RECOMMENDED ACTION AND JUSTIFICATION: Approval of the proposed amendment to Section 17.108.180 of the Zoning Ordinance. The Planning Commission recommended approval of this amendment to the zoning ordinance following a public hearing, review of the staff report, and testimony by the public concerning the application.

The Board action would be to adopt a resolution approving the project and adopting a Notice of Exemption on the environmental determination, waive the first reading, and introduce an ordinance amending zoning ordinance text for Zoning Amendment 2009-070

BACKGROUND AND CONTEXT OF BOARD ACTIONS: On July 10, 2009, the Mariposa County Planning Commission recommended approval of these changes in code and of the environmental determination. The next step in the process is for the Board of Supervisors to hear and decide on the proposed amendment.

The Board of Supervisors will take final action on the amendment by way of both a resolution and an ordinance. If the Board takes action to approve the project at this hearing, there is both a first reading and a second reading of the ordinance. The second reading of the ordinance approving the amendments to the zoning ordinance will occur two weeks following. The ordinance is effective thirty (30) days after the second reading. Once the zoning amendment becomes effective, the process is final.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: The Board of Supervisors can amend the text as proposed by the Planning Commission, add additional text to the amendment, or refer the matter back to the Planning Department or the Planning Commission for further review and recommendations. If the Board denies the amendment, bed and breakfast inns would continue to operate as they are currently permitted by zoning.

Financial Impact? ( ) Yes (X) No Current FY Cost: $ Annual Recurring Cost: $
Budgeted in Current FY? (X) Yes ( ) No ( ) Partially Funded
Amount in Budget: $
Additional Funding Needed: $

List Attachments, number pages consecutively
Exhibit A - Staff Report to Board of Supervisors
Exhibit B - Excerpts from Planning Commission meeting minutes
Exhibit C - Planning Commission Resolution 2009-014
Exhibit D - Draft Resolution
Exhibit E - Draft Ordinance
Exhibit F - Notice of Exemption

CLERK'S USE ONLY:
Res. No.: 59-194 Ord. No. _____
Vote - Ayes: _____ Noes: _____
Absent: _____
( ) 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

Revised Dec. 2002
TO: KRIS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2009-070. Action Includes Adopting a Resolution Approving the Project, Adopting a Notice of Exemption, and Waive the First Reading and Introduce an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Mariposa County Zoning Ordinance, Section 17.108.180, to Implement the Mariposa County General Plan's Definition for Bed and Breakfast Inns

RESOLUTION 09-404

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on August 11, 2009

ACTION AND VOTE:

11:42 a.m. B) PUBLIC HEARING to Consider Zoning Amendment No. 2009-070. Action Includes Adopting a Resolution Approving the Project, Adopting a Notice of Exemption, and Waive the First Reading and Introduce an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Mariposa County Zoning Ordinance, Section 17.108.180, to Implement the Mariposa County General Plan's Definition for Bed and Breakfast Inns

BOARD ACTION: Kris Schenk and Karen Peneschi presented the staff report; and advised of a correction to the written staff report to reflect Section 17.108.180 throughout the report. Staff, including Sarah Williams/Deputy Planning Director, responded to questions from the Board relative to the amendment; addressing limited parking issues in Yosemite West; being able to file a Notice of Exemption and dealing with environmental issues including global warming; road surface and paving issues; clarification that each project is reviewed; clarification that the 2006 General Plan Update included this definition for Bed and Breakfast Inns; relative to the staff recommendation; and relative to dealing with duplexes.

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

Harry Hagen, Yosemite West, stated he is an a lawyer and he wants Yosemite West added to the list of the three areas that are exempt in the amendment because he feels that their lots are too small to allow for the increase in use from three to five bedrooms – he sees this as a real problem for Yosemite West because of the physical reality of the area. He asked for clarification that bed and breakfast applications would be reviewed on a case-be-case basis.

Staff responded to a question from the Board relative to handling enforcement.

