

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2006-44

A resolution conditionally approving Amended Conditions No. 2005- 217, Raymond and Phyllis Kujawa, applicants. Assessor Parcel Number 017-440-032.

WHEREAS an application for Amended Conditions No. 2005- 217 was received on 6/30/06 from Raymond and Phyllis Kujawa for a property located at 4081 Ben Hur Road, also known as Assessor Parcel Number 017-440-032; and

WHEREAS Amended Conditions No. 2005- 217 proposes to amend Conditions of approval for Land Division Application No. 2005-215 that proposed the division of a 15.34 acre parcel into 2 parcels, Parcel 1 is 9.24 acres and Parcel 2 is 6.1 acres. Applicants are requesting that conditions 10, 11, 12, 13, 14, 16, 18 pertaining to naming the onsite easement, , addressing, signage requirements, and Road Maintenance; and

WHEREAS as a result of review and in consideration of action taken by the Planning Commission for resolution 2006-39, staff recommends further modifications to conditions of approval; 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 September 8, 2006 ; 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 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, testimony presented by the public concerning the application, and the comments of the applicant, and

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby find that the project is exempt pursuant to CEQA; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Amended Conditions No. 2005- 217; and

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

ON MOTION BY Commissioner Skyrud, seconded by Commissioner Hagan, this resolution is duly passed and adopted this September 8th 2006, by the following vote:

AYES: Commissioners Hagan, Rudzik, Skyrud, DeSantis

NOES: None

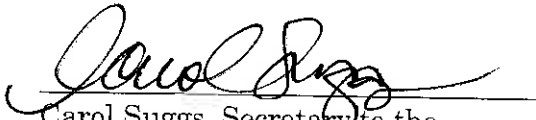
EXCUSED: Commissioner Ross

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Amended Conditions No. 2006-17

Pursuant to Mariposa County Subdivision Ordinance, Section 16.16.040, findings were made for the original approval of the land division portion of this project. Staff recommends that the findings be re-adopted for this approval of amended conditions with one additional finding (number 9) shown in italicized and underlined font as follows:

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 that are five acres or greater that are developed with single family residences, the site is physically suited for development. The proposed project is located within the Mountain Home zone. The subdivision density is designed in accordance with the Mountain Home zone.

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: This project is exempt under section 15315 of the CEQA guidelines. This is a minor land division that will result in the creation of 2 parcels. Additionally, both parcels are developed and road improvement is minor. Mariposa Creek is located onsite but possible impact to riparian vegetating is minor due to the location of the drainage, the parcel being fully developed, and topography.

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. Both parcels are developed with onsite well and septic.

4. **FINDING:** The proposed map is consistent with applicable general 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 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: The minimum parcel size proposed by the project is consistent with standards contained in the General Plan and the Zoning Ordinance. The applicant is asking for a variance to the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. Staff is supporting the request for the following reasons:

- Both of the parcels are developed with single family residence, well, and septic. No variance will be needed for development.
- As a result of this division, 2 unsafe encroachment onto Ben Hur Road will be abandoned and a shared access that provides adequate sight distance will be constructed.
- Based on minimum parcel size it is not possible for the parcels to be further subdivided.

· Due to topographic limitations on the northern portion of the parcel it would be impractical to design this project to conform to the ratio requirement. Designing the project with more conventionally shaped parcels could result in significant grading impacts and impacts on Mariposa Creek.

· Secondary residences cannot be constructed unless the development proposal conforms with all standards, including set back standards. Variances will not be granted for secondary residences.

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 project and have not objected to the proposal.

7. **FINDING:** The proposed amendment to Minor Land Division 2005-215 to eliminate conditions 10,11,12,13,14,16, 18. and modify conditions 1 and 3 does not adversely affect the environment and is consistent with the Planning Commission determination regarding shared encroachments made by Finding 7 of Resolution 2006-39. A shared encroachment is not a road and is not subject to the County's Road Naming Policy pursuant to Board of Supervisors Resolution No. 92-541. The project is not harmful the General Plan and is not in conflict with the Mariposa County Subdivision Ordinance or the Subdivision Map Act.

