DEPARTMENT: Planning  
BY: Ed Johnson  
PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Ordinances*
Waive second reading and adopt the following Ordinances relative to
Permit Streamlining:

1. Ordinance amending Chapter 2.50 entitled "Mariposa County Planning
   Agency" and Chapter 2.52 entitled "Planning Commission" of the
   Mariposa County Code.
2. Ordinance amending Chapter 16.12 entitled "Minor Subdivisions",
   Chapter 16.16 entitled "Major Subdivisions" and Chapter 16.32
   entitled "Enforcement and Penalties".
3. Ordinance amending Title 17 of the Mariposa County Code.
4. Ordinance amending the Mariposa County Environmental Review Policies
   and Procedures

Resolutions*
Pass and adopt the following Resolutions relative to
Permit Streamlining:

1. Resolution approving amendments to the Appeal Procedures.
2. Resolution approving amendments to the General Plan.
3. Resolution approving amendments to Mariposa Town Planning Area (TPA)
   Specific Plan.

* Amendments are noted as follows: Additions with double underline and
italics and deletions with strikethrough.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

During the public hearing held November 12 to November 15, 1996, the
Board waived the first reading and introduced the above-listed
Ordinances and requested staff to prepare the Ordinances in final form
for a second reading and adoption. The Board also directed staff to
return with Resolutions to adopt amendments to the Appeal Procedures,
General Plan, and Mariposa TPA Specific Plan.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

N/A. The Board has previously directed staff to return with this
action.

COSTS:

| A. Budgeted current FY | $ |
| B. Total anticipated costs | $ |
| C. Required additional funding | $ |
| D. Internal transfers | $ |

SPECIAL INSTRUCTIONS:
List the attachments and number
the pages consecutively:
Ordinances.
Resolutions.

SOURCE:

| A. Unanticipated revenues | $ |
| B. Reserve for contingencies | $ |
| C. Source description:
  Balance in Reserve for Contingencies,
  if approved: $ |

CLERK’S USE ONLY:
Res. No.: 92-3 92-4 92-5  
Ord. No.: 910, 911, 912, 913
Vote - Ayes:  
Noes: 

ADMINISTRATIVE OFFICER’S RECOMMENDATION:
This item on agenda as:
The foregoing instrument is a correct copy of the original on file in this office.

Date: ____________________________

ATTEST: MARGIE WILLIAMS, Clerk of the Board
         County of Mariposa, State of California

By: ______________________________
    Deputy

12-15DSA

Action Form Revised 5/92
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, Planning & Building Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PERMIT STREAMLINING

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on January 7, 1997

ACTION AND VOTE:

Ed Johnson, Planning and Building Director;

C) Continued PUBLIC HEARINGS (Deliberation Phase) for the Permit Streamlining Program and Mariposa Town Planning Area (TPA) Specific Plan/Zoning Amendment; Waive Second Reading and Adopt Ordinances Amending Title 2, Title 16, Title 17 and the Environmental Review Policies and Procedures Relative to Permit Streamlining; and Adopt Resolutions Approving Appeal Procedures, General Plan Amendments, and Amendments to the Mariposa Town Planning Area Specific Plan Relative to Permit Streamlining(Continued from November 14, 1996)

BOARD ACTION: In response to a question relative to receiving public input, Jeff Green/County Counsel, advised that the public portion of the hearings has been closed and the Board is in the deliberation phase; and the only way to accept public input, would be to start the hearing process all over again. Ed Johnson responded to questions from the Board relative to changes in the ordinances between the first reading and second reading; and relative to the numbering of the sections where a section was deleted. Ed advised that the only changes in the documents reflect changes approved by the Board during the hearing process in November, 1996; and staff will correct the numbering of the items to reflect changes. (M)Balmain, (S)Pickard, first reading was waived and the following ordinances were adopted:

Ord. 910 - amending Title 2;
Ord. 911 - amending Title 16;
Ord. 912 - amending Title 17
Ord. 913 - amending Environmental Review Policies and Procedures Relative to Permit Streamlining;

and the following resolutions were adopted:

Res. 97-3 - Appeal Procedures
Res. 97-4 - General Plan Amendments
Res. 97-5 - Amendments to the Mariposa Town Planning Area Specific Plan Relative to Permit Streamlining

Ayes: Reilly, Balmain, Stewart, Pickard; Excused: Parker. Hearings were closed.

cc: File
MARIPOSA COUNTY RESOLUTION NO. 97-3

A RESOLUTION APPROVING AMENDMENTS TO
THE MARIPOSA COUNTY APPEALS PROCEDURE

WHEREAS, a comprehensive Permit Streamlining Program has been initiated by
the County, including the public review and hearing process to amend the Mariposa
County Code and other county policy documents; and

WHEREAS, these include amendments to the Mariposa County Appeals
Procedure; and

WHEREAS, the Planning Commission and Board of Supervisors have held duly
noticed public hearings on the amendments in accordance with State Law and County
Code, and have considered all input, written and verbal; and

WHEREAS, the Planning Commission and the Board of Supervisors made many
modifications to the amendments in response to concerns expressed through the public
process; and

WHEREAS, these amendments are not intended to change the public's
referendum rights with respect to the projects which will be acted upon in accordance
with this resolution.

NOW THEREFORE, the Board of Supervisors of Mariposa County hereby
resolves that the Mariposa County Appeals Procedure is amended in accordance with
"Exhibit A" (Amendments are noted as follows: Additions in double underline and
italics, and deletions with strikethrough).

NOW THEREFORE, the Board of Supervisors further resolves that approval of
these amendments to the Mariposa County Appeals Procedure is based upon the
following findings:

1. The amendments to the Mariposa County Appeals Procedure are exempt
from the requirements of the California Environmental Quality Act (CEQA) in
accordance with Section 15061 of the CEQA Guidelines. The amendments
to the Appeals Procedure are covered by the general rule that CEQA applies
only to projects which have the potential for causing a significant effect on the
environment. There is no possibility that the amendments to the Mariposa
County Appeals Procedure may have a significant effect on the environment.

2. The amendments are in the general public interest, and will not have a
significant adverse effect on the general public health, safety, peace and
welfare. The amendments clarify the existing language in the Appeals
Procedure, and eliminate or modify text which conflicts with that contained within other County ordinances. The amendments do not make any changes in current practices which would result in any impact on the environment.

3. The amendments promote fairness in implementation of the Appeals Process by clarifying conflicting policy and ordinance language.

4. The amendments standardize notice, hearing and appeal time frames but do not result in any impact to the environment.

5. The amendments are desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and short term basis for day-to-day decision making. The amendments rectify contradictory and conflicting language within the Appeals Procedure text and County Code to aid in the day-to-day operations and processing of applications and appeals.

6. The amendments conform with the requirements of State law and county policy and are consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan. One purpose of the amendments is to provide consistency with County ordinances and policies. This action is supported by the General Plan Governing Policy Section 2.202. This section establishes policy regarding the administration of the Mariposa County General Plan as follows: "To provide a practical and legally adequate framework to include...implementation programs and measures which can effectively guide the development and growth of Mariposa, yet reserve adequate flexibility in the day-to-day decision process to be responsive to changing needs and circumstances."

NOW THEREFORE, the Board of Supervisors finally resolves that these amendments shall become effective thirty (30) days after final passage.

PASSED AND ADOPTED by the Board of Supervisors of Mariposa County on this 7th day of January, 1997 by the following vote:

AYES: Reilly, Balmain, Stewart, and Pickard
NOES: None
ABSTAINED: None
EXCUSED: Parker

[Signature]
ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors
Resolution No. 97-3

ATTEST:

[Signature]
MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature]
JEFFREY G. GREEN, County Counsel
Mariposa County

APPEALS PROCEDURE

APPLICABILITY OF APPEALS PROCEDURE

These Procedures, or the applicable portions, shall apply to all findings or decisions of any County official, commission, hearing officer, etc., wherein an appeal therefrom is a matter of right, and there are no other appeal procedures which have been adopted relating thereto.

