

Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2012-006

A resolution recommending approval of General Plan Amendment No. 2012-025, Zoning Amendment No. 2011-192 and conditional approval of Conditional Use Permit No. 2011-193; Alexandra North and Steve McCorkle, applicants. Assessor Parcel Number 004-010-009.

WHEREAS an application for a Zoning Amendment and Conditional Use Permit was received on October 24, 2011 from Alexandra North and Steve McCorkle for a property located at 7567 Hamilton Loop Station in Buck Meadows, also known as Assessor Parcel Number 004-010-009; and

WHEREAS authorization was received by the applicants on February 9, 2012 for a General Plan text amendment necessary for the new General Forest zoning designation to be consistent with the Mariposa County General Plan Residential Land Use Classification; 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 20th day of April 2012; and

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

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

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

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors approve a Mitigated Negative Declaration; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors approve

General Plan Zoning Amendment No. 2012-025 and Zoning Amendment No. 2011-192
based upon the findings set forth in Exhibit 1; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the
County of Mariposa does hereby recommend that the Board of Supervisors approve
Conditional Use Permit No. 2011-193, based upon the findings set forth in Exhibit 1
and based upon the conditions set forth in Exhibit 2, as modified at the public hearing.

ON MOTION BY Commissioner Francisco, seconded by Commissioner Tucker, this
resolution is duly passed and adopted this 20th day of April 2012 by the following vote:

AYES: Francisco, Rudzik, Tucker, and Marsden

NOES:

EXCUSED: Ross

ABSTAIN:



Les Marsden, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

Exhibit 1—Findings for Approval

In accordance with Sections 4.3 and 5.3.02 of the Mariposa County General Plan and Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for General Plan Amendment No. 2012-025, Zoning Amendment No. 2011-192 and Conditional Use Permit No. 2011-193:

1. **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: The project will provide additional transient occupancy (overnight) accommodations for the touring public visiting Mariposa County. The subject property is located within a short distance of State Highway 120, which constitutes the main tourist route within Mariposa and Tuolumne counties. Current access to the property is obtained from Highway 120 to Hamilton Station Loop. The property is located within the Buck Meadows Special Planning Study Area, an area which serves as the commercial area in the far northern part of the county providing services to the touring public. Several hotels and motels are close to the project site. The project site is buffered and screened from the highway by existing dense vegetation. Water is provided by an on-site well and will be available for customers. Guest Ranch accommodations with restrooms exist and are proposed to serve the customers of the project. Any expansion of the existing water or on-site sewage disposal systems will be required to obtain the proper permits from the Health Department. Adequate provisions for water, wastewater, garbage, and parking facilities are provided on the project site to ensure that the area will not be negatively impacted.

2. **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: Amending the text of the Residential Land Use Classification, Section 5.302.C, to include General Forest as a consistent zoning designation and the rezoning of the subject property to the General Forest zoning designation provides a clear plan for the future development of the property in a manner consistent with the General Plan. The amendment will allow for expanded transient rentals to occur on the site, within the Buck Meadows Special Planning Study Area, an area that already provides extensive commercial opportunities.

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

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

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

EVIDENCE: The development of tourist-serving facilities and a Guest Ranch allowing visitors to explore the Stanislaus National Forest and be involved in the basic care of and education about the property owner's 9 Arabian horses as proposed by this application are consistent with the Goals, Policies, and Standards of the Mariposa County General Plan. Section 13.2, Goal 13-3 states, "Increase public access to trails and off-road areas to provide greater opportunities for 'in-County' visitor experience." Goal 13-5 establishes the intent to: "Provide job growth and sustain County revenues by enhancing and expanding the visitor-serving sectors of the economy."

5. **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 subject parcels are found to be physically suitable for the proposed zoning classification and proposed project based upon the existing development immediately adjacent to the project site in the Buck Meadows Special Planning Study Area; the proposed development is consistent in appearance with the existing development in the area, and the scale of the development is suitable for the project site. Utilities and infrastructure are available for this property, with access to the project site provided by a paved driveway to a County-maintained road. There are no physical constraints on the property that would impede or prohibit the proposed development of the project site. The project site is buffered from the highway by existing dense natural vegetation and provides good topography for the proposed 4-unit transient rental building.

6. **FINDING:** The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population and visitors.

EVIDENCE: The proposed zoning is logical and desirable in that it provides for additional recreational activities to the touring public as well as to the residential population of the county. The project may need additional people to be hired for operation of the new 4-unit transient rental building. Visitors exploring the Stanislaus National Forest and those involved in the basic care and education about the property owner's 9 Arabian horses will give visitors the opportunity to enjoy other activities in Mariposa County.

