

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

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STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION

Resolution

No. 2008-003

A resolution conditionally approving Land Division Application No. 2006-173; Karen Simmons, applicant. Assessors Parcel Number 009-130-041.

WHEREAS an application for land division was received on May 10, 2006 from Karen Simmons for a property located at an unassigned address in the Jerseydale area, off of Best Road, approximately 6/10<sup>th</sup> of a mile from Jerseydale Road, also known as Assessor Parcel Number 009-130-041; and

WHEREAS the project was deemed complete as of June 10, 2006 pursuant to Government Code Section 65943 and is consequently subject to the 1981 General Plan; and

WHEREAS the project proposes the division of an 11.16 acre parcel into two parcels of approximately 5.6 acres each; and

WHEREAS Best Road is a county maintained road; 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 21<sup>st</sup> day of September 2007; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS staff recommended denial based upon written input from Cal Fire. Cal Fire initially determined that Jerseydale Road was a dead-end road and the project did not meet the State Fire Safe Regulations relative to access requirements; 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, the Cal Fire representative, and the Mariposa County Sheriff; and

WHEREAS the Planning Commission continued the public hearing to a date and time certain, and gave direction to staff and Cal Fire to re-evaluate their position based upon input from the Mariposa County Sheriff and the US Forest Service (USFS) roads in the area; and

WHEREAS Cal Fire re-evaluated their position and submitted revised comments for the project on January 4, 2008; and

WHEREAS the revised project comments enabled a favorable recommendation for the project; and

WHEREAS a revised Staff Report was prepared for the project as well as an Initial Study, and these documents were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS supplemental information was provided to the Planning Commission by staff following receipt of additional comments provided by the California Department of Fish and Game and the applicant;

WHEREAS the Planning Commission did hold a public hearing on a continued public hearing date and considered all of the information in the public record, including the Initial Study and revised Staff Report, the supplemental information, testimony presented by the public concerning the application, the revised comments of Cal Fire, and the comments of the applicant and her representatives.

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby adopt a Mitigated Negative Declaration.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application No. 2006-173.

BE IT FINALLY RESOLVED THAT the project is approved based upon the amended findings set forth in Exhibit 1, and with the terms, amended conditions and mitigation measures set forth in Exhibit 2.

ON MOTION BY Commissioner Rudzik seconded by Commissioner DeSantis, this resolution is duly passed and adopted this 8<sup>th</sup> day of February 2008 by the following vote:

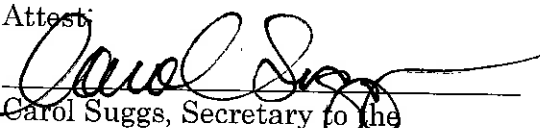
AYES: Francisco, Ross, Rudzik, Skyrud, and DeSantis

NOES: None

EXCUSED: None

ABSTAIN: None

  
Skip Skyrud, Chair  
Mariposa County Planning Commission

Attest:  
  
Carol Suggs, Secretary to the  
Mariposa County Planning Commission

*EXHIBIT 1*  
*PROJECT FINDINGS*  
*FOR*  
*Land Division Application No. 2006-173*

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

**EVIDENCE:** Based on the site inspection and the proposed division of the existing parcel into two parcels of greater than five acres each, the site is physically suited for low-density homes and appurtenant improvements such as septic systems provided that the conditions of approval regarding the testing on-site for soil suitability for on-site septic systems are met. The proposed project is located within the Mountain Home zone and Land Use Classification. The subdivision density is designed in accordance with the Mountain Home zone and 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 Initial Study prepared for the project found that based on the approved project description and the proposed mitigation measures, it would have a less than significant effect on the environment. This project is limited in its scope, and will result in one additional parcel being created. Both parcels have frontage and direct access to an existing county-maintained road. CalFire issues associated with fire safety and emergency response impacts were addressed by revised comments from CalFire. The land use in the area is currently and will continue to be used primarily for residential purposes. The applicant will need to conduct further nesting surveys for Spotted Owls and for raptors, and mitigation has been developed to protect nests from the impacts associated with the project, should the survey identify nests on-site. The only drainage on-site is along the boundary between the proposed parcels, and the drainage cannot be built on based upon existing property line setback issues implemented by the County Zoning Ordinance. The project is subject to the California Department of Fish and Game filing fees of (\$1,876.75) for a mitigated negative declaration as required by California Fish and Game Code §711.4(d)(4) and a County Clerk fee of (\$50).