Ron Skelton stated he operates a bed and breakfast in El Portal, and they were told three years ago that they could have five bedrooms and they designed their business accordingly, and they have a small lot. He referred to the paving issue and advised that he belongs to the Bed and Breakfast
Association and they are on paved roads and most of the driveways are paved. He also noted that a number of the businesses only have the ability to operate with three bedrooms versus five. He referred to the increased revenue as a result of the increase in the number of rooms.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board as to whether the National Park Service has provided any input on the matter in regard to Yosemite West and Foresta; and whether implementation can be held off for Yosemite West. Rick Benson noted that if the Board wants to exempt Yosemite West, the proposed Ordinance could be changed. Steve Dahlem suggested that if the Board wants to exempt Yosemite West, that direction be given to staff and that the revised Ordinance come back so that there is notice of the change. Further discussion was held relative to reviewing the applications and noticing for this hearing. (M)Turpin, (S)Allen, the first reading was waived and the Ordinance was introduced as presented; and Res. 09-404 was adopted approving the project and adopting a Notice of Exemption on the environmental determination. The Clerk of the Board read the title of the Ordinance into the record. Further discussion was held; and staff responded to additional questions from the Board relative to consideration of this issue by the Yosemite West Planning Advisory Committee; clarifying that only a small number of businesses is involved that could apply; whether public input would be taken into account when an application is submitted; whether staff is comfortable with a CEQA exemption; and relative to fire inspections. Ayes: Unanimous. The hearing was closed.

Cc: File
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS  

MARIPOSA COUNTY RESOLUTION NO. 2009-404

A RESOLUTION APPROVING ZONING AMENDMENT APPLICATION NO. 2009-070

WHEREAS, the Mariposa County Planning Commission initiated Zoning Amendment Application No. 2009-070 based upon the recommendation of the Planning Department staff; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Chapter 17.108 establishes Supplementary Standards; and

WHEREAS, Section 17.108.180 establishes provisions for Bed and Breakfast and residential transient rentals; and

WHEREAS, Section 17.108.180 defines Bed and breakfast establishments as a single family structure which is occupied by a non-transient; and

WHEREAS, Section 17.108.180.A limits the number of bedrooms available for occupancy by transients to three; and

WHEREAS, the adopted Mariposa County General Plan defines Bed and Breakfast inn as a “...single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.”

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 10th day of July, 2009; and

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

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report and testimony presented by the public concerning the application; and

WHEREAS, Planning Commission adopted Resolution 2009-014, recommending that the Board of Supervisors approve a Notice of Exemption, and further recommending Board of Supervisors approval of the project; and
WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 11th day of August, 2009; and

WHEREAS, a Staff Report packet for 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 packet, testimony presented by the public concerning the application, and comments and recommendations from the Planning Commission.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a resolution adopting a Notice of Exemption and directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Zoning Amendment No. 2009-070.

BE IT FURTHER RESOLVED THAT the approved amendment to Section 17.108.180 for bed and breakfast establishments is worded to be similar to the definition of the bed and breakfast inns contained in the Mariposa County General Plan.

BE IT FURTHER RESOLVED THAT the proposed amendment to Section 17.108.180.A. will allow bed and breakfast establishments no more than five (5) bedrooms available for occupancy by transients in all parts of the county except Wawona, Fish Camp, and Mariposa Planning Areas.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.108.180 of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike thru type):

SECTION 17.108.180 Bed and breakfast and residential transient rentals.

Bed and breakfast and transient rental establishments shall be considered a permitted home enterprise in all principal zones, except the AE, M-1 and M-2 zones. These provisions shall also be applicable in town planning areas with adopted area plans unless otherwise specifically regulated or prohibited. Approval of a conditional use permit shall be required for properties in the AE zone. Bed and breakfast establishments are defined as a single family structure which is occupied by a non-transient— in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.108.180.A. of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike thru type):
A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

BE IT FURTHER RESOLVED THAT all other text in this Section of County Code shall remain unchanged.

BE IT FURTHER RESOLVED THAT the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

1. **Finding:** The 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:** The public will benefit by having County Code and the General Plan in alignment with each other. The zoning amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding:** The 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:** This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it.

3. **Finding:** That such an amendment conforms to the requirements of state law and county policy.

   **Evidence:** According to state law, General Plans take precedence over zoning ordinances. The legal authority for the County to approve bed and breakfast inns will be clearly established upon adoption of this zoning amendment. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan.

4. **Finding:** That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan.

   **Evidence:** Since adoption of the 2006 Mariposa County General Plan there has been a discrepancy between the General Plan and the County’s Zoning Ordinance as to the definition and requirements for a bed and breakfast inn. This amendment will align the zoning code with the general plan.