7. **FINDING:** The subject property is not subject to a Williamson Act Contract or zoned as a Timber Preserve.

EVIDENCE: The subject property is not now, nor has it ever been subject to a Williamson Act contract or zoned as a Timber Preserve. Land located adjacent to the property to the west and east are part of the Stanislaus National Forest. Property south of the project site is zoned Mountain Home and not governed by a Williamson Act contract. Property north of the site is either part of the Buck Meadows commercial area or State Highway 120 and not governed by a Williamson Act contract. The project site itself is not governed by a Williamson Act contract. The original zoning on this property is Mountain Home.

8. **FINDING:** There is a need for additional residential land to meet General Plan goals, respond to changes in County policy, or meet the Regional Housing Needs Allocation.

EVIDENCE: There has been a perceived need by the Board of Supervisors that efforts should occur to enhance and encourage transient occupancy facilities for more visitors to stay in Mariposa County. Inclusion of General Forest zoning as a consistent Residential Land Use Classification is a way to expand transient occupancy facilities in the County through conditional permitting of additional Guest Ranch operations throughout the County.

9. **FINDING:** The subject property will be contiguous on at least two sides to lands within the Residential, Rural Economic, or Planning Area land use classification.

EVIDENCE: The project site abuts lands that are within either the Residential or Rural Economic and is within the Special Planning Study Area land use designation.

10. **FINDING:** The subject property has access from a maintained road or the proposed project incorporates maintained road access as part of the project description.

EVIDENCE: The project site has access from Hamilton Station Loop, a County-maintained road. Also, the subject property is served by an asphalt driveway and road within the site. All parking area are paved with an asphalt surface.

Exhibit 2—Conditions of Approval

1. The Conditional Use Permit (CUP) is approved for: The Blackberry Inn expansion proposes construction of a 4-unit rental facility as part of the Guest Ranch development. The rental facility is a 2-story structure with a “walk-out” basement level. The structure is designed with 2 rental units on the first floor, a 3rd unit on the second floor, and a laundry room and 4th unit on the “foundation” floor. In order to meet the operational requirements of a guest ranch as defined, the applicant has identified the following potential activities to be available to guests: nature walks on-site and in the adjacent National Forest, group campfires, star gazing, feeding and learning about the area’s hummingbird species and other bird species, basic care and education about the owner’s horses, and trail rides by horseback. The project site is located at 7567 Hamilton Station Loop in Buck Meadows and is also known as APN 004-010-009.

2. The Conditional Use Permit (CUP) is approved for: The Blackberry Inn expansion proposes construction of a 4-unit rental facility as part of the Guest Ranch development. The rental facility is a 2-story structure with a “walk-out” basement level. The structure is designed with 2 rental units on the first floor, a 3rd unit on the second floor, and a laundry room and 4th unit on the “foundation” floor. Activities at the Guest Ranch include basic care of and education about the property owner’s 9 Arabian horses, which are used by the owners for endurance riding (in the nearby National Forest) (the owners will host an international 100 mile competition in the adjacent forest lands in 2012). The Inn is also known for its hummingbirds; the Inn and surrounding area are home to hundreds of Anna, Blackchin and Rufus Hummingbirds. Finally, the location of the Inn near Forest Service lands affords guests with opportunities to experience the sights and sounds of nature from their rental units. The project site is located at 7567 Hamilton Station Loop in Buck Meadows and is also known as APN 004-010-009.

3. The project shall be developed in substantial compliance with the approved Site Plan date stamped October 24, 2011 contained in the project file. Prior to any modification and/or any deviation from the approved Site Plan, said modification/deviation shall be reviewed and approved by the Planning Director in accordance with the conditions of approval. Minor modifications in the site layout, configuration, size, and materials of the project site may be approved by the Planning Director provided that any expansion does not exceed 10% of the size of area of the approved facility, and provided a finding can be made that the modification does not create impacts which were not addressed in the original project approval. Should any proposed modification(s) result in potential impacts which were not reviewed and conditioned by the original action and approval of this CUP then an application for amended conditions of the CUP may be required by the Planning Director.

3. The applicant is limited to 59 days per year that they can have 25 people or more including staff and guests using the facility unless they obtain a permit as a Public

Water System from the State Department of Public Health, Division of Drinking Water and Environmental Management. The definition of "facility" shall include all structures used for transient rental, which includes the existing bed and breakfast structure and the new 4-unit transient rental building.