NOTICE

Public notices mailed to affected property owners which notice a public review period or public hearing for a pending finding or decision of a County official, commission, hearing officer, etc., shall contain the following information in addition to information required by State law and other County ordinances and policies:

A. A statement that the finding or decision of the County official, commission, or hearing officer may be appealed to the Board of Supervisors or Planning Commission, if applicable, but further notification of the finding or decision will not be provided to non-applicants unless specifically requested.

B. The County departments or offices where information and copies of the appeals procedures are available.

C. A statement that if a finding or decision is appealed the appeal will be limited to only those issues which were raised during the public review or hearing process or to new information which was not and could not have been available during the public review or hearing process.

Applicants and any other party or parties that have requested notification of the action, in writing, shall be notified in writing, pursuant to County policy of any findings or decision of any County official, commission, hearing officer, etc., not later than three (3) working days from date of decision or findings. A copy of the Appeals Procedure information sheet attached hereto as Exhibit "A" and a Notice of Appeal form attached hereto as Exhibit "B" shall be included in the notice of decision where a right of appeal exists.
II

FILING OF APPEALS

An appeal may be filed by a person or persons where the person or persons allege that a decision or finding of a County official, commission, hearing officer, etc. was inappropriately determined based upon a violation of any applicable code, rule, policy, or law, and the person or persons provide substantiating evidence as specified in Section III of these procedures. By way of example, an appeal could be filed when it is alleged that action taken resulted in an abuse of discretion, improper application of standards, a procedural error, a requested waiver being denied, etc.

Appeals may be filed wherein an appeal is a matter of right and may be directed to the Board of Supervisors (BOARD) or the Planning Commission (COMMISSION), if applicable, by filing a Notice of Appeal on the form attached hereto as Exhibit "B" with the Clerk of the Board, if appealing to the Board, or the Planning Commission Secretary, if appealing to the Commission. If the written material attached to the Notice of Appeal exceeds ten (10) pages in length then the appellant shall submit fourteen (14) copies; if any materials attached to the Notice of Appeal exceed eleven inches (11") in width or seventeen inches (17") in length then the appellant shall submit fourteen (14) copies of the oversized material. All pages shall be three (3) hole punched and numbered consecutively. The appellant may elect to submit one copy of the written material attached to the Notice of Appeal and bear the copying costs of processing the appeal. Appeals not filed on an official Notice of Appeal form shall not be accepted by the County for processing. The time frames for filing an appeal are as follows:

If the appeal is from a decision of a land division, lot line adjustment, certificate of compliance, certificate of development, or any other decision of the Subdivision Ordinance (Title 16 County Code), the APPEAL must be filed within ten (10) calendar days from the date of the action taken by COMMISSION, or if the action is by staff or other than the COMMISSION, within ten (10) calendar days from the date of the Notice of Findings, or within ten (10) calendar days of the date the decision is mailed to Applicant if a decision is mailed to Applicant.

If the appeal is from a decision of the Surface Mining and Reclamation Ordinance (Chapter 18.02 County Code), the appeal must be filed within fifteen (15) calendar days from the date of the action taken by COMMISSION, or if the action is by staff or other than the COMMISSION, within fifteen (15) calendar days from the date of the Notice of Findings, or within fifteen (15) calendar days of the date the decision is mailed to Applicant if a decision is mailed to Applicant.

In all other cases the APPEAL must be filed within twenty (20) calendar days of written determination of the decision or order being appealed.

An APPEAL (Notice of Appeal) shall be forwarded to County Counsel by the Clerk or Planning Commission Secretary receiving the APPEAL no later than the day after the filing of the APPEAL. County Counsel shall review the appeal and determine if the appeal has been filed in a timely manner and if the appeal contains sufficient grounds for appeal as described in Section III. If County Counsel determines the appeal is not timely filed, the appeal shall not be accepted by the County and the decision of the County official, commission, hearing officer, etc. shall be final.
If County Counsel determines the appeal does not contain sufficient grounds of the basis for the appeal, County Counsel shall inform the appellant that the appeal is not complete and is not accepted for processing. The appellant shall have seven (7) calendar days from the date of notification to submit sufficient grounds for the appeal. If sufficient grounds for the appeal are not submitted within seven (7) calendar days to the satisfaction of County Counsel, the appeal shall not be accepted by the County and the decision of the County official, commission, hearing officer, etc. shall be final.

If the appeal is determined to be timely filed and complete and is accepted for processing, County Counsel shall forward the appeal to the applicable County official or department head for processing. Any additional reasons for appeal and any amendments or supplements to the APPEAL shall be filed with the Clerk or Commission Secretary, whichever has jurisdiction, no later than twenty-five (25) calendar days prior to the hearing date of the appeal.

An appeal may be withdrawn at any time prior to commencement of the actual appeal hearing by written request signed by the Appellant(s). Appeals which are withdrawn shall not be heard by the BOARD or COMMISSION.

III

STATEMENT OF GROUNDS AND ISSUES FOR APPEAL

An appellant must clearly and concisely state the reason or reasons why the decision, determination, or finding is being appealed and why the appellant does not agree with the decision, determination or finding by the County body or official. By way of example, these reasons may include, but not be limited to, abuse of discretion, improper application of standards, a procedural error, a requested waiver being denied, etc.

An appeal shall be limited to those issues clearly raised by any interested party through the public review and/or hearing process for the finding or decision being appealed or to new information which was not and could not have been available at the time the finding or decision was made. An appeal, or portions thereof, that identifies issues in the statement of grounds which were not raised through the public review and/or hearing process or contains information which was or could have been available at the time the finding or decision was made shall not be accepted and shall not be considered by the Board of Supervisors or Planning Commission. For those findings or decisions which did not include a public review and/or hearing process, the appeal shall be limited to those issues that clearly relate to the finding or decision being appealed. An appeal, or portions thereof, which identifies issues in the statement of grounds which do not clearly relate to the finding or decision being appealed shall not be accepted and shall not be considered by the Board of Supervisors or Planning Commission.

The evidence considered at the hearing on the APPEAL shall be limited to the issues clearly identified in said Notice of Appeal with amendments or supplements as permitted, filed by Appellant. Copies of the Notice of Appeal and all amendments and
supplements to the appeal shall be made available to the public and all interested parties, along with copies of these rules, upon request.

IV

HEARING DATE: NOTICE

On an appeal from a decision of a subdivision, lot line adjustment, certificate of compliance, or certificate of development, the Clerk of the Board shall set a hearing date, which hearing date shall be set not more than thirty (30) days from the date the APPEAL is accepted for processing, unless extended by the BOARD with the consent of applicant and appellant, as necessary.

In all other cases the hearing shall be set not more less than fifty (50) thirty (30) days from the date the APPEAL is accepted for processing, unless extended by the BOARD or COMMISSION with the consent of Appellant and applicant, as necessary.

In no event shall a hearing be set for a time later than ninety (90) days from the date the APPEAL is accepted for processing.

Hearing dates for appeals shall be set by the Clerk of the Board, for Board hearings, or the Planning Commission Secretary, for Commission hearings, to conform to the time frames contained herein.

All appeal hearings on land use matters shall be noticed in accordance with the following standards:

A. A notice of the appeal hearing shall be published in a newspaper of general circulation within the County at least once.

B. If the decision, finding, or determination being appealed was previously noticed in a public notice for a public review period or public hearing, a notice of the appeal hearing shall be mailed to all property owners and other parties which received the original public notice.

