

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. 2008-039

**A resolution recommending approval for Zoning Amendment Application No. 2008-158 John P. Boggs, applicants. Assessor Parcel Number 014-550-003.**

WHEREAS an application for Zoning Amendment No. 2008-158 was received on September 2, 2008 from John P. Boggs for a property located at 5368 Oak Road in the Midpines area, also known as Assessor Parcel Numbers 014-550-003; and

WHEREAS the application proposes to change the zoning map to remove a 3.55 acre portion of a 35.68 acre parcel from the Open Watershed Overlay Zoning District (OWO) designation; and

WHEREAS Section 17.60.010.C contains amendment standards for property that lies outside of the watershed; and

WHEREAS the applicant submitted information from a licensed Civil Engineer that the surface flow from the property does not flow into the Stockton Creek watershed, which provides for public or community water supply; 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 5<sup>th</sup> of December 2008; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, 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 recommend that the Board of Supervisors find that the project is exempt from provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors approve Zoning Amendment No. 2008-158.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission recommends approval of The General Plan Zoning Amendment based upon the findings set forth in Exhibit 1.

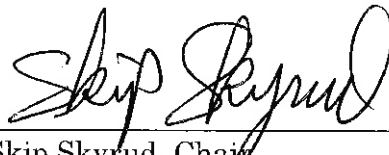
ON MOTION BY Commissioner DeSantis, seconded by Commissioner Ross, this resolution is duly passed and adopted this by the following vote:

AYES: DeSantis, Ross, Skyrud, Rudzik, Francisco

NOES: None

EXCUSED: None


ABSTAIN: None



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Skip Skyrud, Chair  
Mariposa County Planning Commission

Attest:



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Judy Mueller, Secretary to the  
Mariposa County Planning Commission

**EXHIBIT 1**  
**RECOMMENDED PROJECT FINDINGS**  
**FOR**  
**Zoning Amendment No. 2008-158**

In keeping with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for Zoning Amendment Application No. 2008-158:

**Zoning Amendment Findings**

- FINDING:** Section 17.60.010.C of Mariposa County Code allows the boundaries of the Open Watershed Overlay to be modified if it can be proven that a parcel or a part of a parcel lies outside of the watershed. Based on the evidence submitted, it can be proven that the subject parcel lies outside of the Stockton Creek watershed, and therefore the Open Watershed Overlay Boundaries will be modified to exclude the subject parcel.

**EVIDENCE:** The applicant has submitted a signed and stamped letter from Roger Stephens, a Registered Professional Engineer stating that the subject parcel is outside of the Stockton Creek watershed, which provides surface water that provides for public or community water supply. The Open Watershed Overlay is intended to protect those lands whose surface water provides for public or community water supply. According to the licensed engineer, the surface flow on the subject property flows into the Bear Creek watershed, making the 3.55 acres that lie within Open Watershed Overlay unnecessary. Therefore the OWO boundaries will be modified to exclude the subject parcel and the parcel boundaries will become the boundary for the Open Watershed Overlay.

- 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:** This project removes a 3.55 acre portion from the Open Watershed Overlay. Evidence has been submitted that the surface flow on the property does not flow into the Stockton Creek watershed, which ultimately provides for public and community water supply. The Open Watershed Overlay is therefore unnecessary on this parcel. By removing the 3.55 acre portion from the Open Watershed Overlay there will be no significant adverse affect on the general public health, safety, peace, and welfare since none of the surface flows from the property provides for public or community water. The Open Watershed Overlay is only intended for lands whose surface flow does provide water for public or community water supply.

3. **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:** The amendment will correct the boundaries for the Open Watershed Overlay, which is a zoning district. As the boundaries exist, 3.55 acres are incorrectly placed within this overlay, hampering the development potential for the owner.

The Open Watershed Overlay is applied to lands whose water flow from the property provides for public or community water. None of the surface flows from the property serve that purpose.

This amendment has no impact on the County General Plan; however by correcting the zoning line, it can be found that an improvement is made relative to day-to-day decision making. The Open Watershed Overlay designation was improperly applied to a portion of this parcel and this amendment corrects this situation.

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

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

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

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it removes an unnecessary overlay, the Open Watershed Overlay, from the property. The OWO being located on this property does not serve its intended purpose and is therefore unnecessary. A change to the boundaries is allowed per code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed.