

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. 2008-016

**A resolution conditionally approving Land Division Application No. 2006-225; Phil Sammet and Kimberly Campbell, applicants. Assessors Parcel Number 017-050-008.**

WHEREAS an application for Land Division Application 2006-225 was received on July 13, 2006 from Phil Sammet and Kimberly Campbell for a property located at 4259 Silver Bar Road, also known as Assessor Parcel Number 017-050-008; and

WHEREAS the project was deemed complete as of August 13, 2006 pursuant to Government Code Section 65943 and is consequently subject to the 1981 General Plan; and

WHEREAS Land Division Application No. 2006-225 proposes the division of a 13.40 acre parcel into two parcels, Parcel A of 5.08 acres, and Parcel B of 8.32 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 June 6, 2008; 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 applicant.

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 2006-225.

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.

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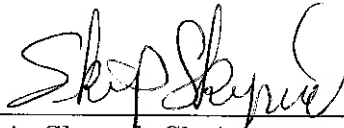
ON MOTION BY Commissioner Rudzik, seconded by Commissioner Francisco, this resolution is duly passed and adopted this 6<sup>th</sup> day of June 2008 by the following vote:

AYES: Rudzik, Francisco, Skyrud, DeSantis

NOES: None

EXCUSED: Ross

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. 2006-225***

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

**EVIDENCE:** Based on 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 septic systems and approved locations, and road improvement and encroachment permit requirements 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 is consistent with surrounding development. The site has access to a paved county-maintained road and limited grading will be necessary to comply with access requirements for the subdivision. Mitigation is included for improving access to the parcels to address fire safety and emergency response impacts. Mitigation is included to address the project's potential impacts to cultural resources, biological/botanical resources and oak trees. The land will be used primarily for residential purposes. The project is subject to the California Department of Fish and Game filing fees for a mitigated negative declaration as required by California Fish and Game Code §711.4(d)(4) and a County Clerk fee.

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 wells and sewage disposal systems on the parcels. The proper location and implementation of these improvements through the required permit processes 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 July 13, 2006. On August 13, 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 July 13, 2006. On August 13, 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. Upon compliance with the recommended conditions prior to recordation of the parcel map, the parcels will have adequate access and adequate areas on-site for an engineered sewage treatment system.

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:** This project was processed under the 1981 General Plan. The Planning Commission has approved this project based upon site specific and project specific conditions, and has conditionally allowed septic replacement areas to be located on off-site parcels, therefore satisfying the requirements of Health Department Policy. This action is based upon consideration of unique site conditions for LDA No. 2006-225, and is not to be considered a precedent for future projects.

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**EXHIBIT 2**  
**CONDITIONS OF APPROVAL AND MITIGATION MEASURES**  
**FOR**  
**Land Division Application No. 2006-225**

**Project Name: Sammet & Campbell**

**File Number: LDA No. 2006-225**

**Project Approval Date: June 6, 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 Assembly Bill 3180 (Public Resources Code Section 21081.6)

<b>Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures</b>		
	<b>Monitoring Dept.</b>	<b>Verified Implemented</b>
<b>CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT</b>		
<p>1. A dedication of a minimum of 30 feet from the centerline of Ben Hur Road and Silver Bar 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.)</p> <p>§16.12.150, County Subdivision Ordinance; Road Standard Cross-sections and Section II.A.3, Road Improvement and Circulation</p>	<b>Public Works</b>	

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<p>Policy.</p>		
<p>2. Frontage improvements consisting of brushing back trees and shrubs shall be conducted to obtain proper site distance at the driveway encroachment locations due to the curves on Silver Bar Road. This shall be done in accordance with the County Road Improvement and Circulation Policy and the County Improvement Standards and shall meet these standards at the time of parcel map filing as confirmed to have been completed by the County Engineer.</p> <p>Public Works Recommendation; Section D, Road Improvement and Circulation Policy</p>	<p>Public Works</p>	
<p>3. Access to parcels A and B shall be limited to the proposed driveways. No encroachment permits to Ben Hur Road for these parcels will be granted. A declaration shall be filed with the parcel map, referenced on the map and made appurtenant to Parcels A and B. The declaration shall state the following:</p> <p>“Approved access for residential development of Parcels A and B as shown on the Parcel Map for _____, filed in Book ___ at Page ___, Mariposa County Records is from Silver Bar Road.”</p> <p>The County Engineer will confirm that this condition has been complied with prior to map filing.</p> <p>Public Works Recommendation</p>	<p>Public Works</p>	
<p>4. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permit for the required improvements a consultation meeting with the Public Works Department, Cal Fire (CDF), the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted on-site. 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</p>	<p>Public Works</p>	

