DEPARTMENT: Planning

RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a resolution:

1) Finding that the project is exempt from environmental review,
2) Approving Zoning Amendment No. 2008-158 with findings as recommended by the Planning Commission.

Recommended action is based upon the Planning Commission's recommendations. Further justification is provided in the Staff Report to Board of Supervisors from Mariposa Planning. The action includes waiving the first reading and introducing an ordinance amending the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008-158.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve Zoning Amendment. Zoning of the 3.55-acre area would remain within the boundaries of the Open Watershed Overlay.

Financial Impact? ( ) Yes (X) No Current FY Cost: $
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $
Additional Funding Needed: $
Source:
Internal Transfer
Unanticipated Revenue
Transfer Between Funds
Contingency
( ) General ( ) Other

Annual Recurring Cost: $

Staff Report to the Board with Attachments
(as listed on Page 4 of Staff Report)

CLERK'S USE ONLY:
Res. No.: Ord. No. 1052
Vote – Ayes: ______ Absent: ______
Nocs: ______

Approved
Minute Order Attached ( ) No Action Necessary

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

COUNTY ADMINISTRATIVE OFFICER:
Requested Action Recommended
No Opinion
Comments:

CAO: ________________
MARIPOSA COUNTY RESOLUTION NO. 2009-220

A RESOLUTION APPROVING ZONING AMENDMENT NO. 2008-158

WHEREAS an application for Zoning Amendment No. 2008-158 was received on September 2, 2008 from John P. Boggs for a property located at 5368 Oak Road, also known as Assessor Parcel Numbers 014-550-003; and

WHEREAS the application proposes to change the zoning map to remove a 3.55 acre portion of a 35.68 acre parcel from the Open Watershed Overlay Zoning District (OWO) designation; and

WHEREAS Section 17.60.010.C contains amendment standards for property that lies outside of the watershed; and

WHEREAS the applicant submitted information from a licensed Civil Engineer that the surface flow from the property does not flow into the Stockton Creek watershed, which provides for public or community water supply; 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 Planning Commission public hearing was scheduled for the 5th of December 2008; and

WHEREAS a Staff Report to the Planning Commission was prepared pursuant to the California Government Code, Mariposa County Code, 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, and the comments of the applicant’s agent; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 2008-039 recommending that the project be found to be exempt from environmental review pursuant to CEQA and approving of the project with findings; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 12th day of May 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 packet to the Board of Supervisors was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant and agent.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Zoning Amendment No. 2008-158.

BE IT THEREFORE FURTHER RESOLVED THAT the recommendation for project approval are based upon findings set forth in Exhibit 1.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to the zoning of the parcel described in Exhibit 2 will remove the Open Watershed Overlay designation from said parcel. The amended alignment of the Open Watershed Overlay Zoning line boundary is shown in Exhibit 3.

BE IT THEREFORE FINALLY RESOLVED THAT the effective date of this resolution shall be the effective date of the ordinance adopted in conjunction with this action.

ON MOTION BY Supervisor Bibby, seconded by Supervisor Allen, this resolution is duly passed and adopted this 12th day of May 2009 by the following vote:

AYES: Bibby, Allen, Cann, Aborn, and Turpin
NOES: None
EXCUSED: None
ABSTAIN: None

Attest:

[Signature]
Marcia Buttice, Deputy
Margie Williams, Clerk of the Board
Mariposa County Board of Supervisors

Approved as to Form:

[Signature]
Steven W. Dahlem
County Counsel

Brad Aborn, Chairman
Mariposa County Board of Supervisors
EXHIBIT 1 – FINDINGS OF APPROVAL

In keeping with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for Zoning Amendment Application No. 2008-158:

1. **FINDING:** Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

   **EVIDENCE:** The applicant has submitted a signed and stamped letter from Roger Stephens, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

2. **FINDING:** This amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

   **EVIDENCE:** This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse affect on the general public health, safety, peace, and welfare since none of the surface flows from the property provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.

3. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

   **EVIDENCE:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.
The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

4. FINDING: This amendment conforms to the requirements of State law and County policy.

EVIDENCE: State law governing the adoption of zoning ordinances and maps requires that the adopted codes and maps include provisions for amendments. Those provisions are included in the adopted Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

5. FINDING: This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

EVIDENCE: This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.

6. FINDING: The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

EVIDENCE: The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose. A change to the boundaries is allowed per Mariposa County Code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed. The underlying zoning designation for the subject property is Mountain Home (MH). The property will remain in the Mountain Home zone, which is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas.
EXHIBIT 2 – LEGAL DESCRIPTION OF PROPERTY

LEGAL

Parcel B according to that Parcel Map for ALAN T. CRUM ET AL. recorded in Book 20 of Parcel Maps Mariposa County Records at Page 34.

Excepting therefrom the following described parcel:

Beginning at northeasterly corner of said Parcel B; thence S. 03° 38' 52" E. along the east line of said Parcel B 781.90 feet to the southwest corner of Parcel C of said Crum Parcel Map; thence S. 89° 31' 48" W along the south line of said Parcel B 185.20 feet; thence N. 03° 54' 37" W. 782.48 feet to a point on the north line of said Parcel B; thence N. 89° 38' 30" E along said north line 188.81 feet to the point of beginning.

Leaving 35.68 acres remaining.

Reserving therefrom all easements of record.

[Signature]

LICENSED LAND SURVEYOR

PAUL J. GREIG, PLS.