4. An Air Pollution Action Plan shall be prepared by the applicant in accordance with the requirements of the Health Department and shall include the following:

- Use of CARB No. 2 low sulfur diesel fuel in all diesel powered equipment serving the project.
- Diesel powered equipment shall limit idling time to a maximum of 5 minutes.
- Dust mitigation must prevent fugitive dust emissions from migrating off-site. The applicant shall provide the Air Pollution Control District (APCD) with a written Dust Mitigation Plan that must be approved by the APCD prior to beginning construction.
- All construction equipment to be maintained as per manufacturer's recommendation.
- Watering of unpaved areas and washing of tracked out dirt and mud from adjacent paved roads to be accomplished daily to mitigate dust.

The Plan shall be submitted to and approved by the Health Department prior to any construction occurring on-site. All provisions of the approved Action Plan shall be implemented during project construction.

5. Standard air pollution conditions for project.

- No truck will be allowed to idle on the site for more than five minutes. All drivers will be required to turn-off and restart the engines should the truck idle more than 5 minutes or they expect that they will idling for more than five minutes.
- Prior to any ground disturbance, sufficient water must be applied to the area. It is to be prepared to prevent visible dust from leaving the site.
- Areas to be graded or excavated must be kept adequately wetted to prevent visible emissions from crossing then property line.
- Storage piles must be kept adequately wetted, treated with a chemical dust suppressant, or covered when material is not being added to, or removed from the pile.

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- Equipment must be washed down before moving from the property onto paved public road.
 - Visible tracks out on the paved public road must be cleared using wet sweeping or HEPA filter equipment vacuum device within 24 hours.
 - Earthmoving activities must be suspended if wind speed exceeds 10 MPH.
 - Applicant must obtain a burn permit if any site clearing will involve burning of brush or other vegetation.
6. Once the project has been completed, the California Department of Forestry and Fire Protection (Cal Fire) will complete a required inspection and will conduct yearly Public Resources Code (PRC) 4291 inspections on this property. This project shall meet all standards of PRC 4290 and 4291 as well as all standards established by the County Fire Department. Review shall be through the building permit process. If necessary, inspections by the County Fire Department shall be required to ensure that County fire code regulations are met for all structures and activities at the project site.
 7. Prior to issuance of a Certificate of Occupancy for any onsite structure, the wastewater disposal system shall be designed and installed in accordance with the requirements of the County Health Department, unless it is determined that a permit from the Regional Water Quality Control Board is required for this project; the wastewater disposal system shall be installed and approved by the County Health Department and/or the Regional Water Quality Control Board prior to issuance of a Certificate of Occupancy.
 8. No site development activities, including grading and construction of facilities, that involve the use of heavy equipment, generators or other gas operated equipment, power tools, hammers and similar noise generating devices, shall occur before 7:00 a.m. Monday through Friday and 8:00 a.m. on weekends. The project proponent shall make this provision a part of any contract executed for construction of the 4-unit transient occupancy facility.
 9. All external sound amplification shall not exceed 40db at property lines. The use of sound amplification equipment outside shall be prohibited between the hours of 10:00 p.m. and 9:00 a.m. The project proponent shall provide the Mariposa County Planning Department with proposed outdoor activities or events scheduled prior to initiation of the activities each vacation season. This schedule shall include times and nature of outside activities that would fall within the regulations of this measure. The project proponent shall also provide the Mariposa County Planning Department with a statement as to where loud speakers will be located, if used on the site, prior to initiation any outdoor activity and evidence as to how the maximum decibel level at property lines can be met. This evidence can be in the form of

information provided by the speaker manufacturer relating to decibel levels at specific distances, decibel readings taken at property lines by a qualified acoustical consultant, or an equivalent method as approved by the Planning Director.

10. Prior to the Building Department final on the building permits for the 4-unit transient rental facility and prior to beginning operation of the project, the applicant shall install one (1) additional parking space as shown on the site plan approved by the Board of Supervisors. All parking spaces on-site, existing and proposed, shall have a minimum size (dimension) of 10 feet by 20 feet. At a minimum, parking spaces shall be graveled with a minimum of 2 inches of gravel for erosion and dust control.
11. The project proponent shall use only plant species that require low watering for landscape purposes, and native seed mixes in lawn areas.
12. If water from an existing or proposed well is provided to visitors of the project the applicant shall either confirm with the Health Department that the existing wells will be sufficient to serve the development, or shall make provisions for additional water production and/or storage onsite. The Health Department shall confirm in writing to the Planning Department that the project has sufficient potable water. Should the Health Department determine that the project necessitates a Public Drinking Water permit from the California Department of Health Services, the confirmation of adequate water shall be the responsibility of this state agency. Additionally, the public drinking water permit shall be obtained.
13. Prior to the commencement of any grading on the project site, the project proponent shall obtain from the Regional Water Quality Control Board (RWQCB) a General Permit for Discharges of Storm Water Associated with Construction Activity, unless it can be shown to the satisfaction of the Mariposa County Planning Director through evidence submitted by a qualified person, such as a licensed land surveyor or registered civil engineer, that less than one acre of land will be disturbed to implement the project. A copy of the approved permit or evidence that a permit is not required shall be submitted to the Mariposa County prior to the initiation of grading activities.