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<p>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 on-site inspection of road improvements.</p> <p>Public Works Recommendation</p>		
<p>5. 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>	Public Works	
<p>CONDITION OF APPROVAL / MARIPOSA PLANNING</p>		
<p>6. Project approval is valid for a period of three years from June 6, 2008. This approval shall expire on June 6, 2011.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	Mariposa Planning	
<p>7. Prior to filing 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, June 13, 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, June 13, 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>	Mariposa Planning	



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<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; 711.4(c) of the State Fish and Game code</p>		
<p>8. 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>§16.36.030, Mariposa County Subdivision Ordinance</p>	<p>Mariposa Planning</p>	

**CONDITIONS OF APPROVAL/ MARIPOSA COUNTY HEALTH DEPARTMENT**

<p>9. Prior to recordation of the parcel map the applicant shall demonstrate to the satisfaction of the Mariposa County Health</p>	<p>Health</p>	
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<p>Department that the minimum required area per Health Department Policy 03-01 is available for use on both parcels adjacent to the areas tested. This may include excavating additional profile holes at the discretion of the Health Department. If the Health Department does not approve the pre-tested site then additional percolation tests and soil profile analysis shall be performed on those parcels not approved by the Health Department. In the event that one of the parcels does not have adequate space meeting the requirements of Health Department Policy 03-01 an easement and enforceable agreement utilizing the other parcel may be used to satisfy this condition provided the parcel that the easement is to be created on has enough available area as determined by both the planning and Health Departments.</p> <p>If the easement and enforceable agreement option are utilized to meet this condition, then both the Health Department and the Planning Department must approve the documents prior to recordation.</p> <p>The setback areas required by any other Condition of this approval may not be used to satisfy this condition.</p> <p>Health Department Recommendation</p>	<p>Department</p>	
<p>10. If the Health Department approves the available area outlined in the above condition using conventional on-site sewage disposal systems then a statement shall be recorded 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 &amp; B) as shown on the Parcel Map for _____, recorded 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</p>	<p>Environmental Health</p>	

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<p>of a parcel that has not had approved soils tests, additional soils tests and design recommendations may be required.</p> <p>(Section 16.12.330, County Subdivision Ordinance; Health Department Recommendation)</p>		
<p>11. If the Health Department approves the available area outlined in condition number 11 using special design "engineered" on-site sewage disposal systems, then a statement shall be filed in Official Records concurrently with the Parcel Map and referenced on the Parcel map as follows:</p> <p>"Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on Parcel(s) _____, as shown on the Parcel Map for _____, recorded in Book ____ at Page _____, Mariposa County Records, based upon limiting soil conditions; however, the test results meet the Health Department Land Division policy requirements for use of engineered, alternative design on-site sewage disposal systems. The State of California is in the process of developing Statewide on-site sewage disposal regulations that could affect the future installation of engineered, alternative design on-site sewage disposal systems; therefore, buyers are encouraged to check with the Mariposa County Health Department regarding State or local regulation changes that could affect the installation of an on-site sewage disposal system on any of these parcels.</p> <p>Additionally, a notice shall be recorded concurrently with the parcel map and referenced on the parcel map which states:</p> <p>"The properties described as Parcels _____ as shown on the Parcel Map for _____, recorded in Book ____ at Page _____, Mariposa County Records, are required to be served by an alternative design on-site sewage disposal system which is to be installed in the exact area tested and approved by the Health Department unless the Health Department approves an alternate location as described below. Construction plans for the alternative design on-site sewage disposal system must be submitted to and approved by the Mariposa County Health Department prior to the issuance of a development permit for any construction activities other than a private well. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Health Department. The alternative design on-site sewage disposal system is to be maintained in</p>	Environmental Health	

