
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2013-007 A resolution approving Use Permit Determination No. 2012-189 for the Bootjack Business Center; David Gerken, Applicant; Assessor Parcel Number 014-400-004.

WHEREAS a Use Permit Determination application was submitted by David Gerken on behalf of Bootjack Business Center on December 14, 2012; and

WHEREAS the proposal is for the structure commonly known as The White House in Bootjack, which was built as a commercial structure, and has operated with various indoor service and retail uses as existing legally established non-conforming (grandfathered) uses since the current version of the Zoning Ordinance for the TPA zone has been in effect (1988/1989). The Zoning Ordinance establishes limits to changes and expansions of non-conforming uses. The Use Permit Determination is submitted to ensure that current and future indoor service and retail uses in the structure are permitted uses, and no longer subject to review pursuant to the non-conforming use provisions of code; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a finding has been made pursuant to Section 15301 of CEQA Guidelines that the project is exempt from review pursuant to the California Environmental Quality Act Guidelines under Class 1 of the Categorical Exemptions as an Existing Facility; and

WHEREAS a Staff Report and Notice of Exemption were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS a public hearing was duly noticed and scheduled for the 17th day of May, 2013; and

WHEREAS the Planning Commission did hold a public hearing on the scheduled public hearing 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 find the project is exempt from environmental review and directs staff to sign the Notice of Exemption; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve the application for Use Permit Determination No. 2012-189.

BE IT THEREFORE FURTHER RESOLVED THAT the approved project is as described in the use permit determination application and as shown on the Site Plan for the project.

BE IT THEREFORE FURTHER RESOLVED THAT the uses listed in Exhibit 1 are specifically approved and allowed for the project site.

BE IT THEREFORE FINALLY RESOLVED THAT findings are made for project approval as shown in Exhibit 2.

ON MOTION BY Commissioner Harter, seconded by Commissioner Harris, this resolution is duly passed and adopted this 17th day of May, 2013 by the following vote:

AYES: Marsden, Becker, Harris, and Harter

NOES: None

EXCUSED: Rudzik

ABSENT: None

ABSTAIN: None



Les Marsden, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Department

EXHIBIT 1
APPROVED USES
FOR USE PERMIT DETERMINATION #2012-189

This use permit determination has been approved for the following uses in accordance with standards set forth in Title 17, Mariposa County Zoning Ordinance.

[Uses which involve outdoor activities may be considered for this site if allowed in the future, through a separate Use Permit Determination process (or other required process pursuant to County Code in effect at the time of application).]

Similar uses and appurtenant uses are allowed pursuant to Mariposa County Code, Section 17.108.030 and Section 17.108.060, or pursuant to County Code in effect at the time of application).

a. Office and Professional Uses:

- (1) Administrative, doctors, dental, stockbrokers, attorneys, accountants, real estate, and other similar professional offices;
- (2) Libraries and reading rooms;
- (3) Photographers' studios and supplies; and
- (4) Urgent care facilities.

b. Interior Retail Sales:

- (1) Antique and gift shops;
- (2) Auto parts--new or reconditioned;
- (3) Art galleries and studios;
- (4) Clothing, drug, food, beverage, hardware, paint, feed, radio, television, furniture, appliance, sporting goods, camping supplies, and variety stores;
- (5) Radio, television, furniture, appliance sales and repair, including computer repair; and
- (6) Food and beverage store.

c. Services:

- (1) Barber and beauty shops;
- (2) Banks and similar financial institutions;
- (3) Shoe repair shops;
- (4) Travel agencies, tourist information centers and other related services;
- (5) Locksmiths, gunsmiths, and other similar uses;
- (6) Cafes and restaurants that may sell alcoholic beverages, and bar, including an outdoor patio;
- (7) Day care and preschools, including an outdoor play area;
- (8) Laundromats and dry-cleaning;

- (9) Convenience printing and duplicating services; and
- (10) Animal hospitals and veterinary services.

- d. **Public** facilities or offices.
- e. **Miscellaneous** indoor handicrafts manufacturing for the purpose of retail sales at the site where they are manufactured.
- f. **Other permitted uses:** Residential and those applicable uses listed under chapter 17.108.
- g. **Accessory or appurtenant uses** including water and wastewater treatment facilities and systems in conjunction with an established permitted use.