[State Water Quality Control Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES)]
14. All structures shall be located a minimum of twenty five (25) feet from all property lines.
15. The applicant shall provide adequate facilities for solid waste disposal. Planning shall confirm that these facilities have been provided on the project site prior to the

building permits being finalized and beginning operation of the project. These facilities shall be screened from view from Highway 120.

16. The project proponent shall be required to prepare and obtain approval of a Timber Harvesting Plan in accordance with State Forest Practice Rules if timber is removed from the site and sold commercially.
17. The project shall be completed within 3 years of the date of approval for this project (by June 19, 2015 all necessary building permits shall be issued). The Planning Commission may grant an extension to this deadline for up to three years, provided that the Planning Director is able to find that substantial progress has been made toward satisfying the conditions of approval and that there are no new impacts associated with the project development. An application for a time extension to this deadline must be submitted by the applicant prior to the expiration date, if an extension is necessary.
18. Prior to issuance of a Building Permit and prior to issuance of a Certificate of Occupancy for any onsite structure, all outstanding fees associated with the processing of this application and the review of plans for any subsequent permit, shall be paid. Payments are due within sixty (60) days of billing.
19. During parking area and other site preparation/construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning in consultation with a representative of the American Indian Council of Mariposa County has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and American Indian Council of Mariposa County shall be notified should human remains be discovered. Representatives of the American Indian Council of Mariposa County shall be requested to be on-site during disturbance and/or removal of human remains. Should any Native American artifact or human remains be discovered, a representative of the American Indian Council of Mariposa County shall be on-site to monitor the remainder of excavation activities.
20. Any tree removal or pruning that is necessary to implement the Blackberry Inn Expansion project shall occur between September 15 and January 31, the time-frame which is outside of the general avian nesting season. Should such tree removal or pruning occur between February 1 and September 15 a pre-construction

survey conducted by a qualified biologist/botanist shall be required to determine if such removal violates the provisions of Fish and Game Code sections 3503, 3503.5 and 3513. The survey shall be conducted no more than 30 days prior to tree removal or pruning. A copy of the survey shall be submitted to the California Department of Fish and Game, Region 4. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures established by the qualified biologist/botanist in consultation with the California Department of Fish and Game shall be implemented to reduce impacts of this tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any required mitigation measures have been implemented prior to such tree removal/pruning on the site.

21. All fees associated with the County's processing of the General Plan Amendment / Zoning Amendment / CUP and filing of associated documents shall be paid within Sixty (60) days from the date of project approval (June 19, 2012) or billing. The Department of Fish and Game filing fee (\$2,101.50 as of January 1, 2012) and County Clerk fee (\$50 as of January 1, 2011) shall be paid by the applicant within five (5) working days of the approval of the application (by Tuesday, June 26, 2012), because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Tuesday, June 26, 2012 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code). The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$2,151.50 (effective January 1, 2012), and that it be in the form of a cashiers check or money order payable to "Mariposa County." The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning who will file this fee and other required documents with the County Clerk.

22. The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.

23. Any proposed signs shall comply with Section 17.108.190, Title 17, Mariposa County Zoning Ordinance. Prior to installation of any sign, a sign plan shall be submitted to the Planning Department and approved by the Planning Director. No off-site signs are allowed.
24. Prior to installation of any exterior lighting, a lighting plan shall be submitted to the Planning Department and approved by the Planning Director. Lighting shall comply with the International Dark Sky Association standards. Lights shall not be directed towards other off-site buildings or any off-site parcels. Lighting shall be full cut-off fixtures and shall not create off-site impacts. All onsite lighting features shall be of a hooded type, shall produce the minimum amount of light necessary to complete its intended function, and shall direct light only onto the project site. Low wattage decorative fixtures are exempt from the requirement to comply with International Dark Sky Association standards.
25. Non compliance with any of the conditions of approval for Conditional Use Permit (CUP) No. 2011-193 may be grounds for revocation of the CUP.
26. Prior to issuance of a Certificate of Occupancy for the 4-unit transient rental building, the applicant shall apply for a modified Transient Occupancy Tax (TOT) certificate, which shall include all structures onsite available for guest rental. The modified TOT certificate shall be issued prior to transient rental of the new 4-unit transient rental building.