BE IT 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 Turpin, seconded by Supervisor Allen, this resolution duly passed and adopted this 11th day of August, 2009 by the following vote:

AYES: Cann, Allen, Aborn, Turpin, Bibby

NOES: None

ABSENT: None

ABSTAIN: None

Brad Aborn, Chair
Mariposa County Board of Supervisors

Attest:

Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM:

Steven W. Dahlem
County Counsel
NOTICE OF PUBLIC HEARING

On Tuesday, August 11, 2009, the Mariposa County Board of Supervisors will consider County Code Amendment 2009-070, County of Mariposa, project proponent. Mariposa County has initiated an amendment to Section 17.108.180 of the Mariposa County Zoning Ordinance to implement the Mariposa County General Plan's definition for bed and breakfast inns. A bed and breakfast is rental units which is a permitted use in existing single family residences. The proposed Zoning Ordinance amendment would change the definition of bed and breakfast establishments to allow up to five (5) bedrooms to be occupied by transients. The current limit is three (3) bedrooms in a bed and breakfast inn. The amendment would also add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department. No changes are proposed to the process for establishing a bed and breakfast inn, including the application requirements or the required inspections. Additionally, no changes are proposed to the number of allowed bedrooms in a transient rental facility, which will remain at three (3) bedrooms.

This amendment affects bed and breakfast inns county-wide, except facilities covered by the following:

- Fish Camp Specific Plan;
- Wawona Specific Plan;
- Mariposa Specific Plan

The Specific Plans for the Fish Camp and Wawona communities, and specific portions of zoning code for the area covered by the Mariposa area plan, will need to be amended individually in order to allow five rooms in a bed and breakfast inn.

On July 10, 2009, the Mariposa County Planning Commission recommended approval of these changes in code and of the environmental determination. The next step in the process is for the Board of Supervisors to hear and decide on the proposed amendment.

**Board of Supervisors Hearing Date:** Tuesday, August 11, 2009

**Hearing Time:** 10:00 a.m.

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

**Action:** The Board of Supervisors will consider the approval, conditional approval, or denial of County Code Amendment 2009-070.
Written comments may be made and submitted at any time during the public review period up to, and including, the public portion of the public hearing time. Letters or written comments submitted after the public input time of the public hearing will become part of the file documents, but will not become part of the record unless the public input time is reopened. You may submit written comments to P.O. Box 2039 Mariposa CA 95338.

If the Board of Supervisors takes final action to approve the project at this hearing, there will be both a first and second reading of the ordinance. The second reading of the ordinance approving the amendments to County Code will occur two weeks later. The ordinance will be effective thirty (30) days after the second reading. Once the code amendment becomes effective, the process is final. Any current bed and breakfast inn operator who wants to expand their business will need to apply to the Planning Department to amend their current TOT permit. Inspections will be necessary to ensure the expanded facility complies with current standards.

Please contact Karen Peneschi at Mariposa Planning, (209) 742-1219, to discuss your concerns, or for more information on the project or the Board of Supervisors’ meeting. E-mail may be sent to kpeneschi@mariposacounty.org. This notice is being provided pursuant to Section 17.132.020 of the Mariposa County Code.

Posting Locations:  
Mariposa County Clerk’s Office  
Mariposa County Courthouse  
Mariposa County Planning Department  
Mariposa Post Office  
Bootjack Store  
Cathcys Valley Post Office  
Coalville Post Office  
Greeley Hill Market  
Horntos Post Office  
Lake Don Pedro Market  
Lushmeadows Store  
Midpines Post Office  
Woodland Gas, Food, & Liquor  
Yosemite Valley Post Office  
Yosemite West Community Board  
www.mariposacounty.org/planning

Posting Date: 07/17/09  •  Leave Posted Until: 5:00 p.m. 08/11/09
PROJECT: Zoning Amendment No. 2009-070

PROPOSAL: Amendment to the Mariposa County Zoning Ordinance to implement the Mariposa County General Plan's definition for bed and breakfast inns. A bed and breakfast is rental units which is a permitted use in existing single family residences. The proposed Zoning Ordinance amendment would change the definition of bed and breakfast establishments to allow up to five (5) bedrooms to be occupied by transients. The current limit is three (3) bedrooms in a bed and breakfast.

The amendment would also add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department. The proposed amendment is to Section 17.108.180 of the Zoning Ordinance.

No changes are proposed to the process for establishing a bed and breakfast inn, including the application requirements or the required inspections. Additionally, no changes are proposed to the number of allowed bedrooms in a transient rental facility, which will remain at three (3) bedrooms.

PROPOSENT: County of Mariposa

BOARD ACTION: Adoption of a resolution approving the project and adopting a Notice of Exemption on the environmental determination.

Waive the first reading of the ordinance, and introduce an ordinance amending Zoning Ordinance text for Zoning Amendment 2009-070.

Project Description and Discussion

This zoning amendment will increase the number of bedrooms that can be rented in bed and breakfast establishments from the existing three allowed bedrooms to five bedrooms.

Existing County Code Section 17.108.180 defines a bed and breakfast as "...a single family structure which is occupied by a non-transient." In addition, Section 17.108.180.A does not allow more than three (3) bedrooms to be occupied by transients.