C. If the decision, finding, or determination being appealed was not previously noticed in a public notice and the decision, finding, or determination applies to a specific use or property, a notice of the appeal hearing shall be mailed to all owners of property contiguous to the subject property, as specified in Section 17.132.020 of County Code.

D. All notices of the appeal hearing shall be mailed at least twenty (20) days prior to the scheduled hearing date, or and published at least fourteen (14) ten (10) days prior to the scheduled hearing date.

E. All mailed and published notices shall contain the information identified in Section 17.132.030 of County Code.
V

STAFF REPORTS

Written staff reports shall be submitted for inclusion in the BOARD or COMMISSION agenda at least five (5) working days prior to the scheduled hearing, and shall be available to all interested parties from the Clerk of the Board or Planning Commission Secretary, whichever has jurisdiction. Parties who are not principals in the appeal shall pay the County established rate for copies of the Staff Report.

VI

LETTERS AND STATEMENTS

The BOARD or COMMISSION may receive written statements and letters concerning the appeal at any time prior to commencement of deliberation by the BOARD or COMMISSION, after which no such written evidence will be received into the record. The issues considered shall nevertheless be limited as set forth in Section III above. If the written material exceeds ten (10) pages in length then the person submitting the material shall submit fourteen (14) copies; if any materials exceed eleven inches (11") in width or seventeen inches (17") in length then the person submitting the material shall submit fourteen (14) copies of the oversize material. All pages shall be three (3) hole punched and numbered consecutively. The appellant may elect to submit one copy of the written material attached to the Notice of Appeal and bear the copying costs of processing the appeal.

VII

RULES

Rule 1: Copies of Rules

Copies of this Resolution and any amendments hereto shall be made available to the general public and any interested principal parties prior to and during any APPEAL hearing. A copy of the Appeals Procedure information sheet and a Notice of Appeal form shall accompany all decisions required to be mailed pursuant to Section I above.

Rule 2: Identification of Witnesses

A. All persons wishing to speak at the hearing must approach the microphone and state their name and address.

B. A hearing officer or a member of a BOARD appointed committee or commission which rendered the decision being appealed shall be prohibited from
testifying before the BOARD in favor of or against any position of appeal to the BOARD.

Rule 3: Questions

Any BOARD or COMMISSION member may direct questions through the Chairman to staff and witnesses at any time during the hearing or deliberations. During the deliberation portion of the meeting, answers shall be limited to the specific question only.

Rule 4: Cross-examination

The opportunity to ask questions of persons testifying at the hearing shall be at the discretion of the Chairman. Questions for this purpose shall be directed to the Chairman, identifying the witness from whom an answer is sought. Persons present who have not previously testified shall not be questioned except by the BOARD or COMMISSION.

Rule 5: Continuance of Hearing

All or any portion of the hearing may be continued to a time, date and place certain without further formal notice, provided the continuance is announced to all persons present at the hearing, and is noticed in the BOARD or COMMISSION agenda for the date which the continued hearing will be heard.

Rule 6: Eligibility to Vote

BOARD or COMMISSION members not present during the entire testimony portion of the hearing, or who have not listened to the tapes of the entire testimony, shall not be eligible to vote on the decision. In the event that less than three (3) BOARD or COMMISSION members eligible to vote are present during the testimony portion of the hearing, the Chairman shall continue the hearing until such time as at least three (3) eligible Supervisors or Commissioners are present to hear testimony.

Rule 7: Variance from Rules

The rules and procedures of Section VII may be varied by a majority vote of the BOARD or COMMISSION.

Rule 8: Record

A record, by tape or otherwise, shall be made of each hearing on appeals processed pursuant to this Appeals Procedure. Persons desiring copies of the record may purchase tape copies from the Clerk of the Board or Secretary of the Commission upon
reasonable notice, or may arrange for a Certified Court Reporter to be present at their own expense.

