

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2009-023

A resolution conditionally approving Land Division Application No. 2009-105; Dubberke, Dubberke, & Lawson, LLC, applicant. Assessors Parcel Number 013-200-014, -015, -016 and 012-150-037, -065, -066.

WHEREAS an application for a land division was received on July 24, 2009 from Dubberke, Dubberke, & Lawson, LLC for a property located at 4971 6th Street in the Town of Mariposa, approximately 120 feet from the intersection of 6th Street and Jones Street, also known as Assessor Parcel Number 013-200-014, -015, -016 and 012-150-037, -065, -066; and

WHEREAS the project proposes the division of one legal 34.36 acre parcel into one parcel and a Remainder; Parcel A of .23 acres and a Remainder of 34.13 acres; 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 9th day of October, 2009; and

WHEREAS the Planning Department evaluated the project together with the Environmental Impact Report prepared for the Mariposa Town Planning Area Specific Plan; and

WHEREAS that Environmental Impact Report included a series of mitigation measures to be included in the Specific Plan as requirements for further land division development in the Mariposa Town Planning Area; and

WHEREAS the project was designed to comply with those standards; and

WHEREAS Section 15182 of the California Environmental Quality Act Guidelines allows a Notice of Exemption to be filed for residential projects designed in conformity with an adopted specific plan and the EIR adopted for that specific plan; and

WHEREAS a Staff Report was 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 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 approve a Notice of Exemption; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application No. 2009-105; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms and conditions set forth in Exhibit 2.

ON MOTION BY Commissioner Marsden, seconded by Commissioner Francisco, this resolution is duly passed and adopted this 9th day of October 2009 by the following vote:

AYES: Marsden, Francisco, Tucker, Rudzik

NOES: None

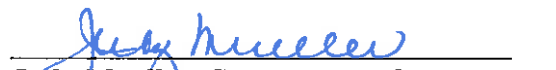
EXCUSED: Ross

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Land Division Application No. 2009-105

1. **FINDING:** The site is physically suitable for the type and density of development.

EVIDENCE: Based on the site inspection, and the proposed tentative parcel map dividing the existing parcel into one parcel that meets the minimum of 9,000 square feet net in size, the site is physically suited for medium-density homes and appurtenant improvements. The proposed project is located within the Single Family Residential 9,000 sq. ft. land use and zoning classification. The subdivision density is designed in accordance with the Single Family Residential 9,000 sq. ft. land use and zoning classification.

2. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

EVIDENCE: The impacts of this project have already been evaluated according to the California Environmental Quality Act Guidelines, by the certification of the Final EIR for the Mariposa Town Planning Area Specific Plan (see finding No. 3). This project complies with the Special Subdivision Standards for the Mariposa TPA Specific Plan, which ensures that the potential impacts of the subdivision are mitigated.

3. **FINDING:** Pursuant to Section 15182 of the California Environmental Quality Act (CEQA) Guidelines and Section 65457 of the California Government Code, the project is exempt from the requirements of CEQA.

EVIDENCE: As documented by the staff report, the project is consistent with the Mariposa Town Planning Area Specific Plan, for which an EIR has been certified. Substantial changes have not occurred with respect to the circumstances under which the EIR was certified. There is no new information which demonstrates the project will result in significant adverse environmental impacts not discussed in the

EIR or significant impacts which are substantially more severe than discussed in the EIR.

4. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.

EVIDENCE: This land division and its subsequent use for medium-density residential purposes are not likely to cause serious health problems. Future residential uses will be required to comply with all Building Code regulations and connect to MPUD systems in accordance with MPUD regulations for water and wastewater disposal. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. Additionally, all future residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection.

5. **FINDING:** The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.

