B shall be a minimum of 60 foot wide and non-exclusive. The easement shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state that the dedications are for "public road and utility purposes." [SECTION 16.12.160.B, COUNTY SUBDIVISION ORDINANCE: ROAD STANDARD CROSS-SECTIONS, ROAD IMPROVEMENT AND CIRCULATION POLICY.]</p>	PUBLIC WORKS	

<p>3. The on-site easement from the end of the county-maintained portion of Sebastopol Road (the northeastern boundary of Parcel B) to the proposed boundary of Parcel A and Parcel B shall be improved to a Rural Class I Paved or Rural Class II Gravel SRA per Chart A standard and shall meet this standard at the time of parcel map recordation. 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 at the time of 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.</p> <p>[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. Immediately upon completion of the required road improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Resource Conservation District (RCD). The applicant shall also contact the RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter shall be submitted to the County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed prior to the recordation of the parcel map.</p> <p>(Road Improvement and Circulation Policy)</p>	<p>PUBLIC WORKS</p>	
<p>5. A road maintenance association shall be formed for the maintenance of the on-site easement road. 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 the filing of the map and shall:</p> <ul style="list-style-type: none"> a. Be in effect for the life of the project unless said maintenance is taken over by the County, a special district, or other governmental entity. b. Provide for annual maintenance and the immediate correction of emergency and hazard situations. c. Include 100% of the parcels in the subdivision served by the access road. d. Provide a mechanism for the road maintenance association to 	<p>PUBLIC WORKS</p>	

<p>collect delinquent payments or assessments for the maintenance described above by filing a lien on the delinquent properties. e. Provide a mechanism for new parcels to be added to the association.</p> <p>(Public Works Department Recommendation; Road Improvement and Circulation Policy)</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 permits for the required improvements, a consultation meeting with the Public Works Department, the applicant, the road contractor, and the agent 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 Recommendation)</p>	<p>PUBLIC WORKS</p>	
<p>7. 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.</p> <p>[COUNTY SUBDIVISION ORDINANCE SECTION 16.12.395]</p>	<p>PUBLIC WORKS</p>	
<p>CONDITION OF APPROVAL / MARIPOSA PLANNING</p>		
<p>8. The on-site easement shall be named in accordance with County Resolution No. 92-541. The name of the road shall be Sebastopol Road. A Road Name Request application shall be submitted to the Planning Department and be approved by the Board of Supervisors. The name of the road within the project site shall be shown on the parcel map.</p> <p>(County Resolution No. 92-541)</p>	<p>MARIPOSA PLANNING</p>	
<p>9. Project approval is valid for a period of three years from September 25, 2009. This approval shall expire on September 25, 2012.</p> <p>[MARIPOSA COUNTY SUBDIVISION CODE SECTION 16.12.430]</p>	<p>MARIPOSA PLANNING</p>	
<p>10. The Property Owner shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof,</p>	<p>MARIPOSA PLANNING</p>	

<p>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>[COUNTY ORDINANCE NO. 1017]</p>		
<p>11. 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 (\$1,993.00 as of 1/1/09) and the County Clerk fee (\$50.00 as of 1/1/09) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, October 2, 2009), 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, October 2, 2009 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 \$2,043.00 (effective 1/1/09), 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.</p> <p>Note, the filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.</p>	<p>MARIPOSA PLANNING</p>	

<p>(§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code)</p>		
<p>12. Subdivision Map Act Section 66434.2 applies to the recordation of the parcel map for this project. (Planning Department Recommendation)</p>	<p>Mariposa Planning</p>	
<p>CONDITION OF APPROVAL/ HEALTH DEPARTMENT</p>		
<p>13. Percolation tests and soils analysis tests shall be performed on Parcel A in accordance with Health Department rules and regulations and Health Department Policy 03-01. A report meeting the requirements of Health Department Rules and Regulations shall be submitted to the Mariposa County Health Department and be approved by the County Environmental Health Specialist prior to recordation of the parcel map. A letter from the County Environmental Health Specialist shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcel. If the Health Department approves the use of Standard Septic Systems then 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 Parcel A 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 an approved percolation tests, additional percolation tests and design recommendations may be required.”</p> <p>If the Health Department approves the report based on the use of special design or engineered septic systems then a statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>“Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on Parcel A as shown on the Parcel Map for _____, filed in Book ____ at Page ____, Mariposa County Records, based upon limiting soil conditions; however, the test results meet the Health Department Land Division policy requirements for use of engineered, alternative design on-site sewage disposal systems. The State of California is in the process of developing Statewide on-site sewage disposal regulations that could affect the future installation of engineered, alternative design on-site sewage disposal systems; therefore, buyers are encouraged to check with the Mariposa County Health</p>	<p>HEALTH DEPARTMENT</p>	