Rule 9: Decision

A decision shall be rendered by the BOARD or COMMISSION in the form of a resolution at the conclusion of the deliberation phase.

Rule 10: Findings of Fact

Findings of Fact shall be prepared in all cases where the appealed decision is reversed, and in other cases when a request is received prior to the close of the hearing by a legally interested party. The Findings shall be incorporated in the decision resolution. Findings will be prepared by staff at the direction of the BOARD or COMMISSION.

Rule 11: Rehearing

The BOARD or COMMISSION may, at its sole discretion, rehear a matter if written application is made within fifteen (15) twenty (20) days of the final decision, and the BOARD or COMMISSION finds that substantial evidence exists which was not and could not have been available at the previous appeal hearing. A four-fifths (4/5ths) vote shall be required to obtain a rehearing.

Rule 12: Judicial Review

The time within which judicial review of any final decision of the BOARD or COMMISSION must be sought is ninety (90) days from the date of such final decision pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 66499.37, or such other time as required by State Statute in the event of amendment or repeal of the above-cited Statutes.

VIII

CONDUCT OF HEARING

No. 1: Opening of Meeting

The Chairman shall open the meeting and state the purpose and procedures to be followed. All questions and/or presentations shall be directed to the BOARD or COMMISSION through the Chairman. Any BOARD or COMMISSION member may direct questions to staff and witnesses at any time during the hearing or deliberation process.
No. 2: **Staff Presentation**

A. Present Staff report.

1. Oral.

2. Documentary evidence copies for BOARD or COMMISSION if not previously provided. (Copies to Appellant)

3. Staff's report shall contain a recitation of the facts regarding the history of the matter and the decision rendered. Staff may provide a recommendation to the BOARD or COMMISSION.

B. Questions by BOARD or COMMISSION to staff.

No. 3: **Appellant’s Presentation**

A. Appellant makes its presentation and presents evidence.

1. Questions by BOARD or COMMISSION.

B. Other speakers *in support* of Appellant's position.

No. 4: **Opponent’s Presentation**

A. Opponents present evidence against issue.

1. Questions by BOARD or COMMISSION.

B. Other speakers *in opposition* of Appellant's position.

No. 5: **Rebuttal by Appellant**

A. Appellant responds to issues raised by Opponents. No new issues are to be raised by Appellant.

1. Questions by BOARD or COMMISSION.

No. 6. **Any Clarification Needed by BOARD or COMMISSION**

A. Staff response to issues raised during public process.
B. BOARD or COMMISSION members questions either staff, Appellant or Opponents to clarify any areas of concern, etc.

C. If new evidence is submitted, BOARD or COMMISSION will give all parties an opportunity to respond.

No. 7. Staff Procedural Questions

A. Possible procedural issues raised by staff to presentations.

1. Has evidence been submitted which requires additional staff research or information, or additional comment or testimony from Appellant and/or Opponents.

2. If no additional research or information required, staff reports as to mandatory findings required, procedures, alternative actions, etc.

No. 8. Close Public Portion of Hearing

A. Deliberation - no further input from general public. Staff may provide information regarding mandated procedures only.

1. If BOARD or COMMISSION has additional questions, which call for new evidentiary testimony or documents and new evidence is taken, the testimony portion of the meeting shall be reopened, and Appellant and general public shall be limited to addressing new evidence only.

2. Close public portion of hearing.

B. Continued deliberation.

C. If decision cannot be reached, hearing continued to date and time certain for further deliberation and decision.

D. Decision.

1. Resolution proposed by BOARD or COMMISSION.

   a. Motion should contain facts and evidence which was adduced at the hearing to support action, or should direct staff to prepare draft resolution for review and action by BOARD or COMMISSION at a continued meeting of BOARD or COMMISSION, which shall be at a date and time certain.

   b. A decision shall be rendered by the BOARD or COMMISSION in the form of a resolution at the conclusion of the deliberation phase.
MARIPOSA COUNTY

APPEALS PROCEDURE

Mariposa County Resolution No. 92-525
As amended by Resolution No. 93-219

Information Sheet

What is an Appeal?