EXHIBIT 2
CONDITIONS OF APPROVAL
FOR
Amended Conditions No. 2006- 17

The following lists the original conditions of approval, together with the recommended amendments as shown as ~~striketrough~~ text for deleted conditions and *italics* for added text. This is for Option 1 described in the discussion section of the staff report.

Project Name: Kujawa **File Number:** Amended Conditions 2006-217

Project Approval Date: September 8, 2006

The following amended conditions of approval were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented.

Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures

	Monitoring Dept.	Verified Implemented
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CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT

<p>1. A shared access easement shall be shown on the parcel map and located at the parcel boundary between Parcels 1 and 2 and adjacent to Ben Hur Road. The encroachment shall be made 60 feet by 60 feet and non-exclusive and situated on both sides of property line between Parcels 1 and 2. The easement shall be offered for dedication to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state on the parcel map that the dedications are for "public road and utility purposes." Prior to recordation of the map, the location and width of the easement shall be approved by the County Engineer (Public Works Department Recommendation).</p> <p>The Planning Commission recommends that the Public Works Director accept the offer of dedication for public access and utilities, but reject the offer for public maintenance for the on-site access roads.</p> <p>(Section 16.12.160.B, County Subdivision Ordinance; Road Standard Cross-sections, Road Improvement and Circulation Policy).</p>	Public Works	
<p>2. A variable width dedication of a minimum of 30 feet from the centerline of Ben Hur 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 Engineer</p> <p>(Section 16.12.150, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy).</p> <p>The Planning Commission recommends that the Public Works Director accept the offer of dedication for public access, maintenance and utilities for Ben Hur Road.</p>	Public Works	

<p>3. <i>The shared access easement along the common property boundary of Parcels 1 and 2 shall be improved to a Rural Class 1 SRA "A" standard from Ben Hur Road north for a distance determined by Public Works in consultation with CDF to allow for the construction of on-site (on-parcel) driveways to the residential improvements on both parcels. Additionally, on-site (on-parcel) driveway connections to the existing residential improvements on each parcel shall be constructed from the shared access easement described in condition no. 1, so that the driveways are on each separate parcel. This standard shall be met 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 prior to the 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 (Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy). The required driveway connection improvements shall be constructed in accordance with the State Fire Safe regulations and shall be approved by CDF prior to the recordation of the parcel map.</i></p> <p><i>(Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy).</i></p>	Public Works	
<p>4. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to Ben Hur Road. In addition, all grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. 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>(Chapter 11, County Improvement Standards).</p>	Public Works	

<p>5. The existing Ben Hur Road driveway encroachments to Parcel 1 and 2 on the project site shall be abandoned and removed, as required by the Public Works Department through the encroachment permit process. All required work shall be conducted in accordance with County standards, and completed prior to parcel map recordation as approved and inspected by the County Engineer.</p>	Public Works	
<p>6. Access to parcel 1 and parcel 2 shall be limited to the shared access easement; No further encroachment permits to Ben Hur Road for these parcels will be granted. A declaration shall be recorded with the parcel map, referenced on the parcel map and made appurtenant to Parcel 1 and 2. The declaration shall state the following:</p> <p>“Approved access for residential development of Parcels 1 and 2 as shown on the Parcel Map for _____ recorded in Book _____ of Parcel Maps at Page _____ M.C.O.R is from the shared easement.”</p> <p>The County Engineer will confirm that this condition has been complied with prior to map recordation.</p>	Public Works	
<p>7. 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 permit for the required improvements, a consultation meeting with the Public Works Department, CDF, the applicant, the agent, and the road contractor 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>	Public Works	

<p>8. Immediately upon completion of the required road and encroachment 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 applicants. A letter shall be submitted to the County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed.</p>	<p>Public Works</p>	
<p>9. 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.</p>	<p>Public Works</p>	
<p>10. A road maintenance association shall be formed to provide for the maintenance of the shared access easement. 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 recordation of the parcel map and shall:</p> <p>a. Be in effect for a period of not less than thirty (30) years unless said maintenance is taken over by the County, a special district, or other governmental entity.</p> <p>b. Provide for annual maintenance and the immediate correction of emergency and hazard situations.</p> <p>c. Include 100% of the parcels in the subdivision served by the access road.</p> <p>d. Provide a mechanism for the road maintenance association to collect delinquent payments or assessments for the maintenance described above by filing a lien on the</p>	<p>Public Works</p>	