Ex. June 30, 2004

#3517
EXHIBIT 3 – MAP SHOWING AMENDMENT

Zoning Amendment No. 2008-158

MAP DATE: April 28, 2009
DATA SOURCE: Assessor Parcel Map Update December 30, 2008

Mariposa County Planning Department
PO BOX 2039
5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposaplanning@mariposacounty.org
http://www.mariposacounty.org/planning

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
MARIPOSA COUNTY ORDINANCE NO. 1052
(Not to be Codified)

AN ORDINANCE AMENDING THE ZONING MAP OF MARI

WHEREAS, a proposal to amend the zoning map for Maripos
initiated by John P. Boggs on September 2, 2008, and

WHEREAS the application is known as Zoning Amendment 1
application proposes to remove the Open Watershed Overlay Zonin
designation from a 3.55 acre portion of a 35.68 acre parcel (Assessor’s Parcel Number
014·550·003). The property will be entirely removed from the Open Watershed Overlay
and only the underlying zoning district designation of Mountain Home will remain; and

WHEREAS, the Planning Commission held a duly noticed public hearing on
Zoning Amendment No. 2008·158 on the 5th day of December 2008, in accordance with
State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning
Amendment No. 2008·158 on the 12th day of May 2009, in accordance with State Law
and County Code; and

WHEREAS, Zoning Amendment No. 2008·158 has been found to be exempt from
the provisions of the California Environmental Quality Act.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby
amend the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008·
158. The amendment to the zoning of the parcel described in Exhibit 1, will remove the
Open Watershed Overlay designation from said parcel. The amended alignment of the
Open Watershed Overlay Zoning line boundary is shown in Exhibit 2.

BE IT FINALLY ORDAINED, this action is based on the amendment standards
described in Section 17.60.010.C and the findings mandated by Section 17.128.050 of the
Mariposa County Zoning Ordinance as shown in Exhibit 3.

SECTION II: This ordinance shall become effective thirty (30) days after final
passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this 26th day of May, 2009 by the following vote.

AYES: Aborn, Turpin, Bibby, Cann, Allen
NOES: None
ABSTAINED: None
EXCUSED: None
NOT VOTING: None
BRAD ABORN, Chair
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM:

STEVEN W. DAHLEM, County Counsel
Exhibit 1

LEGAL

Parcel B according to that Parcel Map for ALAN TOD CRUM ET AL recorded in Book 20 of Parcel Maps Mariposa County Records at Page 34.

Excepting therefrom the following described parcel.

Beginning at northeasterly corner of said Parcel B; thence S. 03° 38' 52" E. along the east line of said Parcel B 781.90 feet to the southwest corner of Parcel C, of said Crum Parcel Map; thence S. 89° 31' 48" W along the south line of said Parcel B 185.20 feet; thence N. 03° 54' 37" W. 782.48 feet to a point on the north line of said Parcel B; thence N. 89° 38'30"E along said north line 188.81 feet to the point of beginning.

Leaving 35.68 acres remaining.

Reserving therefrom all easements of record.
Exhibit 2

Zoning Amendment No. 2008-158

MAP DATE: April 28, 2009
DATA SOURCE: Assessor Parcel Map Update December 30, 2008

Mariposa County Planning Department
PO BOX 2039
5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposaplanning@mariposacounty.org
http://www.mariaposacounty.org/planning

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
Exhibit 3

1. **FINDING:** Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

   **EVIDENCE:** The applicant has submitted a signed and stamped letter from Roger Stephens, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

2. **FINDING:** This amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

   **EVIDENCE:** This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse affect on the general public health, safety, peace, and welfare since none of the surface flows from the property provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.

3. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

   **EVIDENCE:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.
The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

4. **FINDING:** This amendment conforms to the requirements of State law and County policy.

**EVIDENCE:** State law governing the adoption of zoning ordinances and maps requires that the adopted codes and maps include provisions for amendments. Those provisions are included in the adopted Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

5. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.

6. **FINDING:** The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

**EVIDENCE:** The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose. A change to the boundaries is allowed per Mariposa County Code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed. The underlying zoning designation for the subject property is Mountain Home (MH). The property will remain in the Mountain Home zone, which is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas.
TO: KRS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2008-158; an Amendment to Change the Boundaries of the Open Watershed Overlay Zoning District (OWO) to Remove a 3.55 Acre Portion of a 35.68 Acre Parcel (APN 014-55-003) from the Open Watershed Overlay Zoning District (OWO) Designation. Adopt a Resolution Approving the Project, find that the Project is Exempt from Environmental Review, Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map. The Project Site is Located at 5368 Oak Road

RESOLUTION 09-220

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on May 12, 2009

ACTION AND VOTE:

11:42 a.m. Kris Schenk, Planning Director;
PUBLIC HEARING to Consider Zoning Amendment No. 2008-158; an Amendment to Change the Boundaries of the Open Watershed Overlay Zoning District (OWO) to Remove a 3.55 Acre Portion of a 35.68 Acre Parcel (APN 014-55-003) from the Open Watershed Overlay Zoning District (OWO) Designation. Adopt a Resolution Approving the Project, find that the Project is Exempt from Environmental Review, Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map. The Project Site is Located at 5368 Oak Road

BOARD ACTION: Kris Schenk and Alvaro Arias/Associate Planner, presented the staff report. Alvaro Arias advised of a fax they received this morning from Kirk Crum concurring with the request to remove the 3.55 acre portion from the OWO designation.

The public portion of the hearing was opened and input was provided by the following:

Anita Starchman Bryant, Starchman Bryant Law Offices, advised that Russ of Freeman and Seaman Land Surveyors is present to respond to questions. She advised that this property is not a part of the OWO area; and she hopes that there will be consideration in making this process easier for applicants in the same situation in the future.

Staff responded to questions from the Board and clarified that this item just deals with the OWO; relative to contacting the other agencies; and relative to the process for taking the recommended actions. The public portion of the hearing was closed. (M)Bibby, (S)Allen, Res. 09-220 was adopted finding that the project is exempt from environmental review and approving Zoning Amendment No. 2008-158 with findings as recommended by the Planning Commission/Ayes: Unanimous. (M)Bibby, (S)Allen, the first reading was waived and an Ordinance introduced amending the Zoning Map of
Mariposa County pursuant to Zoning Amendment 2008-158. The Clerk of the Board read the title of the Ordinance into the record/Ayes: Unanimous. The hearing was closed.

Cc: File
Tracy Gauthier

From: Dan Tucker [mariposagazette@mariposagazette.com]
Sent: Sunday, May 31, 2009 12:13 PM
To: Tracy Gauthier
Subject: Re: Zoning amendment 2008-158

received, will run on June 4, thank you
Dan Tucker
mariposagazette@mariposagazette.com

On May 29, 2009, at 4:45 PM, Tracy Gauthier wrote:

Greetings Dan,

Attached is an Ordinance for publication in the next issue of the Gazette.

Please reply in receipt of this request.

If you have any questions please contact me at 742-1228

Thank you
Tracy Gauthier
<Zoning amendment 2008-158.doc>
NOTICE OF PUBLIC HEARING

Project: Zoning Amendment No. 2008-158  
Proponent’s name: John P. Boggs  
Property owner’s name: John P. Boggs  
Property location: 5368 Oak Road, APN 014-550-003

This Zoning Amendment proposes to amend the boundaries of the Open Watershed Overlay Zoning District to remove an approximately 3.55 acre portion of APN 014-550-003, a 35.68 acre parcel from the Open Watershed Overlay. The underlying Mountain Home zoning will remain. The basis of this request is that the drainage from the entire property does not flow into the Stockton Creek watershed. The project parcel is located at 5368 Oak Road in the Midpines area.

This matter requires a public hearing, and on Tuesday, May 12, 2009, the Mariposa County Board of Supervisors will consider the above application.

Hearing Time: 11:00 a.m. or as soon thereafter as possible.

Hearing Location: Mariposa County Government Center (upper floor)  
5100 Bullion Street, Mariposa California

You are receiving this notice as required by State law and County code because (1) you own property within 600 feet of the subject property; or (2) you are an applicant or agent or commenting agency or agency providing essential facilities or services to the project site area; or (3) you have previously asked us to inform you about projects associated with this property.

If you have any questions about this project or the information in this notice, or if you would like copies of staff report information, please contact Alvaro Arias at Mariposa Planning, (209) 742-1218. E-mail may be sent to Alvaro Arias at aarias@mariposacounty.org

You may also write us at P.O. Box 2039 Mariposa CA 95338, or drop by the office at 5100 Bullion Street (lower floor), Mariposa to review available information.

Action: The Board of Supervisors will consider the Planning Commission’s recommendation to adopt a resolution finding that the project is exempt from environmental review and approving the project with findings. This action by the Board of Supervisors is the final county action on this project.

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.
Written comments may be submitted now, and at any time during the public review period up to, and including, the public portion of the public hearing time.

This action of the Board of Supervisors is the final county action on this project, as the Board of Supervisors is the lead agency for a Zoning amendment. You will not be receiving any other notice regarding the outcome of this hearing unless you request such notice.

Please be advised that any concerns or issues relating to the project must be raised during the public review process described in this notice, if those issues are to be used for the basis of a future court challenge.

Sincerely,

[Signature]

Alvaro Arias
Mariposa Planning
Zoning Amendment No. 2008-158

MAP DATE: April 2009
DATA SOURCE: Assessor Parcel Map Update December 30, 2008

Mariposa County Planning Department
PO BOX 2039
5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposaplanning@mariposacounty.org
http://www.mariposacounty.org/planning

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
SITE PLAN FOR
ZONING AMENDMENT
FOR
JOHN P. BODGES
P.O. BOX 330
HALF MOON BAY, CA 94019
(650) 712-8908
BEING A PORTION OF PARCEL B OF PARCEL MAP BOOK 20, PAGE 54, MRR, SITUATED IN
A PORTION OF THE NW 1/4 OF SECTION 6, T. 5 S., R. 19 E., M.D.B. & M.
MARIPOSA COUNTY, CALIFORNIA
JULY 2008
SCALE: 1" = 150'
NOTES:
1. Contours are for pictorial purposes only.
3. Subsurface conditions of parcel(s) shown are based on the best information available and may vary at different points of depth.
4. Contour lines are interpolated and approximate prior to grades.
5. Distances, perimeters, and the boundaries of improvements shown are approximate and not specific.
6. Source of information is the owner's written or recorded survey.
7. This plat is based on the references and survey done.

PURPOSE:
The purpose of this ware storage is to remove the property from the
Open Space/Country Zone since that area is not applicable to the
property.

PREPARED BY:
Richard A. Seaman, L.S. 5339
License expiration date: 12/31/09

FREEMAN & SEAMAN LAND SURVEYORS
P.O. BOX 330
MARIPOSA, CA 95332
(209) 726-7228
(209) 726-7623
(866) 726-7228
PROJECT: **Zoning Amendment No. 2008-158** Zoning amendment proposal to change the boundaries of the Open Watershed Overlay Zoning District (OWO) to remove a 3.55 acre portion of a 35.68 acre parcel (APN 014-550-003) from the Open Watershed Overlay Zoning District (OWO) designation. The basis of this request is that the drainage from the entire property does not flow into the Stockton Creek watershed. The basis for this request is information from licensed Civil Engineer Roger Stephens, that the run-off from this parcel flows into the Bear Creek (and the Merced River). The project site is located at 5368 Oak Road.

APPLICANT: John P. Boggs

AGENT: Freeman and Seaman Land Surveyors

NOTICING:
- Gazette Ad: April 30, 2009
- Mailed Notice: Mailed on April 23, 2009
- Site Posted: Mailed on April 23, 2009

COMMISSION ACTION: The Planning Commission recommends the Board of Supervisors adopt a resolution:

A. Finding that this project is exempt from environmental review, and
B. Approving Zoning Amendment No. 2008-158 with the recommended findings.

Adopt an ordinance with findings amending the Mariposa County Zoning Map pursuant to Zoning Amendment No. 2008-158.
Project Description for Zoning Amendment No. 2008-158

A. Description of Project (see Site Plan, Page 3)
   The applicant is proposing a Zoning Amendment to change the boundaries of the Open Watershed Overlay Zoning District (OWO) to remove a 3.55 acre portion of a 35.68 acre parcel. The 3.55 acre portion is the only part of the property that is covered by the OWO. This project is part of a larger project involving a minor land division of the entire parcel, however, the applicant is still working on resolving outstanding access issues to be able to proceed with that project and wishes to process these applications separately. Completion of the Zoning Amendment is necessary for the land division project, which proposes 5 to 15 acre sized parcels. The applicant has provided information from licensed Civil Engineer Roger Stephens, that states that the run-off from this parcel flows into the Bear Creek (and the Merced River) watershed and not into the Stockton Creek watershed for which the OWO is intended to protect.

B. Project Background Data

Existing Zoning: Mountain Home; partly in Open Watershed Overlay

Proposed Zoning: Mountain Home; none of the parcel in Open Watershed Overlay

Current Land
Use: Residential- vacant

Zoning and General Plan Designation of Adjacent Lands (to amendment area):

North: 147.71 acre parcel, Mountain Home (MH) zone, partially in Open Watershed Overlay (OWO) and partially in Scenic Highway Overlay (SHO), Planning Study Area (Midpines) Land Use

Northeast: 153.36 acre parcel, Mountain Home (MH) zone, partially in Scenic Highway Overlay (SHO), Planning Study Area (Midpines) Land Use

East: 23.33 acre parcel, Mountain Home (MH) zone, Residential Land Use

South: 5.46 acre and 6.32 acre parcel in Mountain Home (MH) zone, Residential Land Use
12.49 acre parcel in the Mountain Home (MH) and partially in the Open Watershed Overlay (OWO) zone, Residential Land Use
Southwest: 5-acre parcel in Mountain Home (MH) zone and partially in Open Watershed Overlay (OWO) zone, Residential Land Use
West: 19.89-acre parcel Mountain Home (MH) and entirely in Open Watershed Overlay (OWO) zone, Residential Land Use

Site Topography And Vegetation: Slopes onsite are moderate to steep, ranging from about 2 -40%. The fuel loading is light, with vegetation consisting primarily of mixed pine and oak

Project Analysis for Zoning Amendment No. 2008-158

A. Zoning Amendment Discussion:

Current Zoning: The subject parcel has the primary zoning designation of Mountain Home. The Mountain Home zone has a 5 acre minimum parcel size and is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas. There will be no change to the Mountain Home Zoning as a result of this amendment. In addition, the parcel is partially located (3.55 acres) in the Open Watershed Overlay. The Watershed Overlay is intended to protect the surface water of lands that provide for public or community water supply. The OWO is applied to the Stockton Creek watershed. The Watershed overlay has a minimum parcel size of 20 acres.

Proposed Zoning: The applicant is proposing an amendment to the Zoning map to change the boundaries of the Open Watershed Overlay Zoning District (OWO). The applicant has provided information from Roger Stephens, a licensed Civil Engineer, that none of the surface flow on the property flows into the Stockton Creek watershed and instead flows into the Bear Creek watershed, which is not covered by the OWO. The applicant proposes to change the boundaries of the OWO so that the parcel boundaries are the boundaries of the OWO. As a result of the amendment the restrictions of the OWO would not apply to the subject parcel (or any portion of it).
Planning Commission Recommendation: The Planning Commission supports the proposal for a Zoning Amendment as the subject parcel only has a 3.55 acre portion in the OWO. Roger Stephens, a licensed Civil Engineer has provided information stating that none of the surface flow on the property flows into the Stockton Creek watershed, therefore it is unnecessary. Based on the small 3.55 acre portion of the parcel that lies within the OWO, the rest of the parcel is forced to meet the minimum parcel size of 20 acres in the OWO, when as stated before is unnecessary due to the fact that the OWO does not serve its intended purpose on the subject parcel. Section 17.60.010.C contains the amendment standards, and it states that “Wherever it can be proven that a parcel or part of a parcel, lies outside the watershed, the Open Watershed Conservation (OWC) shall be modified to exclude that parcel or part of a parcel.”

Environmental Determination:
The Planning Commission recommends that the Board of Supervisors find that the project is exempt from environmental review.

B. Public Comments

As of the writing of this staff report, staff had not received any public comments. No public comments were received prior or during the Planning Commission hearing on this project.

C. Attachments

1. Chapter 17.20 Mountain Home Zone
2. Chapter 17.60 Open Watershed Overlay
3. Information provided by Roger Stephens
4. Notice of Exemption
5. Vicinity Map
6. Site Plan
7. Planning Commission Resolution No. 08-39
9. Draft Resolution of the BOS
10. Draft Ordinance
Project Findings for Zoning Amendment No. No. 2008-158

In keeping with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for Zoning Amendment Application No. 2008-158:

Zoning Amendment Findings

1. FINDING: Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

EVIDENCE: The applicant has submitted a signed and stamped letter from Roger Stephens, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

2. FINDING: This amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

EVIDENCE: This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse effect on the general public health, safety, peace, and welfare since none of the surface flows from the property provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.
3. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

**EVIDENCE:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.

The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

4. **FINDING:** This amendment conforms to the requirements of State law and County policy.