An appeal is a request by a person or group of persons to the Board of Supervisors or Planning Commission to review the findings, decisions, or determinations of a subordinate County official or body in which the person or group of persons believe the conclusion reached was inappropriate. Findings, decisions, or determinations of an appointed County official or County body for which there are no other appeal procedures can be appealed in accordance with County Resolution No. 92-525 as amended. These include but are not limited to decisions of the Planning Commission, land use determinations made by the Planning Director, and interpretations of County Code or County policy made by a County official or department head. Appeals for which there are specific appeal procedures are processed and acted upon in accordance with the resolution or ordinance establishing those appeals.

What Issues Can Be Considered in an Appeal?

If a public review period was established or a public hearing was held on the finding, decision, or determination being appealed (e.g., a land division application), only those issues which you or another person raised during the public review period or public hearing can be appealed and considered by the appeal body. New information which was not and could not have been available at the time the finding or decision was made can be raised in an appeal and considered by the appeal body. For those types of findings or decisions in which a public review period was not established or a public hearing was not held, any issue which clearly relates to the finding or decision can be raised in an appeal and considered by the appeal body.

Who Can Appeal a Decision or Determination?

Any interested person may appeal a finding, decision, or determination made by a County body or official including the applicant of the finding, decision, or determination.

When Does an Appeal Need to be Filed?

The appeal period (i.e., the time period in which an appeal can be filed) varies with the type of finding, decision, or determination being appealed. Generally, all appeals of findings, decisions, or determinations relating to a land division, lot line adjustment, certificate of compliance, or certificate of development must be filed within ten (10)
twenty (20) calendar days of the date of the finding, decision, or determination. Appeals of findings, decisions, or determinations relating to the County Surface Mining and Reclamation Ordinance must be filed within fifteen (15) calendar days of the action. In all other cases, including findings, decisions, and determinations relating to the Zoning Ordinance, the appeal must be filed within twenty (20) calendar days of the date of the action.

All appeals to the Board of Supervisors must be filed with the Clerk of the Board prior to the end of the appeal period. All appeals to the Planning Commission must be filed with the Planning Commission Secretary prior to the end of the appeal period.

How Much Does It Cost to File an Appeal?

There are no costs associated with filing an appeal with the Board of Supervisors. However, there is a $25 fee for filing an appeal with the Planning Commission.

What Types of Appeals Does the Planning Commission Consider?

The Planning Commission may consider appeals of any planning-related finding, decision or determination made by the Planning Director. These include decisions on home enterprises, rural home industries, design review applications, and certificates of development and any finding or determination of the Zoning Ordinance and Subdivision Ordinance. These Planning Director decisions and determinations may also be appealed to the Board of Supervisors. All other County body or official findings, decisions, or determinations can only be appealed to the Board of Supervisors.

What is Required to File an Appeal?

All appeals to the Board of Supervisors or Planning Commission must be filed on an official Notice of Appeal form. If an appeal is not filed on the Notice of Appeal form, the appeal will not be accepted by the County for processing and any appeal rights may be lost. These forms are available at the Planning Department and the Board of Supervisors office. The Notice of Appeal form requires the names and addresses of the appellants; the name, address, and telephone number of a contact person for a group of appellants; and information on the finding, decision, or determination being appealed. The form must clearly state those issues or portions of the finding, decision, or determination being appealed since the Board of Supervisors or Planning Commission will consider only those issues or portions of the decision or determination which were raised in the appeal form. If the written material attached to the Notice of Appeal exceeds ten (10) pages in length, the appellant will be required to submit fourteen (14) copies of that material. If any materials attached to the Notice of Appeal exceed 11" in width or 17" in length, the appellant will be required to submit fourteen (14) copies of the oversized material. All pages shall be three (3) hole punched and numbered consecutively. The appellant may elect to submit one copy of the written material attached to the Notice of Appeal and bear the copying costs of processing the appeal.