<p>Department regarding State or local regulation changes that could affect the installation of an on-site sewage disposal system on this parcel.</p> <p>Additionally, a notice shall be filed concurrently with the parcel map and referenced on the parcel map which states: "The property described as Parcel A as shown on the Parcel Map for _____, filed in Book ____ at Page _____, Mariposa County Records, is required to be served by an alternative design on-site sewage disposal system which is to be installed in the exact area tested and approved by the Health Department unless the Health Department approves an alternate location as described below. Construction plans for the alternative design on-site sewage disposal system must be submitted to and approved by the Mariposa County Health Department prior to the issuance of a development permit for any construction activities other than a private well. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Health Department. The alternative design on-site sewage disposal system is to be maintained in accordance with Mariposa County Health Department Policy 03-01 which states, "A maintenance entity shall be required prior to approval and installation of a special design sewage disposal system on a land division. In lieu of a public entity, an operation and maintenance protocol may be submitted for approval by the manufacturer of a specific technology." Said maintenance entity shall be created to provide maintenance on the engineered sewage disposal systems prior to issuance of a development permit for residential construction activities other than a private well.</p> <p>In the event that additional soils testing is conducted demonstrating that an alternative design on-site sewage disposal system is not necessary, the Mariposa County Health Department may allow the use of a conventional on-site sewage disposal system in the newly tested area. Any newly tested area requiring the use of an engineered alternative design on-site sewage disposal system must meet the same minimum soils requirements of Health Department policy 03-01 as a newly created parcel."</p> <p>(Section 16.12.330, County Subdivision Ordinance; Health Department Recommendation)</p>		
<p>14. Prior to recordation of the parcel map the applicant shall demonstrate to the satisfaction of the Mariposa County Health Department that the on-site sewage disposal system on proposed Parcel B is located wholly on that parcel, meets all required setbacks and requirements for future development, and that there is adequate area, as determined by the Health Department, for future</p>	<p>HEALTH DEPARTMENT</p>	

<p>replacement of the system. In the event that a portion of the septic system is determined to encroach upon the setback from the property line, the location of the property line shall be adjusted accordingly or the septic system shall be replaced to a location that meets all setbacks.</p> <p>(Health Department Recommendation)</p>		
<p>CONDITION OF APPROVAL/ CALIFORNIA DEPARTMENT OF FOREST AND FIRE PROTECTION</p>		
<p>15. 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 style="padding-left: 40px;">“Future residential development on Parcels A and B as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, shall be required to conform with all applicable SRA Fire Safe Regulations (Public Resources 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 Resources Code 4291.”</p> <p>Evidence that this condition has been satisfied shall be in the form of a letter from the California Department of Forest and Fire Protection (Cal Fire) to the County Surveyor.</p> <p>(California Public Resources Code)</p>	<p>Cal Fire</p>	
<p>CEQA MITIGATION MEASURES</p>	<p><i>MONITORING DEPARTMENT</i></p>	<p><i>VERIFIED IMPLEMENTED</i></p>
<p>16. 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 associated with compliance with the conditions of approval for this project, 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.</p> <p>(Mitigation Measure; Planning Staff Recommendation)</p>	<p>MARIPOSA PLANNING</p>	

Agency Contact List				
AGENCY	CONTACT	PHONE NUMBER EMAIL	SITE ADDRESS	MAILING ADDRESS
Mariposa Planning	Karen Peneschi	209-742-1219 kpeneschi@mariposacounty.org	5100 Bullion Street Mariposa CA 95338	P.O. Box 2039 Mariposa CA 95338
Public Works	Jerry Freeman	209-966-5356	4639 Ben Hur Road Mariposa CA 95338	Same as site
Health Department	Dave Conway	209-966-2220	5100 Bullion Street Mariposa CA 95338	P.O. Box 5 Mariposa CA 95338
Mariposa County Resource Conservation District	Dawn Afman	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Sarah Wise	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35 Mariposa CA 95338
County Fire	Jim Wilson	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal. Dept of Forestry and Fire Protection	Matt Watson	209-966-3622	5366 Highway 49 North Mariposa CA 95338	Same as site

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.