**EVIDENCE:** State law governing the adoption of zoning ordinances and maps requires that the adopted codes and maps include provisions for amendments. Those provisions are included in the adopted Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

5. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.

6. **FINDING:** The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

**EVIDENCE:** The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose. A change to the boundaries is allowed per Mariposa County Code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed. The underlying zoning designation for the subject property is Mountain Home (MH). The property will remain in the Mountain Home
zone, which is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas.
Attachment 1
Chapter 17.20 Mountain Home Zone
Chapter 17.20

MOUNTAIN HOME ZONE (MPZ)

Sections:

17.20.010 Mountain home zone (MHZ).

17.20.010 Mountain home zone (MHZ).

The MHS as designated on the Mariposa County land use map, is applied to land best suited for moderate residential densities based upon suitability of terrain, location adjacent to population centers and services areas. This land use classification is provided to accommodate the major portion of the rural homesite growth of the county.

A. Development standards for MHZ. Development standards for the MHZ shall be as follows:

1. Uses:
   a. Permitted uses: Residential and those applicable uses listed under Chapter 17.108 of this Title. (Ord. 704 Sec.1, 1988).
   b. Conditional uses: Churches, subject to parking standards as required in Section 17.108.120(F) of this Title; private schools, except as permitted by Section 17.108.060(I); mineral or construction material processing, quarrying or aggregate processing shall be allowed by use permit issued for one (1) year. The permit shall be renewed if conditions are met and the site is maintained in accordance with the Surface Mining Act, Mariposa County Code and Water Quality Control Board Standards and renewal of the use permit does not significantly interfere with residential uses. Processed, stockpiled material can be removed after permit to process has expired provided that terms of the reclamation plan are met. (Ord. 816 Sec.V, 1991).
   c. Prohibited uses: All other uses not listed above are prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title. (Ord. 912 Sec.II, 1997).

2. Minimum parcel or lot size: No parcel of real property shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance, where any one (1) of the parcels so created will be less than five (5) acres in gross area.

3. Density: One (1) single family residence per five (5) acres. (Ord. 704 Sec.1, 1988).
Attachment 2
Chapter 17.60 Open Watershed Overlay
Chapter 17.60
OPEN WATERSHED OVERLAY (OWO)

Sections:

17.60.010 Open watershed overlay (OWO).

17.60.010 Open watershed overlay (OWO).
The Open Watershed Overlay (OWO) designated on the Mariposa County Zoning Map, is an overlay district and shall be applied to lands utilized, or proposed to be utilized as watersheds for public or community surface water supply, as defined by the engineering studies for that project. Within any OWO, the specific policies, standards and regulations of the principal zone with which the OWO is combined, are modified in accordance with this chapter.

A. Development standards for the OWO. Development standards for the OWO shall be as follows:

1. Uses:
   a. Permitted uses: Single family residences, home enterprise, agriculture, public parks, and the managed production and harvesting of timber and those applicable uses listed under Chapter 17.108 of this Title.
   b. Conditional uses: None.
   c. Prohibited uses: All other uses not listed above are prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title.

2. Minimum parcel or lot size: No parcel of real property in the OWO shall be divided or split into two (2) or more parcels by voluntary transfer, court action, or other conveyance where any one (1) of the parcels so created will be less than twenty (20) acres or a legal one-half of a quarter-quarter section except, where larger parcel sizes are required in the principal zone shall apply.

3. Density: Standards required in the principal zone or one (1) single family residence per twenty (20) acres, whichever is more restrictive.

B. Improvement standards for OWO. For the purposes of insuring adequate protection of water quality within an area designated OWO, the following improvement standards shall be required on all building permits, variances, or subdivision proposals:

1. Land located within an OWO are designated as "erosion hazard areas" in accordance with provisions of this Code with respect to grading.

2. All development proposals shall require approved percolation tests.

3. No septic system shall be installed unless such septic system is installed on a specific location wherein an approved percolation test has been conducted in accordance with this Code. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).
C. **Amendment standards.** Wherever it can be proven that a parcel, or part of a parcel, lies outside the watershed, the Open Watershed Conservation (OWC) shall be modified to exclude that parcel or part of a parcel.

The burden of proof is upon the applicant and shall consist of an engineered survey of the watershed line and any information deemed necessary by the planning director. Also, whenever a lot line adjustment or land division is completed where the watershed becomes a surveyed line, the OWC shall be modified to follow the actual watershed boundary. Once the watershed becomes a surveyed line, the county shall initiate an amendment to reflect the modification of the OWC. The development policy and improvement standards of the OWC shall not apply to those lands outside the watershed during the land division or lot line adjustment application process. (Ord. 729 Sec.1, 1988).
Attachment 3
Information provided by Roger Stephens
December 13, 2005

Mr. James Brannan
1470 Hayden Rd.
LeGrand, CA 95333

Re: APN: 014-550-003

Dear Mr. Brannan,

It is my opinion that all of the above referenced parcel is located outside of the Stockton Creek watershed.

Attachment Exhibit A shows the watershed boundary and the approximate parcel location. It is our opinion that all run-off from this parcel will be directed to Bear Creek.

Please give me a call if you have any questions in regards to this matter.

Sincerely,

[Signature]
Roger L. Stephens, P.E.