If the form does not include sufficient itemization of the issues of the finding, decision, or determination being appealed, the appeal will not be accepted as complete, and the
appellant will have seven (7) calendar days to provide additional information which sufficiently itemizes the issues of the finding, decision or determination being appealed. If the additional information is not provided within seven (7) calendar days, the appeal will not be accepted by the County for processing and the person filing the appeal will lose their appeal rights. Once an appeal is accepted for filing, the appellant can raise additional issues on the appeal limited to issues which were raised during the public review period or public hearing or to new information up to twenty-five (25) calendar days prior to the appeal hearing. Additional issues cannot be raised after this time or at the public hearing.

What is a "Statement of Grounds"?

The Notice of Appeal form also includes a section entitled "Statement of Grounds". The statement of grounds is the appellant's opportunity to state the reasons why the decision or determination is being appealed and why the appellant believes that the decision or determination of the County commission, body, or official was inappropriately decided. The statement of grounds is also the appropriate section of the appeal form to provide any information or documentation which supports the appeal. The statement of grounds must be included with the Notice of Appeal form and all supporting information and documentation must be filed at least 25 days prior to the appeal hearing. The appellant will have a later opportunity to provide written input on issues or statements raised in the staff report or letters from other interested parties.

What Happens After an Appeal is Filed?

Once a complete appeal is accepted for filing, a public hearing is scheduled and the appeal is forwarded to the responsible County Department for processing. The appeal hearing is noticed in the legal newspaper of general circulation within the County designated by the Board of Supervisors and to affected property owners. Any interested party may submit letters or other written input to the Board or Planning Commission on the appeal. At least five (5) days prior to the hearing, a staff report will be submitted for inclusion in the Board of Supervisors or Planning Commission agenda. The staff report provides information on the appeal and the decision or determination being appealed and may include a recommended action. The staff report will be sent to the appellant and applicant if applicable and will also be available to any interested parties. The public hearing on the appeal is then held.

What Happens During the Appeal Hearing?

At the public hearing on the appeal, the Board of Supervisors or Planning Commission considers the staff report and written and verbal input from the appellant, supporters of the appeal, and opponents of the appeal before deliberating and making a decision on the appeal. The order of the hearing is as follows:

1. Presentation of staff report.
2. Presentation by appellant.
3. Input from speakers in support of appellant's position.
4. Input from speakers in opposition of appellant's position.
5. Rebuttal by appellant to issues raised by opponents.
6. Public portion of hearing is closed and Board or Planning Commission begins deliberation.
7. Board or Planning Commission makes decision or takes other action.
The appellant, supporters, and opponents may submit written materials on the appeal during their period for input, but may not raise issues not previously raised in the appeal. The Board or Planning Commission may ask questions of staff, appellant, or other persons providing input at the appropriate time in the hearing process. Once the deliberation phase begins, the Board or Planning Commission can take action to uphold the appeal thereby modifying or overturning the previous decision or determination, to deny the appeal, or to continue the hearing for further deliberation or information. When the Board or Planning Commission acts to uphold or deny the appeal, the appeal process is finished. However, any decision by the Planning Commission, including a decision on an appeal, may be appealed to the Board of Supervisors.

Further Information

The official appeals procedure adopted by the Board of Supervisors is contained in County Resolution No. 92-525 as amended. This resolution and the official Notice of Appeals form may be obtained from the Mariposa County Board of Supervisors Office, 5100 Bullion Street, P.O. Box 784, Mariposa CA 95338 [Telephone (209) 966-2006] or the Mariposa County Planning Department, 5101 Jones Street, P.O. Box 2039, Mariposa CA 95338 [Telephone (209) 966-5151].

If you have any questions regarding the appeals procedure or appealing a County decision or determination, please contact the County Counsel office (966-3222) or the County department or office which made the decision or determination.