EXHIBIT 2
PROJECT FINDINGS
FOR USE PERMIT DETERMINATION #2012-189

This use permit determination is approved pursuant to the following findings:

1. **FINDING:** The project is suitable and a proper use in the Bootjack Town Planning Area, is not socially, economically, or environmentally incompatible with the surrounding area, and will not adversely affect the nature and condition of adjacent properties, uses, and structures, and to the area affected by the proposed use.

EVIDENCE: The project is bring an existing structure used primarily for indoor neighborhood commercial purposes (the White House) into compliance with permitting requirements of the TPA zone and the policies of the General Plan. The project will issue a Use Permit Determination for the existing structure and current and past uses. The existing structure has been used for many Neighborhood Commercial uses in the past, and there have not been social, economic or environmental impacts to the surrounding area associated with the uses. Based on the approved project description, future uses will be indoor uses in the Neighborhood Commercial Zones. All future uses of the property will use an existing on-site well and septic system and an existing gravel parking lot. Future continued use of the property for commercial purposes will not impact any sensitive environmental resources.

2. **FINDING:** The site is physically suitable for the proposed development.

EVIDENCE: The project site is an existing parcel with an existing commercial and residential improvements, and support infrastructure. There is sufficient area and improvements for on site for parking for the proposed (current and future) retail commercial uses. Darrah Road and Bootjack Lane are improved, have adequate capacity for current and project traffic, and do not require any additional improvements for the proposed use. The project may be required to obtain a building permit for any future change in use which is determined to be a change in occupancy. No other development permits are needed for the Use Permit Determination. Based upon these site characteristics and existing permit processes, the site is found to be physically suited for the proposed use.

3. **FINDING:** The proposed establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be objectionable by reason of production or emission of noise, offensive odor, smoke, dust, bright lights, vibrations, involving explosives or dangerous materials, or which might constitute a public or private nuisance.

EVIDENCE: The project is will bring an existing grandfathered structure / use into zoning compliance. The past operation of the indoor commercial uses in this structure have not been objectionable by emission of noise, offensive odor, smoke,

dust, lights, vibrations, etc. There will be no use of explosive or dangerous materials.

4. **FINDING:** The proposed project is consistent with applicable Mariposa County Zoning ordinances and its General Plan.

EVIDENCE: The project is located in the Bootjack Planning Area, with a General Plan designation of Community Planning Area / Bootjack Interim Community Center and a zoning designation of Town Planning Area (TPA). The County General Plan Land Use Element states Planning Areas "...represent the rural scale 'urban' development centers for the County. Planning areas are specifically designated as locations in the County where policy mandates a broad and comprehensive mixture of land uses and zoning." Community Planning Areas are described:

Single-family residential, rural commercial, recreation/resort-oriented, small business, and public are land uses consistent with the purpose of a community planning area. Multi-family residential uses with more than two attached dwelling units per structure are not consistent residential uses within community planning areas; live-work commercial/residential uses are acceptable.

Section 17.12.010, Town Planning Areas states that the Town Planning Areas "...are the centers for industrial and commercial activity, and population concentration." Section 17.12.010.B. of the County Zoning Ordinance states that TPAs that don't have specific plans can allow uses listed in the Neighborhood Commercial-1 (CN-1) and Neighborhood Commercial-2 (CN-2) zones.

The proposed project will bring an existing commercial structure / use into procedural compliance with the pertinent zoning and General Plan designations for the parcel.

5. **FINDING:** The project is exempt from review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities. The project is for permitting of an existing structure on-site which has been and is being used for both commercial purposes (5,037 square feet) and residential purposes (879 square feet). Past use has been pursuant to the non-conforming (grandfathered) use provisions of County Code, Zoning. The permitting will bring the facility into procedural requirements of County Code, Zoning as a conforming use and structure. The project involves no expansion of use, although minor changes in the type of retail commercial uses may occur in the future. Future commercial uses will be indoor uses. No construction is associated with the project. There are existing infrastructure improvements to support commercial use of the structure, including a septic system, well and parking lot. The project has adequate access from a paved, county-maintained road. The site is in a community area ("urbanized" area) pursuant to the Mariposa County General Plan, which is developed with other commercial uses. The site is not in an environmentally sensitive area.

ZONING ORDINANCE REQUIREMENTS
USE PERMIT DETERMINATION NO. 2012-189

1. The project shall comply with applicable requirements and subsections of Mariposa County Zoning Ordinance Chapter 17.108. This includes surfacing requirements for parking as established by Section 17.108.120.
2. The project and future uses on-site shall comply with all pertinent sections of the Mariposa County Zoning Ordinance Section 17.76.020; development standards for the Neighborhood Commercial Zone-1.