

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. 2007-031

**A resolution approving a Conditional Certificate of Compliance for Certificate of Compliance Application No. 2006-155; Yosemite Mountain LLC (Jeff Hornacek), applicant. Assessors Parcel Number 006-150-006.**

WHEREAS an application for a Certificate of Compliance was received on April 25, 2006 from Yosemite Mountain LLC (Jeff Hornacek), for a property located at 7555 Henness Ridge Road in the Yosemite West area, near the intersection of Henness Ridge Road and Henness Circle also known as Assessor Parcel Number 006-150-006; and

WHEREAS the project is a request for Certificate of Compliance for a 15.054-acre portion of the remaining property resulting from the Yosemite West subdivision; and

WHEREAS upon application for a Certificate of Compliance, the County reviews the parcel history pursuant to the Subdivision Map Act and the Mariposa County Subdivision Ordinance; and

WHEREAS the Subdivision Map Act establishes the procedures the County must follow and the actions the county may take relative to the application; and

WHEREAS a duly noticed public hearing was scheduled for the 20<sup>th</sup> day of July 2007; 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 adopt a Negative Declaration.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve the recordation of a Conditional Certificate of Compliance for Application No. 2006-155.

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

ON MOTION BY Commissioner Skyrud seconded by Commissioner DeSantis, this resolution is duly passed and adopted this 20<sup>th</sup> day of July 2007 by the following vote:

AYES: Francisco, Rudzik, Skyrud, and DeSantis

NOES: None

EXCUSED: Ross

ABSTAIN: None



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Robert L. Rudzik, Chair  
Mariposa County Planning Commission

Attest:



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Carol Suggs, Secretary to the  
Mariposa County Planning Commission

**EXHIBIT 1**  
**PROJECT FINDINGS**  
**FOR**  
**CERTIFICATE OF COMPLIANCE No. 2006-155**

1. The Planning Commission approves issuance of a conditional Certificate of Compliance to APN 006-150-006, based upon study of the conditions which would have been applicable to the “remaining acreage” parcels, had they been created legally in 1971 through the major subdivision process (at the time of the recordation of the Corporation Grant Deed on September 21, 1971, recorded in Mariposa County Official Records, Vol. 130, Pg. 311).
2. The Mariposa County Planning Commission’s action is based upon consideration of the specific facts of the case, as well as consideration of the Subdivision Map Act, the County Subdivision Ordinance, review of Yosemite West Major Subdivision file, recorded documents, and other information in the record for the Certificate of Compliance application.
3. The original subdivider of the Yosemite West subdivision (Yosemite Highlands) could have created the subject parcels A, B, and C (as listed in the Corporation Grant Deed on September 21, 1971, recorded in Mariposa County Official Records, Vol. 130, Pg. 311) at the time of the subdivision map by merely designating them as such on the recorded final map. The area was shown on the recorded final map for the Yosemite West subdivision, recorded as Map 1511 on Sheets 4 and 5.
4. The listing of Parcel A, Parcel B, and Parcel C, and the separate legal descriptions provided for each parcel on the Corporation Grant Deed recorded on September 21, 1971, in Mariposa County Official Records, Vol. 130, Pg. 311 provides evidence that there was an intent on the part of the original property owners to create three separate parcels, even if the grant deed wasn’t the proper procedure to create the three separate parcels.
5. Creating subdivisions of 5 or fewer parcels in 1971 could have been done by grant deed, as the state didn’t begin to regulate minor subdivisions until 1972. It is possible that the original property owners were confused regarding the proper process to create the three parcels in 1971. There was no Planning Department in 1971 to provide guidance regarding subdivision procedures.
6. Because they were the original subdividers of the Yosemite West subdivision, the proper mechanism for the creation of the three additional parcels (contiguous to the major subdivision) by the original subdividers in either 1967 or 1971 would have been through the major subdivision process. In 1967, the original subdividers could have shown the three parcels as “parcels” or “lots” on the recorded map for the Yosemite West subdivision. In 1971, the proper process for the original subdividers to create the three additional parcels (contiguous to the major subdivision) would

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have also been through the major subdivision process by recordation of a final map. This is because, even though the creation of the three additional parcels occurred 4 years following the recordation of the final map for Yosemite West, the parcels were contiguous to the original subdivision.