RLS/lb

P.O. BOX 1193 • 5077 BULLION STREET • MARIPOSA, CALIFORNIA 95338 • (209) 966-3801
May 14, 2008
W.O. # 060107

Mariposa County
Planning Dept.
P.O. Box 2038
Mariposa, CA 95338

Attn: Alvaro Arias, Planner
Reference: LDA 2006-226

Dear Alvaro:

In response to you email of today I have enclosed a sketch showing my interpretation of the easterly line of the Stockton Creek Watershed. This clearly shows that none of the Boggs property is in the watershed.

Please let me know if you have any questions.

Sincerely,

[Signature]
Richard A. Seaman

Cc: John Boggs
Cc: Jim Brannon
Attachment 4
Notice of Exemption
MARIPOSA COUNTY
NOTICE OF EXEMPTION

TO:       County Clerk, County of Mariposa
          P.O. Box 247
          Mariposa, CA  95338

FROM:    Mariposa County
          Board of Supervisors
          P.O. Box 784
          Mariposa, CA  95338

Project Title:  Zoning Amendment Application No. 2008-158

Project Location:  Amendment affects a 3.55 acre portion of APN 014-550-003 located at 5368 Oak Road.

Description of Project:  Amendment to the boundaries of the Open Watershed Overlay. This amendment will remove 3.55 acres from the Open Watershed Overlay. The Open Watershed Overlay applies to lands whose surface water flows into a watershed that is used for public or community water supply. Proof has been provided that the property lies outside of the Stockton Creek watershed, which is used for public and community water supply.

Name of Public Agency Approving Project:  Mariposa County Board of Supervisors

Name of Person/Agency Carrying Out Project:  John P. Boggs

Exempt Status:  General Rule Exemption; Section 15061, CEQA Guidelines.

Reason Why Project Is Exempt:  Zoning Amendment No. 2008-158 is exempt from environmental review pursuant to §15061, CEQA Guidelines, the General Rule Exemption. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project will amend the Open Watershed Overlay zoning designation boundaries, to remove 3.55 acres whose surface water does not flow into the Stockton Creek watershed, which is used for public and community water. The effect of this amendment will be that an unnecessary constraint on private property will be removed. The underlying zoning, which is Mountain Home will still be in effect. Any and all projects that require environmental review such as land divisions, will still be subject to CEQA.

Lead Agency Contact Person:  Alvaro Arias, Associate Planner

Phone Number:  (209) 742-1218

Kris Schenk  
Planning Director

Date  
19
Attachment 5
Vicinity Map
VICINITY MAP #1

Applicant: John Boggs
APN: 014-550-003
Project:
Location: Intersection of Yosemite Oaks Road and Oak Road;
         Midpines General Area;
         - Mariposa County
PORTION N1/2 SECTION 6, T.5S., R.19E., M.D.B.&M.

VICINITY MAP #2

Applicant: John Boggs
APN: 014-550-003
Project:
Location: Intersection of Yosemite Oaks Road and Oak Road; Midpines General Area; - Mariposa County
Attachment 6
Site Plan
Zoning Amendment No. 2008-158

MAP DATE: April 28, 2009
DATA SOURCE: Assessor Parcel Map Update December 30, 2008

Mariposa County Planning Department
PO BOX 2039
5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposaplanming@mariposacounty.org
http://www.mariposacounty.org/planning

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
Attachment 7
Planning Commission Resolution No. 08-39
Resolution
No. 2008-039


WHEREAS an application for Zoning Amendment No. 2008-158 was received on September 2, 2008 from John P. Boggs for a property located at 5368 Oak Road in the Midpines area, also known as Assessor Parcel Numbers 014-550-003; and

WHEREAS the application proposes to change the zoning map to remove a 3.55 acre portion of a 35.68 acre parcel from the Open Watershed Overlay Zoning District (OWD) designation; and

WHEREAS Section 17.60.010.C contains amendment standards for property that lies outside of the watershed; and

WHEREAS the applicant submitted information from a licensed Civil Engineer that the surface flow from the property does not flow into the Stockton Creek watershed, which provides for public or community water supply; 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 5th of December 2008; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, 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.

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors find that the project is exempt from provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors approve Zoning Amendment No. 2008-158.
BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission recommends approval of The General Plan Zoning Amendment based upon the findings set forth in Exhibit 1.

ON MOTION BY Commissioner DeSantis, seconded by Commissioner Ross, this resolution is duly passed and adopted by the following vote:

AYES: DeSantis, Ross, Skyrud, Rudzik, Francisco

NOES: None

EXCUSED: None

ABSTAIN: None

[Signature]
Skip Skyrud, Chair
Mariposa County Planning Commission

Attest:

[Signature]
Judy Mueller, Secretary to the
Mariposa County Planning Commission
EXHIBIT 1

RECOMMENDED PROJECT FINDINGS
FOR
Zoning Amendment No. 2008-158

In keeping with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for Zoning Amendment Application No. 2008-158:

Zoning Amendment Findings

1. FINDING: Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

EVIDENCE: The applicant has submitted a signed and stamped letter from Roger Stephene, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

2. FINDING: This amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

EVIDENCE: This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse affect on the general public health, safety, peace, and welfare since none of the surface flows from the property provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.
3. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

**EVIDENCE:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.

The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

4. **FINDING:** This amendment conforms to the requirements of State law and County policy.

**EVIDENCE:** State law governing the adoption of zoning ordinances and maps requires that the adopted codes and maps include provisions for amendments. Those provisions are included in the adopted Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

5. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.
Attachment 8
Planning Commission Minutes from Dec. 5, 2008

Prior to presenting Zoning Amendment Application No. 2008-158 Arias noted the following changes to the staff report on Circle Page 1, the last sentence, removing the wording "and conditions", as there are no conditions for this project.