3. **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 low-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 Health Department standards for the proper installation of a sewage disposal system and wells for potable water on the undeveloped parcels. The proper location and implementation of these

improvements will ensure that serious health problems will not occur on the site. 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.

4. **FINDING:** The proposed map is consistent with applicable general (Mariposa County General Plan, 1981) and specific plans as specified in Government Code Section 65451.

**EVIDENCE:** This project was submitted on May 10, 2006. On June 10, 2006, this application was deemed complete for processing pursuant to Government Code Section 65943. Consequently, this project has been processed in accordance with the 1981 Mariposa County General Plan. The land division is the initial step in the process to help accomplish the General Plan's Housing Element overall goal to *"...provide an adequate supply of sound, affordable housing units in a safe and satisfying environment for the present and future residents of the County..."* The land division satisfies the following Housing Element Policy: *"to ensure that there are adequate sites and facilities available to support future housing needs."* There is no specific plan governing this property.

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

**EVIDENCE:** This project was submitted on May 10, 2006. On June 10, 2006, this application was deemed complete for processing pursuant to Government Code Section 65943. Consequently, this project has been processed in accordance with the 1981 Mariposa County General Plan. The minimum parcel size proposed by the project is consistent with standards contained in the 1981 General 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 site is not in an area governed by a Specific Plan.

6. **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 will cause no permanent conflict with public access rights. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

7. **FINDING:** The amended mitigation measures adopted for this project are based upon a finding that the Planning Commission considered all of the information in the record regarding the project's potential impacts on biological resources. The Planning Commission considered all of the information in the record regarding the project's minimal scope, the project's location and setting including the extensive permanent open space of the Sierra National Forest, the negligible ground disturbing activities needed prior to map recordation, the additional detailed information provided by staff regarding species of concern, and the zoning and limited residential density of the project (current and after project). The Planning Commission considered the correspondence from the California Department of Fish and Game (including the June

2006 and the January 2008 correspondence) as well as correspondence from the applicant dated February 1, 2008. The Planning Commission considered verbal input at the hearing from the applicant and her representatives. The Planning Commission finds that the amended mitigation is appropriate for this specific project, meets the nexus findings, and reduces the impact of this specific project to a level of less than significant.

**EXHIBIT 2**  
**CONDITIONS OF APPROVAL AND MITIGATION MEASURES**  
**FOR**  
**Land Division Application No. 2006-173**

Project Name: Land Division for Karen Simmons

File Number: LDA No. 2006-173

Project Approval Date: February 8, 2008

The following conditions of approval and mitigation measures were approved for this project in order to ensure compliance with county codes and policies, and to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist indicates that the conditions and mitigation measures have been complied with and implemented, and fulfills the County of Mariposa's Mitigation Monitoring requirements with respect to Public Resources Code Section 21081.6.

<b>Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures</b>		
	Monitoring Dept.	Verified Implemented
<b>Project Description</b>		
Land Division Application No. 2006-173 divides an undeveloped 11.16 acre parcel into 2 parcels of approximately 5.6 acre each. Both parcels will have frontage on, and take access directly from Best Road, a county-maintained road.		
<b>CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT</b>		
1. A dedication of a minimum of 30 feet from the centerline of Best Road shall be offered to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state on the parcel map that the dedication is for "public road and public utility purposes." The location and width of the offer of dedication shall be approved by the County Engineer. The offer of dedication shall include all dedication required to encompass the existing slopes.  (Section 16.12.150, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy).	Public Works	

<p><i>The Planning Commission recommends that the Public Works Director accept the offer of dedication for public access, maintenance and utilities for Best Road.</i></p>		
<p>2. 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><b>CONDITION OF APPROVAL / MARIPOSA PLANNING</b></p>		
<p>3. Project approval is valid for a period of three years from February 8, 2008. This approval shall expire on February 8, 2011.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>4. 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 Department of Fish and Game filing fee (\$1,876.75 as of 1/1/08) and the County Clerk fee (\$50.00 as of 1/1/08) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, February 15<sup>th</sup> 2008), 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 Friday, February 15<sup>th</sup> 2008 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).</p> <p>The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$1,926.75 (effective 1/1/08), 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 to file this fee and other required documents with the County Clerk.</p> <p>Note, the filing fees are adjusted annually, effective January 1<sup>st</sup> of each year, pursuant to Fish and Game Code.</p> <p>§16.12.390, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>5. 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</p>	<p>Mariposa Planning</p>	