7. The listing of three separate parcels on one deed wouldn't typically create three separate parcels (it would have taken three separate deeds) and that is why this document alone, together with consideration of item 6 above, doesn't enable affirmative action as requested by the applicant.
8. The current property owners have provided a written statement that they believed that they purchased three separate parcels when they acquired the property by the Corporation Grant Deed recorded on September 21, 1971, recorded in Mariposa County Official Records, Vol. 130, Pg. 311.
9. The definition of "subdivision" includes a provision that, "property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-ways". However, in this instance, the Planning Commission considers that the three properties are physically separate and distinct units and are sensible separate parcels for unique reasons. They are separated by wide, paved roads with substantial cuts and fills in some areas. They separated by natural topographic features. They are large properties. The subject property is 15± acres in size. The other two properties are 32± acres and 7± acres in size. The properties are of sufficient size to sustain on-site septic and wells for a single family residential development. They have been considered separate "parcels" for over 35 years (as they were assigned separate assessor's parcel numbers) and it was only recently, as a result of detailed parcel legality research for a development permit, that the actual parcel legality status was determined.
10. The Planning Commission is aware that the corporation which created the original Yosemite West subdivision (Yosemite Highlands) is comprised of some individuals who still retain interest in the property (Yosemite West Associates).
11. Based upon discretion established in State Law, and based upon consideration of the specific details and history of this case, the Planning Commission finds that the local jurisdiction may apply the major subdivision conditions applicable to the parcel at the time of the grant deed in 1971 and that it is appropriate to do so.
12. There are unique and unusual circumstances applicable to this application, based upon consideration of the record. This action by the Planning Commission is not intended to create any kind of precedence, other than for situations which are similar to the case for which the determination is made.
13. Pursuant to California Administrative Code, Section 15070, it is found that:
  - (1) No unique or significant natural features including but not limited to animal life, fish life, or plant life, or its habitat or movement are to adversely affected;
  - (2) No known archeological, cultural, historical, recreational, or scenic sites are to be adversely affected;
  - (3) The project will not result in a significant dislocation of people;
  - (4) The project will not result in a substantial detrimental effect on air or water quality or on ambient noise levels;
  - (5) The project will not breach any published national, state or local standards relating to solid waste or litter control;

(6) The project will not have a substantial and demonstrable negative aesthetic effect; (7) The project will not create hazards including but not limited to flooding, erosion, or siltation; (8) The project is not subject to major known geologic hazards; (9) The project will not result in the need for public services beyond those presently available or proposed in the near future; (10) The project will not have a significant growth-inducing impact; (11) The project does not appear to generate major environmental controversy.

These findings are based upon the review of the project and the conditions applied to the project approval.

***EXHIBIT 2***  
***CONDITIONS OF APPROVAL***  
***FOR***  
***CERTIFICATE OF COMPLIANCE No. 2006-155***

**Project Name: Certificate of Compliance for Yosemite Mountain LLC (Jeff Hornacek)**

**File Number: Application No. 2006-155**

**Project Approval Date: July 20, 2007**

1. A parcel map shall be prepared and recorded for the parcel. The parcel shall be labeled Parcel A or Parcel 1. The map shall conform to all current surveying standards and requirements.

Monumenting of the parcels' boundaries and corners shall be installed by a licensed land surveyor or other licensed and qualified professional.

All costs associated with preparation and review of the parcel map and installation of the monuments shall be the responsibility of the applicant.

2. A Soils Report shall be submitted to the Mariposa County Public Work Director and the Mariposa County Planning Director pursuant to applicable requirements of the Subdivision Map Act. At the option of the applicant, the County Subdivision Ordinance Soils Report provisions may also be used. The Soils Report shall be reviewed and approved by the County Engineer prior to parcel map recordation.

This requirement may be waived by the Public Works Director, if he finds that previous soils information for the site or adjacent parcels provides evidence regarding adequacy of the site soils for a residential foundation. The Public Works Director's waiver shall be in writing and submitted to the Planning Director.

3. A declaration shall be recorded with the parcel map and referenced on the parcel map. The declaration shall state the following:

"All residential buildings, including mobile homes placed on foundations shall be constructed in compliance with the special foundation requirements stated in the Soils Investigation Report prepared for the \_\_\_\_\_ subdivision as shown on the Parcel Map for \_\_\_\_\_, recorded in Parcel Maps at Book \_\_\_ Page \_\_\_ Mariposa County Official Records, and on file with the County Planning Department. A

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building permit shall not be issued for residences placed on foundations unless the foundations meet the foundation requirements contained in the Soils Investigation prepared for the subdivision. The foundation requirements must be incorporated in the building plan and permit.”

This requirement shall not apply, if Condition No. 2 is waived by the Public Works Director.