EVIDENCE: The proposed land division is consistent with the goals, policies and implementation measures of the Land Use Element and other applicable standards in Mariposa County General Plan and Title 17, Mariposa County Zoning. The land division is the initial step in the process to help implement the General Plan's Housing Element. Under Section 8.10.04 – Housing Objectives and Programs, A. Objective One: - Accommodate the County's Housing Allocation states: *"California law requires the Department of Housing and Community Development to provide the County of Mariposa with its 'fair share' of regional housing. This Regional Housing Needs Allocation establishes the minimum number of dwelling units per income classification."* C. Objective Three: – Providing Adequate Sites and Services of the Housing element states: *"The County shall provide opportunities for adequate housing sites and new subdivisions to accommodate anticipated population growth and its fair share of regional housing as required by state law."* The land division satisfies these objectives by providing increased housing opportunities. The Mariposa Town Planning Area Specific Plan covers the subject property; the project map is consistent with the density allowed by the specific plan.

6. **FINDING:** The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

EVIDENCE: The minimum parcel size proposed by the project is consistent with standards contained in the General Plan, the Specific Plan, and the Zoning Ordinance. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The project design is consistent with the requirements of the Mariposa Town Planning Area Specific Plan, including the Special Subdivision Standards for the TPA (Ordinance No. 823)

7. **FINDING:** The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

EVIDENCE: The project will not conflict with any public easement. The project has been designed in such a way that public easements are not affected. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

EXHIBIT 2
CONDITIONS OF APPROVAL
FOR
Land Division Application No. 2009-105

Project Name: Land Division for Dubberke, Dubberke, & Lawson, LLC

File Number: Land Division Application (LDA) No. 2009-105

Project Approval Date: October 9, 2009

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented.

Sign-Off Checklist for List of Conditions of Approval		
	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT		
<p>1. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to 6th Street. In addition, all grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval of for this project. If engineered improvement plans are required, the plans shall be approved by the County engineer prior to the commencement of construction work on the required road improvements Chapter 11, County Improvement Standards.</p>	Public Works	
<p>2. Prior to the commencement of any utility improvements required as a condition of approval for this project and prior to issuance of any encroachment permit for the required utility improvements, a consultation meeting with a representative of the Public Works</p>	Public Works	

<p>Department, , the applicant, the agent, the representative(s) of the utility companies, and the contractor(s) shall occur. This meeting shall be conducted onsite. This consultation meeting shall be set up by the applicant and/or agent. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County Engineer shall verify that this condition has been met prior to issuance of any road improvement or encroachment permit required for this project and prior to the scheduling of any onsite inspection of road improvements.</p> <p>Public Works Recommendation</p>		
<p>3. Prior to recordation of the parcel map or as part of a residential Building permit issued prior to the recordation of the parcel map, the necessary infrastructure to provide electric, telephone, and cable television services (e.g. utility conduits) shall be installed to Parcel A in accordance with the specifications and requirements of the utility company. (If the cable television service provider does not wish to install infrastructure at this time, a letter from the service provider shall be submitted to the County Engineer stating they do not wish their infrastructure to be installed by the subdivider prior to recordation of the parcel map.) The infrastructure shall be installed underground from the nearest overhead line and shall be coordinated with road improvement construction (if applicable). If applicable, construction work associated with utility improvements within road easements shall not commence until utility lay-out plans provided by the affected utility companies are submitted to the County Engineer and road improvement plans are approved by the County Engineer. Utility easements shall be established for all utility improvements located outside road easements.</p> <p>(Section 9, County Subdivision Ordinance No. 823)</p>	<p>Public Works</p>	
<p>4. A paved driveway shall be constructed to Parcel A from the easement road (6th Street) to the property line. The driveway shall be constructed in accordance with Section 11.5 (a) (1) of the Mariposa County Improvement Standards, and the location of the driveway shall be approved by the County Engineer prior to construction.</p> <p>This condition shall be met prior to recordation of the parcel map or as part of a residential Building permit issued prior to the recordation of the parcel map.</p> <p>(Section 11.5, County Improvement Standards)</p>	<p>Public Works</p>	

