

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2007-25

A resolution denying Request for Amended Conditions No. 2006-238; Yosemite Area Regional Transportation System, applicant. Assessor Parcel Number 008-400-026

WHEREAS an application to amend the conditions of project approval and the approved site plan for Scenic Highway Design Review Application No. 2003-272 was received on July 25, 2006 from the Yosemite Area Regional Transportation System for a property located immediately north of the Midpines Post Office at an unassigned address on Highway 140 in Midpines, also known as Assessor Parcel Number 008-400-026; and

WHEREAS Scenic Highway Design Review Application No. 2003-272 proposed the construction of a 27-space parking lot with two encroachments onto Highway 140; and

WHEREAS the Yosemite Area Regional Transportation System, in their role as the Lead Agency for purposes of administering this project for the California Environmental Quality Act, had prepared an Initial Study and adopted a Mitigated Negative Declaration; and

WHEREAS the adopted Mitigated Negative Declaration proposed to preserve five oak trees on the project site as a mitigation measure; and

WHEREAS the applicant consulted the California Department of Transportation after the project was approved; and

WHEREAS the California Department of Transportation did not approve the location of either proposed encroachment on the grounds that the sight distance on the highway did not meet minimum standards for either location; and

WHEREAS the Request for Amended Conditions proposed to change the location of the driveway encroachment, which then required the removal of two oak trees previously proposed to be preserved; and

WHEREAS the applicant proposed to amend Conditions of Approval No. 2, 4, 9, 11, and 25; and

WHEREAS the requested changes to Conditions No. 2, 9, 11, and 25 relate to the changes made in the measures taken to protect the oak trees, and the requested change to Condition No. 4 relates to the filing of a Certificate of Compliance to recognize the project site as a legal parcel; and

WHEREAS a request for amended conditions from the project applicant allows the County to reexamine the conditions of approval for a project as well; and

WHEREAS staff reviewed the conditions of project approval and found that Condition of Approval No. 8 needed to be clarified; 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 15th day of June 2007; and

WHEREAS the Yosemite Area Regional Transportation System in their role as lead agency for this project prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS an addendum to the Initial Study and the Mitigated Negative Declaration were prepared pursuant to the California Environmental Quality Act; 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 Initial Study and Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the testimony presented by the public focused primarily on the concerns of the community regarding public safety; and

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby deny the Request for Amended Conditions; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is denied based upon the findings set forth in Exhibit 1.

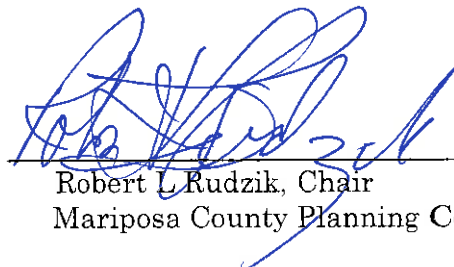
ON MOTION BY Commissioner Skyrud, seconded by Commissioner Hagan, this resolution is duly passed and adopted this June 15, 2007 by the following vote:

AYES: Commissioners DeSantis, Hagan, Ross, Rudzik, and Skyrud

NOES: None

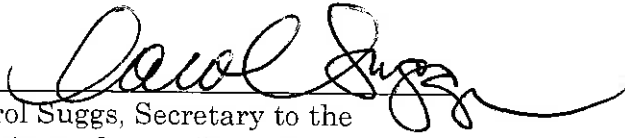
EXCUSED: None

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:

A handwritten signature in black ink, appearing to read "Carol Suggs", written over a horizontal line.

Carol Suggs, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1

FINDINGS FOR DENIAL

Request for Amended Conditions No. 2006-238

Pursuant to Mariposa County Zoning Ordinance, Section 17.65.010A, and based on consideration of the staff report, as well as consideration of the evidence and comments provided at the public hearing by Midpines residents (some of whom are also members of the Midpines Planning Advisory Committee), the following Findings are made in support of the Planning Commission's action to deny the request for amended conditions:

1. The development project proposed by the Request for Amended Conditions Application is not harmonious with the scenic quality of the designated highway. This site is adjacent to the highway, is highly visible from the scenic highway, and is a small site. Any proposed development on this site must be in strict compliance with the Scenic Highway Design Review Development Standards in order to be found to be harmonious with the scenic quality of the highway.
2. The development project proposed by the Request for Amended Conditions application does not comply with all applicable standards pursuant to Chapter 17.65 of the Mariposa County Zoning Ordinance – the Scenic Highway Overlay Zone. This project increases the number of significant mature oaks to be removed as a result of construction to 5. Consequently, the Commission finds that the project is not consistent with the Development Standard established by Mariposa County Code Section 17.65.010.E.1.c which requires a development to, "Preserve significant natural features which contribute to the corridor's scenic quality including vegetation, boulders and rock outcroppings, natural waterways and drainages, and existing topography or topographic features. Incorporation of these natural features into the proposed site grading and development is encouraged". The Commission notes that this scenic highway development standard does not differentiate between on-site and off-site natural features. Although some of the significant mature oaks to be removed are within the highway right-of-way, the Commission finds that they wouldn't need to be removed if it were not for the project. Additionally, the project applicant does not propose to comply with the Development Standard established by Mariposa County Code Section 17.65.010.E.3.b which requires that, "Landscaping shall screen views of site development from the scenic highway and shall be used to revegetate soils exposed by grading activities. Vegetation utilized for screening shall be equally effective at all times of the year." The applicant states that screening of the parking lot is an invitation for vandalism, theft and injury to persons. In making this finding, the Commission asserts that, if a Scenic Highway designation is to mean anything, the development standards must be enforced.
3. The development project proposed by the Request for Amended Conditions application increases the number of parking spaces on the project site from the originally approved 27 spaces to 41 spaces. This represents a 51% increase in the number of spaces on site, and the Commission finds that this represents a significant increase in the number of parking spaces on the 0.75 acre site. The development project proposed by the Request for Amended Conditions application eliminates one of the two encroachments in the previously approved design. The previously approved design had two connected entrances and exits into and out of the parking lot. The amended design means that busses cannot enter the parking lot. Consequently, YARTS passengers using the east bound bus services will be forced to cross Highway 140 to get from their parked vehicles to the bus stop. Highway 140 is a major state highway, which experiences significant

traffic flows, especially during the summer tourist season. Vehicle speeds are typically in excess of the posted 50 miles per hour. The proposed parking lot is to be located on a curve in the highway, which further reduces line of sight and visibility for a safe pedestrian crossing. Caltrans does not support installation of a cross walk or any other provision to address pedestrian safety for this project. These potentially significant pedestrian safety impacts are compounded during the winter months, when regular riders (who work in the National Park) typically arrive at the parking lot in the dark and return in the dark. The Planning Commission finds that the amended conditions application could have significant public safety impacts related to pedestrian travel across the State Highway and these public safety impacts were not evaluated by the previous environmental review document. Based upon Caltrans encroachment sight distance requirements and input from the project engineer, the Commission finds that there is no way to modify the project design to address this issue. There is no way to provide for through traffic on-site because Caltrans will only allow one encroachment for the project site. Additionally, neither the original environmental review document nor the updated environmental review document (prepared for the Amended Conditions development project) addressed the requirements established by Senate Bill 1334, relative to Oak Woodlands Preservation. The Commission finds that there are impacts associated with this amended development project which could result in potentially significant impacts to pedestrian safety and oak woodlands.

4. The project is not consistent with the goals, policies, and standards of the General Plan. Although there is a clear public interest served in providing for facilities to promote public transit in Mariposa County, the Commission finds it is not appropriate to approve such a project if there is the potential for significant impacts to pedestrian safety as a result. The Commission finds that there needs to be a balance between addressing transit needs of the county and pedestrian safety, and the proposed project does not provide an appropriate balance. Finally, the Commission notes that there may be other existing or proposed parking lots in the community which may be available for this same use. This represents an efficiency relative to reducing environmental impacts of paved parking areas (including vegetation removal and creation of impermeable surfaces).
5. The project, including the revised site plan and the proposed amendments to Conditions No. 2, 4, 9, 11, and 25 are not in the general public interest and will have a potentially significant adverse effect on the general public health, safety, peace and welfare. Based upon information now available, the project is not 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. The project and project plans were approved by YARTs and the Board of Supervisors a number of years ago based upon conceptual development plans. The refinement of the conceptual development plans to construction level plans have resulted in the Commission's recognition that the site is not adequate for the proposed use based upon information which was not available at the time of the original project approval. The Commission finds that if an approved project cannot comply with established development standards, conditions of approval, and agency permit requirements (including the Caltrans encroachment permit requirements), then the site is not appropriate for the proposed use.