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.
5. An appropriate fuel break or fuel reduction program shall be established along the northerly and easterly edges of the parcel. The extent of the fuel break or fuel reduction program shall be established based upon consultation with CDF, however a clear cut is not the intent of this requirement and shall not be the result. The fuel break or fuel reduction program may be on the project parcel or off-site, if written authorization (and a recorded easement) is obtained from the adjacent property owner. This condition does not establish any requirement (implied or otherwise) for removal of vegetation on National Park Service property. The purpose of the fuel break or fuel reduction program is to provide an area between the wildland / developed land interface which provides reduced fuels to retard the speed of an approaching wildland fire and to create more defensible space for firefighters. All work done to remove trees and vegetation shall be conducted during non-nesting periods. A minimum setback of 50 feet from the drainage on-site shall be maintained, and no vegetation removal shall occur within the drainage setback area unless a qualified biologist is on-site during the fuel reduction work to authorize removal of non-riparian vegetation within the setback area. If removal of vegetation within the drainage setback area is performed pursuant to this condition, a written report from the biologist shall be submitted to Mariposa Planning specifying the work performed and the species removed. The report shall be submitted within 20 calendar days of the date of work.
6. The project applicant shall share in the costs for road maintenance and snow removal activities in Yosemite West. The applicant shall cause the project parcel to join or otherwise establish some method for legal participation in these Dependent Special District functions. All costs associated with compliance of this condition shall be the responsibility of the applicant.
7. Soil profile holes shall be excavated on the parcel to the standards of the County Health Department and in the presence of the County Sanitarian, his authorized representative, or an authorized consultant to verify the feasibility of installing an on-site septic system on the parcel. If the County Sanitarian approves the parcel for septic disposal based on the soil profile holes, a letter from the County Sanitarian stating no additional tests are required and this condition has been fulfilled for that parcel shall be submitted to the County Surveyor. Alternatively, at the discretion of the Lead REHS, soil testing data may be submitted to the Health Department to satisfy this portion of the condition.

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If the results of the soil profile holes (or the soil testing data) do not demonstrate to the approval of the County Sanitarian that a conventional septic system can be installed on the parcel, percolation tests and additional soils analysis tests shall be performed on the parcel in accordance with Health Department rules and regulations. The results of these tests shall be submitted to the Mariposa County Health Department and be approved by the County Sanitarian prior to recordation of the parcel map. A letter from the County Sanitarian shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcel. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

“Approved percolation tests and soils analysis tests have been performed on Parcel \_\_\_\_ 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 the parcel that has not had approved percolation tests, additional percolation tests and design recommendations may be required.”

8. Prior to recordation of the parcel map, the applicant will prove to the satisfaction of the Health Department that the parcel has a supply of potable water meeting requirements for quantity and quality. Proof is as follows:
  - a. a proposed connection to a shared well which has been pre-approved by the Health Department; or
  - b. a well, for which appropriate permits and inspections have been approved by the Health Department, has been drilled on the subject property and developed with appropriate casings, and for which improvements may or may not include permanently installed pump equipment; or
  - c. a demonstration that there can be a source of water capable of producing a sustained potable water supply with storage of at least 1,000 gallons per twelve (12) hour day per dwelling unit, which will be contained within any combination of (a) a potable water storage tank, and/or (b) a static water supply in the well; or
  - d. other satisfactory proof which may consist of a hydrogeological study of the area by a qualified professional and wells drilled prior to sale.

Additionally, if the property is to be served in the future by a well, there will be a requirement to record a disclosure statement concurrently with and referenced on the parcel map stating the following:

“Water supplies for residential lands are derived from private wells on Parcel \_\_ as shown on the Parcel Map for \_\_\_\_, recorded in Book \_\_\_\_ of Parcel Maps at Page \_\_\_\_, Mariposa County Records. 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 this parcel. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on the parcel shown on this map.”



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

10. A declaration shall be recorded concurrently with and referenced on the parcel map that states:

"Parcel \_\_ as shown on the Parcel Map for \_\_\_\_, recorded in Book \_\_\_\_ of Parcel Maps at Page \_\_\_\_, Mariposa County Records has not been reviewed pursuant to current 2007 Subdivision Ordinance requirements, and is the result of the Planning Commission's approval of Certificate of Compliance Application No. 2006-155."

11. A declaration shall be recorded concurrently with and referenced on the parcel map that states:

"Future residential development on Parcel \_\_ as shown on the Parcel Map for \_\_\_\_, recorded in Book \_\_\_\_ of Parcel Maps at Page \_\_\_\_, Mariposa County Records, shall be required to conform with all applicable SRA Fire Safe Regulations (Public Resource 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 Resource Code 4291."

12. 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 (\$1,800) and the County Clerk fee (\$50) shall be paid within five (5) work-days of the approval of the application, and the parcel map shall not be recorded until this fee is paid. A cashier's check or money order for \$1,850, made payable to Mariposa County, shall be submitted for this fee. (Note to applicant: Without submittal of the fee within five (5) work-days of the approval of the application, Mariposa Planning cannot file the Notice

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of Determination with the County Clerk, and the environmental determination is not operative or vested.)