Arias presented Zoning Amendment Application No. 2008-158 explaining that this is a proposed amendment to change zoning to remove a 3.55 acre portion of the 35.68 acre parcel from the Open Watershed Overlay Zoning District. The property is located at 5368 Oak Road and known as APN 014-550-003.

Arias concluded that it was staff’s recommendation that the Planning Commission adopt a resolution recommending that the Mariposa County Board of Supervisors adopt a Notice of Exemption for this project and approve Zoning Amendment No. 2008-158 with the recommended findings and conditions.

Clarifications:

Skyrud referred Arias to the line on the map showing the watershed boundary and asked Arias if the watershed overlay was specifically designated on the maps.

Arias said that when the watershed overlay was originally designed it followed existing legal boundaries, but the property boundaries have changed over time.

Skyrud stated that the water shed boundary is defined by property lines not the actual watershed lines. Skyrud then inquired as to the feasibility of having a survey conducted to locate the actual watershed boundaries.

Williams said that there would be a very significant cost to have surveys done.

Public Portion of the Hearing: Opened.

Dick Seaman of Freeman and Seaman Land Surveyors, agent for the applicant, stated that the open watershed line shown on the assessor’s map is an arbitrary line and quite meaningless. Seaman agreed with Williams that it would be very costly to have a survey done.

Public Portion of the Hearing: Closed.
Deliberations: None

On motion of Commissioner DeSantis, seconded by Commissioner Ross, the Planning Commission adopted a resolution recommending that the Mariposa County Board of Supervisors adopt a Notice of Exemption and approve Zoning Amendment No. 2008-158 with the recommended findings.

Motion carried by the following vote:

AYES: 5 (Francisco, Ross, Rudzik, Skyrud, DeSantis)
NOES: 0

Planning Commission Meeting Date: December 5, 2008
Williams clarified that his Zoning Amendment will be scheduled for a Board of Supervisors public hearing for final action.

3. ACTION ITEMS:

3A. A Resolution of Intention to initiate an amendment to Title 2, Administration and Personnel, to add provision for canceling or rescheduling of Planning Commission Meetings and to amend the scope of matters to be heard by the Commission.

Sarah Williams presented the proposed Resolution of Intention.

Williams concluded that it was staff's recommendation that the Planning Commission adopt a Resolution of Intention with the language that is modified or changed and that a file be set up. Williams stated that a staff report would be written and a public hearing scheduled for the Planning Commission and then scheduled for the Mariposa County Board of Supervisors for a public hearing. Williams noted that the Board of Supervisors would make the final action on the code amendment.

Clarifications:

Skyrud referred to California Government code section 65100 where the Planning Commission is identified as to its duties, responsibilities, who appoints them and what they do, and to other duties as assigned. Skyrud stated that this section gives the Commission the authority to make decisions based on the direction of the Board of Supervisors and he felt that this code should be referenced in the wording of the Resolution of Intention.

Williams said that the following wording could be added to item C: “any other item that may be designated by resolution, whereas as assigned”.

Rudzik suggested that the issue be referred to County Counsel for his review.

Francisco thanked Williams for her work on the project.

Public Portion of Meeting: Opened
Public Portion of Meeting: Closed
Deliberations:

On motion of Commissioner Francisco, seconded by Commissioner Ross, the Planning Commission adopted a Resolution of Intent recommending that County Counsel review the Resolution and address California Government Code 65100 and projects as assigned by the Mariposa County Board of Supervisors and Planning Commission shall hear and decide any other matter that may be designated by resolution or ordinance.

AYES: 5 (Francisco, Ross, Rudzik, Skyrud, DeSantis)
NOES: 0

4. INFORMATIONAL ITEMS.

Planning Commission Meeting Date: December 5, 2008
Attachment 9
Draft Resolution of the BOS
WHEREAS an application for Zoning Amendment No. 2008-158 was received on September 2, 2008 from John P. Boggs for a property located at 5368 Oak Road, also known as Assessor Parcel Numbers 014-550-003; and

WHEREAS the application proposes to change the zoning map to remove a 3.55 acre portion of a 35.68 acre parcel from the Open Watershed Overlay Zoning District (OWO) designation; and

WHEREAS Section 17.60.010.C contains amendment standards for property that lies outside of the watershed; and

WHEREAS the applicant submitted information from a licensed Civil Engineer that the surface flow from the property does not flow into the Stockton Creek watershed, which provides for public or community water supply; 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 Planning Commission public hearing was scheduled for the 5th of December 2008; and

WHEREAS a Staff Report to the Planning Commission was prepared pursuant to the California Government Code, Mariposa County Code, 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, and the comments of the applicant’s agent; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 2008-039 recommending that the project be found to be exempt from environmental review pursuant to CEQA and approving of the project with findings; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 12th day of May 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 packet to the Board of Supervisors was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant and agent.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Zoning Amendment No. 2008-158.

BE IT THEREFORE FURTHER RESOLVED THAT the recommendation for project approval are based upon findings set forth in Exhibit 1.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to the zoning of the parcel described in Exhibit 2 will remove the Open Watershed Overlay designation from said parcel. The amended alignment of the Open Watershed Overlay Zoning line boundary is shown in Exhibit 3.

BE IT THEREFORE FINALLY RESOLVED THAT the effective date of this resolution shall be the effective date of the ordinance adopted in conjunction with this action.