The General Plan defines a bed and breakfast inn as "...a single family structure in which there is a full time, permanent resident family, and a limited number of
guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department." (page A-6 of Mariposa County General Plan).

There are currently approximately 390 transient rentals in Mariposa County. (Transient rentals are bed and breakfast inns and other transient rentals not including hotels.) It is unknown how many of these transient rentals are bed and breakfast inns; further, it is unknown how many of the bed and breakfast inns with three bedrooms have additional bedrooms that can be used by transients once this Zoning Amendment becomes final. The Mariposa County Health Department indicates that there are thirty-two bed and breakfast inns that have full-service kitchens that are permitted by the Health Department. Currently, bed and breakfast inns without permitted kitchens may serve pre-made or pre-packaged food only.

The purpose of this zoning amendment is to align the Zoning Ordinance with wording in the 2006 General Plan. This amendment affects bed and breakfast inns county-wide, except facilities covered by the Fish Camp Area Plan, the Wawona Area Plan, and the Mariposa Area Plan. The Area Plans for these communities will need to be amended individually in order to allow five rooms in a bed and breakfast inn. This amendment will apply in Coulterville as the Coulterville Area Plan does not contain provisions for bed and breakfast inns and therefore relies on provisions outlined in Title 17 of the Mariposa County Code.

The proposed amendment to Section 17.108.180 will make the definition of bed and breakfast establishments similar to the definition found in the General Plan as follows:

SECTION 17.108.180 Bed and breakfast and residential transient rentals.

Bed and breakfast and transient rental establishments shall be considered a permitted home enterprise in all principal zones, except the AE, M-1 and M-2 zones. These provisions shall also be applicable in town planning areas with adopted area plans unless otherwise specifically regulated or prohibited. Approval of a conditional use permit shall be required for properties in the AE zone. Bed and breakfast establishments are defined as a single family structure which is occupied by a non-transient in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.

The proposed amendment to Section 17.108.108.A will be as follows:

No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

Agency Comments: Requests for comments were sent to the following agencies: Mariposa County Public Works, Mariposa County Health Department, Mariposa County Fire Department, Mariposa County Assessor, Mariposa County...
Building Department, California Department of Forestry and Fire Protection (Cal Fire), Mariposa County Sheriff, and John C. Fremont Hospital. Responses were received from the following agencies: Mariposa County Public Works and Mariposa County Health Department.

Public Works: Public Works has no objections to the Zoning Amendment.

Health Department: The Health Department supports the project.

County Fire: County Fire is not concerned with changing the number of bedrooms in a bed and breakfast inn. Their concern is that the facility itself is current with required safety items such as installed smoke alarms, posted exiting procedures, etc.

Public Comments:

Prior to the Planning Commission’s public hearing, a 1/8th page notice was published in the Mariposa Gazette on June 25, 2009. A 1/8th page notice is required in lieu of direct mailed notice when there are more than 1,000 persons affected by a project. Notices were also posted in 15 community locations throughout the County and on the County’s website.

As a result of the noticing, staff received one comment from a member of the public. The comment was regarding changes to bed and breakfast inns in Yosemite West. This person does not want to see the number of bedrooms allowed change. (Note: Yosemite West has two bed and breakfast inns. The Yosemite West Area Plan is in draft stage; therefore, Yosemite West is included in this Zoning Amendment.)

Prior to the Board’s public hearing, a 1/8th page notice was published in the Mariposa Gazette on July 23, 2009. A 1/8th page notice is required in lieu of direct mailed notice when there are more than 1,000 persons affected by a project. Notices were also posted in 15 community locations throughout the County and on the County’s website.

Staff has not received any comments from a member of the public as a result of this noticing. If any comments are received prior to the public hearing, copies will be provided to the Board at the hearing.

Options: The Board of Supervisors may approve, conditionally approve, or deny Zoning Amendment 2009-070. In addition, the Board can amend the environmental determination.

Environmental Review: Staff recommends that the Board of Supervisors find the project is exempt from environmental review pursuant to a General Rule
Exemption of the California Environmental Quality Act. Staff believes it can be found with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Process:

On July 10, 2009, the Mariposa County Planning Commission recommended approval of these changes in code and of the environmental determination. The next step in the process is for the Board of Supervisors to hear and decide on the proposed amendment.

The Board of Supervisors will take final action on the amendment by way of both a resolution and an ordinance. If the Board takes action to approve the project at this hearing, there is both a first reading and a second reading of the ordinance. The second reading of the ordinance approving the amendments to County Code will occur two weeks following. The ordinance is effective thirty (30) days after the second reading. Once the Zoning Amendment becomes effective, the process is final.

Any current bed and breakfast inn operator who wants to expand their business will need to apply to the Planning Department to amend their current TOT permit. Inspections will be necessary to ensure the expanded facility complies with current standards.

In addition, the Planning Commission directed staff to bring back a Resolution of Intention initiating an amendment to the Mariposa Town Plan to allow five bedrooms in a bed and breakfast establishment in the Mariposa Town Area. This Resolution of Intention is scheduled for Planning Commission consideration and action at their meeting on August 21st, 2009. The Resolution of Intention commences the processing of the amendment to the town plan.
Recommended Findings for Approval of Zoning Amendment 2009-070

1. **Finding:** The 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:** The public will benefit by having County Code and the General Plan in alignment with each other. The Zoning Amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding:** The 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:** This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it.

3. **Finding:** That such an amendment conforms to the requirements of state law and county policy.

   **Evidence:** According to state law, General Plans take precedence over zoning ordinances. The legal authority for the County to approve bed and breakfast inns will be clearly established upon adoption of this Zoning Amendment. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan.

4. **Finding:** That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan.

   **Evidence:** Since adoption of the 2006 Mariposa County General Plan there has been a discrepancy between the General Plan and the County’s Zoning Code as to the definition and requirements for a bed and breakfast inn. This amendment will align the zoning code with the general plan.
Recommended Findings for Categorical Exemption

Zoning Amendment No. 2009-070 is exempt from environmental review pursuant to the General Rule Exemption, Section 15061, of CEQA Guidelines. 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 County Code to align it with the General Plan relating to the definition of bed and breakfast inns and how many bedrooms are allowed for transients.

Also, there are existing development standards in County Code and inspection requirements to address the potential impacts of the additional rooms and food service requirement allowed by this amendment. These existing Code provisions will ensure no impacts will result from the project.

Fish and Game Fees

Because the project is exempt from environmental review, the Department of Fish and Game Fees for the filing of a Negative Declaration do not apply to the project. The County may elect to file a Notice of Exemption.
Strathearn said that the amended conditions of approval start with Condition No. 4 on circle page 18 where text will be added that depending on the configuration of the lots, the driveway easement will be eliminated. Strathearn then said that in Condition 5 the language will be changed from No. 5 to No. 4 and on Condition No. 8 language will be added that the applicant will need to get an encroachment permit prior any work being done on or adjacent to the County maintained portion of Hidalgo Street. Strathearn went on to say that staff recommends removal of Condition No. 10 and Condition No. 26 should read "lot 5 shall be eliminated and its acreage be absorbed by the adjacent lot or lots".

Strathearn said that the Commission should direct staff to change the language in Finding No. 5, circle page 16, to reflect the changes in Condition No. 26 and all the conditions of approval should be changed to refer to lots instead of 9.

Francisco referred Strathearn to Condition No. 38 on circle page 28 where the placement of lot 5's the septic disposal system location on lot 7 is addressed. Francisco asked that since lot 5 is being eliminated, shouldn't Condition No. 38 be removed?

Strathearn agreed that Condition No. 38 should be eliminated.

Williams added, that just for clarity, the County Surveyor will require that the lot numbers be consecutive 1 through 8, so although the original proposed lot 5 is being eliminated and absorbed by the adjacent lots, there will be a lot 5 on the final map.

On motion of Commissioner Ross, seconded by Commissioner Marsden, the Planning Commission adopted a resolution adopting a Mitigated Negative Declaration and approving Major Subdivision No. 2006-154 and Lot Line Adjustment No. 2008-100 with the recommended findings, conditions, and mitigation measures.

Motion carried by the following vote:

AYES: 5 (Marsden, Francisco, Rudzik, Tucker, Ross)
NOES: 0

Break: 10:07am
Reconvene: 10:16am

2 C. Zoning Amendment No. 2009-070, County of Mariposa, project proponent.

Peneschi presented Zoning Amendment No. 2009-070, explaining that Mariposa County has initiated an amendment to Section 17.108.180 of the Mariposa County Zoning Ordinance to implement the Mariposa County General Plan's definition for bed and breakfast inns. Peneschi explained that a bed and breakfast inn is a rental unit which is a permitted use in existing single family residences. Peneschi said that the proposed Zoning Ordinance amendment would change the definition of bed and breakfast establishments to allow up to five (5) bedrooms to be occupied by transients and the current limit is three (3) bedrooms. Peneschi explained that the amendment would also add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department. Peneschi said that this amendment affects bed and breakfast inns county-wide, except facilities covered by the following: Fish Camp Specific Plan, Wawona Specific Plan, and Mariposa Town Plan.

Peneschi concluded that it is staff's recommendation that the Planning Commission recommend that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption
for the project and approving Code Amendment No. 2009-070 and adopting an ordinance with findings and amending Mariposa County Code pursuant to Code Amendment No. 2009-070.

Clarifications:

Rudzik asked staff to explain why the Mariposa Area Plan is excluded from the ordinance.

Williams explained that as an adopted Area Plan, Mariposa is implemented by its own section of the Zoning Ordinance (subsection 17.300) and in order to implement the proposed Code Amendment section 17.300 would also have to be amended.

Public Portion of Hearing: Open

Mike Comerford, owner of a Bed and Breakfast Inn in Jerseydale and President of the B&B Association in Mariposa, stated his support for the adoption of the code amendment as expanding the number of bedrooms would be much better for the owners and guests. Comerford said that the increase in bedrooms will also increase the TOT tax revenue base for the County. He then asked why Mariposa, Fish Camp and Wawona are excluded from the Code Amendment.

Don Pitts, has four Bed and Breakfast permits, said that he urges the Commission to adopt the change in the plan.

Williams addressed Comerford’s question regarding the areas being excluded from the Code Amendment by saying that those areas have their own standards and regulations for residential, commercial, and industrial uses, their own minimum parcel sizes and their own standards for Bed and Breakfasts and transient rentals. Williams said that to include any of these community areas the action would have to be expanded to include amendments to those area plans.

Rudzik asked Williams if the Advisory Committees for Mariposa, Fish Camp and Wawona could recommend changes to the Commission.

Williams said that in Wawona and Fish Camp there may be several impacts that would have to be addressed. Williams went on to say that for Mariposa it would be an appropriate recommendation to include this amendment and a zoning amendment by asking staff to do a Resolution of Intention to initiate the change to be presented to the Commission and do a separate amendment.

Francisco disclosed that he and his wife own and operate a vacation rental but he does not feel that there is a conflict of interest.

Public Portion of Hearing: Closed

Deliberations:

On motion of Commissioner Francisco, seconded by Commissioner Tucker, the Planning Commission recommended that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption for the project and approve Code Amendment No. 2009-070 and adopt an ordinance with findings amending Mariposa County Code pursuant to Code Amendment No. 2009-070.

AYES: 5 (Marsden, Francisco, Rudzik, Tucker, Ross)
NOES: 0
On motion of Commissioner Francisco, seconded Ross, the Planning Commission directed staff to initiate a Resolution of Intention to amend the Mariposa Area Plan and implementing ordinances to include five bedrooms.

AYES: 5 (Marsden, Francisco, Rudzik, Tucker, Ross)
NOES: 0

3. INFORMATIONAL ITEM:

Williams announced the items on the next agenda for the Planning Commission:

July 24, 2009, Major Subdivision No. 2008-151, Jones, applicant, is continued from the June 19, 2009 meeting

Williams then announced the following meetings:

- Board of Supervisors – Catheys Valley Community Plan, Tuesday, July 14 at 6:30pm
- Midpines Advisory Committee, Thursday, July 16 at 7:00p.m
- El Portal Advisory Committee, Tuesday, July 21 at 7:00p.m.

Kris Schenk informed the Commissioners that the Housing Element Update is now in the 60 day review period and will be scheduled for a Public Hearing after that time frame is completed.

Schenk then informed the Commissioners that the Ag Advisory Committee is now reviewing the AgriTourism recommendations and will meet again on August 13 at 6:30a.m., continuing their meeting from July 9, and hopefully conclude their recommendations to the Planning Commission.

Schenk added that the Grand Jury has issued their report and all three of the complaints before them in regard to the Planning Department were found to be without merit.

There being no further business, the Commission adjourned at 10:46a.m.

_________________________________
Bob Rudzik, Chair
Mariposa County Planning Commission

ATTEST:

_________________________________
Judy Mueller, Secretary
Mariposa County Planning Commission

Planning Commission Meeting Date: July 10, 2009
WHEREAS, the Mariposa County Planning Commission initiated Zoning Amendment Application No. 2009-070 based upon the recommendation of the Planning Department staff; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Chapter 17.108 establishes Supplementary Standards; and

WHEREAS, Section 17.108.180 establishes provisions for Bed and Breakfast and residential transient rentals; and

WHEREAS, Section 17.108.180 defines Bed and breakfast establishments as a single family structure which is occupied by a non-transient; and

WHEREAS, Section 17.108.180.A limits the number of bedrooms available for occupancy by transients to three; and

WHEREAS, the adopted Mariposa County General Plan defines Bed and Breakfast inn as a "...single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department."