<p>5. Prior to recordation of the parcel map or as part of a residential Building permit issued prior to the recordation of the parcel map, water and sewer infrastructure (off-site and on-site) shall be installed to Parcel A in accordance with Mariposa Public Utility District (MPUD) specifications and requirements. The installation of the required MPUD improvements within the 6th Street easements shall not commence until encroachment permit plans are approved by the County Engineer.</p> <p>(Sections 6 and 7 County Ordinance 823; Planning Department Recommendation)</p>	<p>Public Works</p>	
<p>6. A Verification of Taxes Paid Form, acquired no sooner than 30 days prior to the recordation of the parcel map, shall be submitted to the County Surveyor.</p> <p>§16.12.395, Mariposa County Subdivision Code</p>	<p>Public Works</p>	
<p>7. Subdivision Map Act Section 66434.2 applies to the recordation of the parcel map for this project.</p>	<p>Public Works</p>	
<p>CONDITION OF APPROVAL / MARIPOSA PLANNING</p>		
<p>8. Project approval is valid for a period of three years from October 9, 2009. This approval shall expire on October 9, 2012.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>9. Prior to recordation of the parcel map, all fees associated with the County's processing of the map and filing of associated documents shall be paid. The applicant may choose to have Mariposa County Planning file the Notice of Exemption (NOE) with the Mariposa County Clerk. While filing is not required, it shortens the statute of limitations on challenges to the environmental determination from 180-days to 35-days. If the applicant opts to file, then the NOE must be posted at the County Clerk's Office within five days of October 9, 2009. The County Clerk's Office requires a fee of \$50.00 for the filing of a NOE. If the property owner opts to file, cash or a money order for \$50.00 made payable to the Mariposa County Clerks Office shall be submitted to the Planning Department within</p>	<p>Mariposa Planning</p>	

<p>4-days of the approval of the land division. (The County Clerk's Office will not accept personal checks for this fee).</p> <p>Note, the filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.</p> <p>§16.12.390, Mariposa County Subdivision Code</p>		
<p>10. 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.</p> <p>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.</p> <p>[COUNTY ORDINANCE NO. 1017]</p>	<p>Mariposa Planning</p>	
<p>11. Prior to any construction occurring onsite, a tree preservation and replacement plan shall be prepared by the applicant and approved by the Planning Director. The plan shall include but not be limited to the following:</p> <ul style="list-style-type: none"> a. Identification of all mature native trees on site (Ordinance 823 addresses all species of trees, not just oaks). b. Identification of mature native trees to be removed by road and utility construction and projected building construction. 	<p>Mariposa Planning</p>	

<p>c. Program for the replacement and maintenance of removed native trees until the replacement trees are established.</p> <p>If mature trees are to be removed, they shall be replaced at a ratio of four (4) trees for every one removed. Earthwork shall not commence on the project site until the plan is approved by the Planning Director. All requirements of the Tree Preservation and Replacement Plan shall be met prior to recordation of the parcel map.</p> <p>Section 10, County Ordinance 823; Planning Department Recommendation</p>		
<p>12. The minimum parcel size of each lot shall be 9,000 square feet net, exclusive of road easements. The County Surveyor shall ensure this condition is met prior to recordation of the parcel map.</p> <p>Planning Department Recommendation</p>	<p>Mariposa Planning</p>	
<p>CONDITIONS OF APPROVAL/ MARIPOSA PUBLIC UTILITY DISTRICT</p>		
<p>13. Prior to recordation of the parcel map, the unpaid portion of the Saxon Creek Assessment District 94-1 assessments shall be paid in full. As an alternative, an apportionment of existing assessments may be prepared. The MPUD Assessment Engineer will prepare the apportionment. The property owner is responsible for all costs relating to apportionments.</p> <p>Mariposa Public Utility District Requirement</p>	<p>MPUD</p>	
<p>CONDITIONS OF APPROVAL/CALIFORNIA DEPARTMENT OF FORESTRY & FIRE PROTECTION</p>		
<p>14. Prior to recordation of the parcel map, the applicant shall have complied with all applicable SRA Fire Safe Regulations. A letter shall be submitted to the County Surveyor from CalFire to confirm this requirement.</p> <p>Additionally, a document shall be recorded and referenced on the Parcel Map that states:</p> <p>“Future residential development on Parcel A as shown on the Parcel Map for _____, shall be required to conform with all applicable SRA Fire Safe Regulations (Public Resource Code 4290 and 4291). Furthermore, the development of the parcel is</p>	<p>Cal Fire</p>	