ON MOTION BY Supervisor ________, seconded by Supervisor ________, this resolution is duly passed and adopted this 12th day of May 2009 by the following vote:

AYES:

NOES:

EXCUSED:

ABSTAIN:

__________________________
Brad Aborn, Chairman
Mariposa County Board of Supervisors

Attest:

__________________________
Margie Williams, Clerk of the Board
Mariposa County Board of Supervisors
Approved as to Legal Form:

Steven W. Dahlem  
County Counsel
EXHIBIT 1 – FINDINGS OF APPROVAL

In keeping with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for Zoning Amendment Application No. 2008-158:

1. FINDING: Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

EVIDENCE: The applicant has submitted a signed and stamped letter from Roger Stephens, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

2. FINDING: This amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

EVIDENCE: This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse affect on the general public health, safety, peace, and welfare since none of the surface flows from the property
provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.

3. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

**EVIDENCE:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.

The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

4. **FINDING:** This amendment conforms to the requirements of State law and County policy.

**EVIDENCE:** State law governing the adoption of zoning ordinances and maps requires that the adopted codes and maps include provisions for amendments. Those provisions are included in the adopted Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.
5. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.

6. **FINDING:** The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

**EVIDENCE:** The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose. A change to the boundaries is allowed per Mariposa County Code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed. The underlying zoning designation for the subject property is Mountain Home (MH). The property will remain in the Mountain Home zone, which is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas.
EXHIBIT 2 - LEGAL DESCRIPTION OF PROPERTY

LEGAL

Parcel B according to that Parcel Map for ALAN TOD CRUM ET AL recorded in Book 20 of Parcel Maps Mariposa County Records at Page 34.

Excepting therefrom the following described parcel.

Beginning at northeasterly corner of said Parcel B; thence S. 03° 38' 52" E. along the east line of said Parcel B 781.90 feet to the southwest corner of Parcel C of said Crum Parcel Map; thence S. 89° 31' 48" W along the south line of said Parcel B 185.20 feet; thence N. 03° 54' 37" W, 782.48 feet to a point on the north line of said Parcel B; thence N. 89° 38' 30" E along said north line 188.81 feet to the point of beginning.

Leaving 35.68 acres remaining.

Reserving therefrom all easements of record.
EXHIBIT 3 – MAP SHOWING AMENDMENT

Zoning Amendment No. 2008-158

MAP DATE: April 28, 2009
DATA SOURCE: Assessor Parcel Map Update December 30, 2008

Mariposa County Planning Department
PO BOX 2039
5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposeplanning@mariposacounty.org
http://www.mariposacounty.org/planning

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
Attachment 10
Draft Ordinance
MARIPOSA COUNTY ORDINANCE NO. ____
(Not to be Codified)

AN ORDINANCE AMENDING THE ZONING MAP OF MARIPOSA COUNTY

WHEREAS, a proposal to amend the zoning map for Mariposa County was initiated by John P. Boggs on September 2, 2008, and

WHEREAS the application is known as Zoning Amendment No. 2008-158. The application proposes to remove the Open Watershed Overlay Zoning District (OWO) designation from a 3.55 acre portion of a 35.68 acre parcel (Assessor’s Parcel Number 014-550-003). The property will be entirely removed from the Open Watershed Overlay and only the underlying zoning district designation of Mountain Home will remain; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment No. 2008-158 on the 5th day of December 2008, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment No. 2008-158 on the 12th day of May 2009, in accordance with State Law and County Code; and

WHEREAS, Zoning Amendment No. 2008-158 has been found to be exempt from the provisions of the California Environmental Quality Act.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008-158. The amendment to the zoning of the parcel described in Exhibit 1, will remove the Open Watershed Overlay designation from said parcel. The amended alignment of the Open Watershed Overlay Zoning line boundary is shown in Exhibit 2.

BE IT FINALLY ORDAINED, this action is based on the amendment standards described in Section 17.60.010.C and the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as shown in Exhibit 3.

SECTION II: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this ____th day of ________, 2009 by the following vote.

AYES: 
NOES: 
ABSTAINED: 
EXCUSED:
NOT VOTING: 

[Signature]
BRAD ABORN, Chair
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM:

STEVEN W. DAHLEM, County Counsel
Exhibit 1

LEGAL

Parcel B according to that Parcel Map for ALAN TOD CRUM ET AL recorded in Book 20 of Parcel Maps Mariposa County Records at Page 34.

Excepting therefrom the following described parcel:

Beginning at northeasterly corner of said Parcel B; thence S. 03° 38' 52" E. along the east line of said Parcel B 781.90 feet to the southwest corner of Parcel C of said Crum Parcel Map; thence S. 89° 31' 48" W along the south line of said Parcel B 185.20 feet; thence N. 03° 54' 37" W 782.48 feet to a point on the north line of said Parcel B; thence N. 89° 38'30"E along said north line 188.81 feet to the point of beginning.

Leaving 35.68 acres remaining.

Reserving therefrom all easements of record.
Exhibit 2

Zoning Amendment No. 2008-158

MAP DATE: April 28, 2009
DATA SOURCE: Assessor Parcel Map Update December 30, 2008

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Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
Exhibit 3

1. **FINDING:** Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

**EVIDENCE:** The applicant has submitted a signed and stamped letter from Roger Stephens, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

2. **FINDING:** This amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

**EVIDENCE:** This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse affect on the general public health, safety, peace, and welfare since none of the surface flows from the property provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.

3. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

**EVIDENCE:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.
The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

4. **FINDING:** This amendment conforms to the requirements of State law and County policy.

**EVIDENCE:** State law governing the adoption of zoning ordinances and maps requires that the adopted codes and maps include provisions for amendments. Those provisions are included in the adopted Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

5. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.

6. **FINDING:** The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

**EVIDENCE:** The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose. A change to the boundaries is allowed per Mariposa County Code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed. The underlying zoning designation for the subject property is Mountain Home (MH). The property will remain in the Mountain Home zone, which is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas.

END