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 10th day of July, 2009; and

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

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report and testimony presented by the public concerning the application.
NOW BE IT THEREFORE RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Zoning Amendment No. 2009-070.

BE IT FURTHER RESOLVED THAT the proposed amendment to Section 17.108.180 for bed and breakfast establishments is worded to be similar to the definition of the bed and breakfast inns contained in the Mariposa County General Plan.

BE IT FURTHER RESOLVED THAT the proposed amendment to Section 17.108.180.A. will allow bed and breakfast establishments no more than five (5) bedrooms available for occupancy by transients in all parts of the county except Wawona, Fish Camp, and Mariposa Planning Areas.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.108.180 of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):

SECTION 17.108.180 Bed and breakfast and residential transient rentals.

Bed and breakfast and transient rental establishments shall be considered a permitted home enterprise in all principal zones, except the AE, M-1 and M-2 zones. These provisions shall also be applicable in town planning areas with adopted area plans unless otherwise specifically regulated or prohibited. Approval of a conditional use permit shall be required for properties in the AE zone. Bed and breakfast establishments are defined as a single family structure which is occupied by a non-transient, in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.108.180.A. of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):

A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

BE IT FURTHER RESOLVED THAT all other text in this Section of County Code shall remain unchanged.
BE IT THEREFORE FINALLY RESOLVED THAT the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

1. **Finding**: The 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**: The public will benefit by having County Code and the General Plan in alignment with each other. The zoning amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding**: The 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**: This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it.

3. **Finding**: That such an amendment conforms to the requirements of state law and county policy.

   **Evidence**: According to state law, General Plans take precedence over zoning ordinances. The legal authority for the County to approve bed and breakfast inns will be clearly established upon adoption of this zoning amendment. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan.

4. **Finding**: That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan.

   **Evidence**: Since adoption of the 2006 Mariposa County General Plan there has been a discrepancy between the General Plan and the County's Zoning Code as to the definition and requirements for a bed and breakfast inn. This amendment will align the zoning code with the general plan.

ON MOTION BY Commissioner Francisco, seconded by Commissioner Tucker, this resolution duly passed and adopted this 10th day of July 2009 by the following vote:

**AYES**: 5 (Ross, Tucker, Rudzik, Francisco, Marsden)

**NOES**: 0
ABSENT:    0
ABSTAIN:   0

__________________________
Robert L. Rudzik, Chairman
Mariposa County Planning Commission

Attest:

__________________________
Judy Mueller, Secretary to the
Planning Commission
WHEREAS, the Mariposa County Planning Commission initiated Zoning Amendment Application No. 2009-070 based upon the recommendation of the Planning Department staff; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Chapter 17.108 establishes Supplementary Standards; and

WHEREAS, Section 17.108.180 establishes provisions for Bed and Breakfast and residential transient rentals; and

WHEREAS, Section 17.108.180 defines Bed and breakfast establishments as a single family structure which is occupied by a non-transient; and

WHEREAS, Section 17.108.180.A limits the number of bedrooms available for occupancy by transients to three; and

WHEREAS, the adopted Mariposa County General Plan defines Bed and Breakfast inn as a “...single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.”

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 10th day of July, 2009; and

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

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report and testimony presented by the public concerning the application; and

WHEREAS, Planning Commission adopted Resolution 2009-014, recommending that the Board of Supervisors approve a Notice of Exemption, and further recommending Board of Supervisors approval of the project; and

WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 11th day of August, 2009; and
WHEREAS, a Staff Report packet for 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 packet, testimony presented by the public concerning the application, and comments and recommendations from the Planning Commission.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a resolution adopting a Notice of Exemption and directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Zoning Amendment No. 2009-070.

BE IT FURTHER RESOLVED THAT the approved amendment to Section 17.108.180 for bed and breakfast establishments is worded to be similar to the definition of the bed and breakfast inns contained in the Mariposa County General Plan.

BE IT FURTHER RESOLVED THAT the proposed amendment to Section 17.108.180.A. will allow bed and breakfast establishments no more than five (5) bedrooms available for occupancy by transients in all parts of the county except Wawona, Fish Camp, and Mariposa Planning Areas.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.108.180 of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):

SECTION 17.108.180 Bed and breakfast and residential transient rentals.
Bed and breakfast and transient rental establishments shall be considered a permitted home enterprise in all principal zones, except the AE, M-1 and M-2 zones. These provisions shall also be applicable in town planning areas with adopted area plans unless otherwise specifically regulated or prohibited. Approval of a conditional use permit shall be required for properties in the AE zone. Bed and breakfast establishments are defined as a single family structure which is occupied by a non-transient—in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.108.180.A. of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):
A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

BE IT FURTHER RESOLVED THAT all other text in this Section of County Code shall remain unchanged.