<p>accordance with Mariposa County Health Department Policy 03-01 which states, "A maintenance entity shall be required prior to approval and installation of a special design sewage disposal system on a land division. In lieu of a public entity, an operation and maintenance protocol may be submitted for approval by the manufacturer of a specific technology." Said maintenance entity shall be created to provide maintenance on the engineered sewage disposal systems prior to issuance of a development permit for residential construction activities other than a private well.</p> <p>In the event that additional soils testing is conducted demonstrating that an alternative design on-site sewage disposal system is not necessary, the Mariposa County Health Department may allow the use of a conventional on-site sewage disposal system in the newly tested area. Any newly tested area requiring the use of an engineered alternative design on-site sewage disposal system must meet the same minimum soils requirements of Health Department policy 03-01 as a newly created parcel."</p> <p>Health Department Recommendation</p>		
<p>12. The applicant shall obtain a land development Burn Permit from the Mariposa County Air Pollution Control District prior to lighting any fires to dispose of brush, grass, trees and other flammable debris generated during ground clearing activities associated with compliance with the conditions outlined for this project.</p> <p>Health Department Recommendation</p>	<p>Environmental Health</p>	
<p><b>CEQA MITIGATION MEASURES</b></p>		
<p>13. Open space setbacks of 20 feet on-site shall be established from the drip line of the elderberry shrubs identified in the Biological and Wildlife Study conducted for this project. No buildings, septic systems or grading shall be permitted in this setback. During any construction or grading within 100 feet of the elderberry plants, temporary fences and/or protective barriers shall be placed around the elderberry plants. The Planning Director shall approve the location of the setbacks prior to recordation of the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and shall be referenced on the parcel map. The statement shall read as follows:</p> <p><i>"This area is habitat of the Valley Elderberry Longhorn Beetle,</i></p>		

<p><i>a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973. No new structures or roads shall be constructed within the open space setback on Parcel ___ of the Parcel Map for ___, filed in Book ___ at Page ___, Mariposa County Records. No grading shall be allowed within the setback except for the purposes of maintaining the existing roads. The Elderberry plants shall not be removed from the setback. This open space setback shall be in perpetuity and shall restrict the use of the land within the setback. The restrictions established for this setback shall be in place and effective until such a time as the elderberry shrub or shrubs die of natural causes, (which may include a wildland fire) and shall restrict the use of the land within the setback. Violators are subject to prosecution."</i></p>		
<p><b>Mitigation Measure</b></p> <p>14. Prior to any construction work required for completion of conditions of approval of this parcel map, the elderberry plants shall be flagged and temporarily fenced with at least 3 foot high fencing and at least a 20 foot buffer around them. Any contractors who work on the project shall be briefed on the requirements to avoid disturbance in the fenced area both through direct contact and erosion work at nearby sites and shall be made aware of the possible penalties (the most severe being prosecution) for not complying with these provisions. At the time of construction, signs shall be posted with the following information:</p> <p><i>"This area is habitat of the Valley Elderberry Longhorn Beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973. Violators are subject to prosecution, fines and imprisonment."</i></p> <p>Mitigation Measure; Planning Staff Recommendation.</p>	<p>Planning Department</p>	
<p>15. Cultural resources shall not be altered, disturbed, removed, or destroyed. If any cultural resources or archeological materials are uncovered during ground disturbance or construction activities associated with compliance with the conditions of approval for this project, Mariposa County authorities and/or a qualified archeologist shall be notified immediately by the applicant or his representative and construction work shall be stopped in this area until mitigation is established by appropriate</p>		

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<p>professional(s) meeting the Secretary of Interior qualification standards. Should human remains be encountered, the County Coroner must also be notified within 48 hours. If the remains are Native American, the coroner must notify the Native American Heritage Commission within 24 hours.</p> <p>Mitigation Measure; Planning Staff Recommendation</p>		
<b>RECOMMENDATION ON OFFERS OF DEDICATION</b>		
<p>Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public access, public utilities and public maintenance for the dedications along Silver Bar Road and Ben Hur Road.</p> <p>Mariposa Planning Recommendation</p>	Public Works	

<b>Agency Contact List</b>				
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
Public Works	Cheryl Jay	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	Jerry Progner	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746

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Conservation District				Mariposa CA 95338
County Assessor	Sarah Wise	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35  Mariposa CA 95338
County Fire	Jim Middleton	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162  Mariposa CA 95338
Cal. Dept of Forestry	Matthew Watson	209-966-3622	5366 Highway 49 North  Mariposa CA 95338	Same as site

**Certificate of Completion:**

By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures 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.