<p>delinquent properties with the power of sale.</p> <p>e. Provide a mechanism for new parcels to be added to the association.</p>		
<p>11. All required signs shall be installed on metal, break-away type posts prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation.</p>	Public Works	
<p>12. A road name sign for the on site easement road shall be placed at the intersection of the shared access easement and Ben Hur Road prior to map recordation. The design and specifications of the sign shall be in accordance with the Mariposa County Improvement Standards and shall be approved by the County engineer prior to installation.</p> <p>(Section 16.12.175, County Subdivision Ordinance).</p>	Public Works	
<p>13. A stop sign shall be placed at the intersection of the shared access easement and Ben Hur Road. The design and placement of signs shall be approved by the County engineer prior to installation. The county engineer may waive this condition prior to map recordation.</p>	Public Works	
<p>14. A sign stating "THIS ROAD IS NOT COUNTY MAINTAINED" shall be installed at the intersection of the shared access easement and Ben Hur Road prior to map recordation. The design and specifications of the sign shall be in accordance with the County Improvement Standards and shall be approved by the County engineer prior to installation. The county engineer may waive this condition prior to map recordation.</p> <p>(Section III.A.4, Road Improvement and Circulation Policy).</p>	Public Works	

CONDITION OF APPROVAL / MARIPOSA PLANNING		
<p>15. The approved project is for one parcel of 9.24 acres and one parcel of 6.1 acres. Minor modifications to parcel size can be approved by Planning as long as Parcel 1 does not exceed 10 acres. The Project approval is valid for a period of three years from May 19th, 2006. This approval shall expire on May 19th, 2009.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>16. The onsite easement road shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and be approved by the Planning Director. The name of the road shall be shown on the parcel map</p> <p>(County Resolution No. 92-541).</p>	<p>Mariposa Planning</p>	
<p>17. OPTIONAL: Prior to recordation of the parcel map, the applicant may elect to file a Notice of Exemption with the County Clerks office. By filing the NOE the statute of limitations on appeals is shortened from 180-days to 35-days. The County Clerk fee of \$25 for the Notice of Exemption must be paid by the applicant within five (5) working days of the approval of the application, because if the fee is not paid within 5 working days, 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 this fee, for a total of \$25.00, 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 who will file this fee and the Notice of Exemption with the County Clerk.</p> <p>§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code</p>	<p>Mariposa Planning</p>	

<p>18. Prior to parcel map recordation and after a road name has been approved for the shared access easement, the existing houses are required to obtain new addresses.</p> <p>Planning Department Condition</p>	Mariposa Planning	
<p>19. 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.</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>§16.36.030, Mariposa County Subdivision Code</p>	Mariposa Planning	

CONDITION OF APPROVAL / HEALTH DEPARTMENT		
<p>20. Prior to recordation of the plat, the applicant shall provide evidence to the Mariposa County Health Department that the sewage disposal system on both parcels are in locations that meets all setback requirements for the new parcel configuration.</p>	<p>Mariposa Health Department</p>	
CONDITION OF APPROVAL / CALIFORNIA DEPARTMENT OF FOREST AND FIRE PROTECTION		
<p>21. 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>“Future residential development on Parcels 1 and 2 as shown on the Parcel Map for _____, recorded in Book _____ of Parcel Maps at Page _____ M.C.O.R. 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.”</p> <p>Evidence that this condition has been satisfied shall be in the form of a letter from the California Department of Forestry (CDF) to the County Surveyor.</p>	<p>California Department of Forest and Fire Protection</p>	

Agency Contact List				
AGENCY	CONTACT	PHONE NUMBER	SITE ADDRESS	MAILING ADDRESS
		EMAIL		
Mariposa Planning	Wes McCullough	209-742-1218 wmccullough@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	Jerry Progner	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Eddie Ellis	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35 Mariposa CA 95338
County Fire	Blaine Shultz	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal. Dept of Forestry	Paul Alvarez	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.