BE IT FURTHER RESOLVED THAT the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

1. **Finding**: The 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**: The public will benefit by having County Code and the General Plan in alignment with each other. The zoning amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding**: The 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**: This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it.

3. **Finding**: That such an amendment conforms to the requirements of state law and county policy.

   **Evidence**: According to state law, General Plans take precedence over zoning ordinances. The legal authority for the County to approve bed and breakfast inns will be clearly established upon adoption of this zoning amendment. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan.

4. **Finding**: That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan.

   **Evidence**: Since adoption of the 2006 Mariposa County General Plan there has been a discrepancy between the General Plan and the County's Zoning Ordinance as to the definition and requirements for a bed and breakfast inn. This amendment will align the zoning code with the general plan.

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

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ON MOTION BY Supervisor ________, seconded by Supervisor ________, this resolution duly passed and adopted this 11th day of August, 2009 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
Brad Aborn, Chair
Mariposa County Board of Supervisors

Attest:

______________________________
Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM:

______________________________
Steven W. Dahlem
County Counsel
DRAFT
STATE OF CALIFORNIA
COUNTY OF MARIPOSA BOARD OF SUPERVISORS

MARIPOSA COUNTY ORDINANCE NO. ___

AN ORDINANCE AMENDING SECTION 17.108.180 OF THE MARIPOSA COUNTY CODE

WHEREAS, the Mariposa County Planning Commission initiated Zoning Amendment Application No. 2009-070 based upon the recommendation of the Planning Department staff; and

WHEREAS, Application No. 2009-070 proposes to increase the number of bedrooms that can be rented in bed and breakfast establishments from the existing three allowed bedrooms to five bedrooms, and add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment 2009-070 on the 10th day of July, 2009, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment 2009-070 on the 11th day of August, 2009, in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on Zoning Amendment 2009-070 in accordance with the California Environmental Quality Act, a Notice of Exemption has been adopted, and a Notice of Exemption will be filed for the project.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors of the County of Mariposa does hereby amend the definition of bed and breakfast establishments in Section 17.108.180 to add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department, and Section 17.108.180.A to allow bed and breakfast establishments no more than five (5) bedrooms available for occupancy by transients in all parts of the county except Wawona, Fish Camp, and Mariposa Planning Areas. Amendments are made as follows:

Section I:

SECTION 17.108.180 Bed and breakfast and residential transient rentals.
Bed and breakfast and transient rental establishments shall be considered a permitted home enterprise in all principal zones, except the AE, M-1 and M-2 zones. These provisions shall also be applicable in town planning areas with adopted area plans unless otherwise specifically regulated or prohibited.
Approval of a conditional use permit shall be required for properties in the AE zone. Bed and breakfast establishments are defined as a single family structure which is occupied by a non-transient—in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.

Section II:

Section 17.108.180
A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

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

PASSED AND ADOPTED on this 11th day of August, 2009, by the following vote:

AYES:
NOES:
ABSTAINED:
EXCUSED:
NOT VOTING:

Brad Aborn, Chair
Mariposa County Board of Supervisors

Attest:

Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Steven W. Dahlem
County Counsel
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 No. 2009-070

Project Location: This amendment affects bed and breakfast inns in Mariposa County, except facilities covered by the Fish Camp Area Plan, the Wawona Area Plan, and the Mariposa Area Plan.

Description of Project: This zoning amendment will increase the number of bedrooms that can be rented in bed and breakfast establishments from the existing three allowed bedrooms to five bedrooms. The amendment would also add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department.

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

Name of Person/Agency Carrying Out Project: County of Mariposa

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

Reason Why Project is Exempt: Zoning Amendment No. 2009-070 is exempt from environmental review pursuant to the General Rule Exemption, Section 15061, of CEQA Guidelines. 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 County Code to align it with the General Plan relating to the definition of bed and breakfast inns and how many bedrooms are allowed for transients. Also, there are existing development standards in County Code and inspection requirements to address the potential impacts of the additional rooms and food service requirement allowed by this amendment. These existing Code provisions will ensure no impacts will result from the project.

Lead Agency Contact Person: Karen Peneschi, Assistant Planner
Phone Number: (209) 966-5151

Kris Schenk
Planning Director

Date