<p>subject to all applicable SRA Fire Safe Regulations and the risk of fire hazards shall be reduced through compliance with Public Resource Code 4291, including the requirement to maintain fire protection or firebreaks within 100 feet from buildings or structures or to the property line unless an alternative mitigation measure is approved by CDF at the time of issuance of a residential building permit."</p>		
<p>REMAINDER CONDITIONS</p>		
<p>15. A declaration shall be recorded with the parcel map and shall be referenced on the parcel map:</p> <p style="padding-left: 40px;">"A Certificate of Compliance must be obtained prior to issuance of a development permit for the designated Remainder of the Parcel Map for ____, in accordance with Section 16.04.030 of Mariposa County Code."</p> <p>(Section 16.04.030, County Subdivision Ordinance)</p>	<p>Planning Department</p>	
<p>16. A declaration shall be recorded concurrently with and referenced on the parcel map stating:</p> <p style="padding-left: 40px;">"There shall be no county development permit (including, but not limited to a well permit, a septic permit, a grading permit, an electrical permit, and/or a structure permit) issued to the Remainder of the Parcel Map for ____, until all of the subdivision conditions for the Remainder as established by the Planning Commission have been met. The Remainder is not a parcel available for sale, lease or finance until all of the subdivision conditions for the Remainder have been met. The Remainder may or may not be surveyed."</p> <p>(Planning Department Recommendation)</p>	<p>Planning Department</p>	
<p>17. Upon completion of all conditions applied to the Remainder, a Certificate of Compliance shall be recorded on the Remainder, in accordance with Section 16.04.030, County Subdivision Ordinance. Fees associated with the recordation of the certificate of compliance shall be paid by the applicant. If the Remainder is not shown on the parcel map, a legal description prepared by a land surveyor or other qualified individual will be required.</p> <p>(Planning Department Recommendation)</p>	<p>Planning Department</p>	

<p>18. If the Remainder is not shown on the recorded parcel map, then the applicant or agent shall provide the County Surveyor with a legal description (typed, stamped and signed legal descriptions along with lot closure computations) of the Remainder.</p> <p>(Planning Department Recommendation)</p>	<p>Planning Department</p>	
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Agency Contact List				
AGENCY	CONTACT	PHONE NUMBER EMAIL	SITE ADDRESS	MAILING ADDRESS
Mariposa Planning	Alvaro Arias	209-742-1218 aarias@mariposacounty.org	5100 Bullion Street Mariposa CA 95338	P.O. Box 2039 Mariposa CA 95338
Mariposa Public Utility District	Mark Rowney	209-966-2515	4992 7 th St Mariposa, CA 95338	P.O. Box 494 Mariposa, CA 95338
Public Works	Jerry Freeman	209-966-5356	4639 Ben Hur Road Mariposa CA 95338	Same as site
Health Department	Dave Conway	209-966-2220	5100 Bullion Street Mariposa CA 95338	P.O. Box 5 Mariposa CA 95338
Regional Water Quality Control Board	JoAnne Kipps	559-445-5035	1685 E Street Fresno CA 93706	Same as site
Mariposa County Resource Conservation District	Dawn Afman	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Sarah Brewster	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35 Mariposa CA 95338
County Fire	Blaine Shultz	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal Fire	Matt Watson	209-966-3622	5366 Highway 49 North	Same as site

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Certificate of Completion:

By signing below, the environmental coordinator confirms that the required conditions of approval and standards for residential development in the Mariposa Town Planning Area, have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

 Environmental Coordinator

 Date

Explanation of Headings:

Monitoring Dept: Department or Agency responsible for monitoring a particular mitigation measure.

Verified Implemented: When a mitigation measure has been implemented, this column will be initialed and dated.