<p>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>§16.36.030, Mariposa County Subdivision Ordinance</p>		
<p>6. Subdivision Map Act Section 66434.2 applies to the recordation of the parcel map for this project.</p> <p>Subdivision Map Act §66434.2</p>	<p>Mariposa Planning</p>	
<p><b>CONDITIONS OF APPROVAL/ MARIPOSA COUNTY HEALTH DEPARTMENT</b></p>		
<p>7. Percolation tests and soils analysis tests shall be performed on Parcels A and B in accordance with Health Department rules and regulations and Health Department Policy 03-01. These tests shall be performed AFTER the Planning Director's approval of the owl and raptor surveys required by Condition Nos. 10 and 11. The results of these tests shall be submitted to the Mariposa County Health Department and be approved by the County Environmental Health Specialist prior to filing of the parcel map. If special designed (Engineered) septic system meeting the criteria in Health Department Policy 03-01 is required, the engineering must be submitted to the County Health Department and approved by the County Environmental Health Specialist. A letter from the County Environmental Health Specialist shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis</p>	<p>Health Department /  Public Works Department</p>	



<p>tests have been performed on the parcel. A statement shall be filed in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>“Approved percolation tests and soils analysis tests have been performed on Parcels A and B as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, to verify the feasibility of installing an on-site septic disposal system. A map identifying the location of the approved percolation tests is on file in the County Health Department. If an on-site septic system is proposed for a portion of a parcel that has not had an approved percolation tests, additional percolation tests and design recommendations may be required. If engineering is required to meet the criteria set forth in Health Department Policy 03-01 and a septic system is proposed for an area other than the approved area the soils conditions must be equal to or better than those in the approved area or the new area shall not be approved for use.”</p> <p>(Section 16.12.330, County Subdivision Ordinance; Health Department Recommendation)</p>		
<b>CONDITIONS OF APPROVAL / CAL FIRE</b>		
<p>8. Prior to recordation of the parcel map, all applicable State Fire Safe Regulations shall be met. A letter shall be submitted to the County Surveyor by Cal Fire stating this condition has been met.</p> <p>California Public Resource Code</p>	Cal Fire	
<p>9. A document shall be recorded and referenced on the Parcel Map that states:</p> <p>“Future residential development on Parcels A and B as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____ Mariposa County Records shall be required to conform with all applicable State Responsibility Area Fire Safe Regulations (Public Resource Code 4290 and 4291).”</p> <p>Cal Fire Recommendation</p>	Cal Fire /	
<b>CEQA MITIGATION MEASURES</b>		
<p>10. Prior to the initiation of ground disturbing activities associated with compliance with any and all project conditions, and prior to filing of the parcel map, an appropriately qualified biologist shall conduct a survey to determine if the California Spotted Owl (CSOW) is present or nesting within the project parcel boundaries. The survey shall occur during the CSOW nesting period between February 1 and September 30. The results of the survey shall be</p>	Planning Department /	

<p>presented to the Mariposa County Planning Department at least one month prior to the initiation of ground disturbing activities to enable adequate time for the County to review and approve the survey.</p> <p>If nesting CSOWs are detected within the parcel boundaries, a 150 foot "no disturbance" area shall be established around the nesting tree for the duration of the nesting season.</p> <p>Mitigation Measure: CEQA</p>	Public Works Department	
<p>11. Prior to the initiation of ground disturbing activities associated with compliance with any and all project conditions, and prior to filing of the parcel map, an appropriately qualified biologist shall conduct a survey to determine if active raptors are nesting within the parcel boundaries. The survey shall occur during the raptor nesting period between February 15 and September 15. The results of the survey shall be presented to the Mariposa County Planning Department at least one month prior to the initiation of ground disturbing activities to enable adequate time for the County to review and approve the survey.</p> <p>If nesting raptors are detected within the parcel boundaries, a 150 foot "no disturbance" area shall be established around the nesting tree for the duration of the nesting season.</p> <p>Mitigation Measure: CEQA</p>	Planning Department /  Public Works Department	

(end)