RESOLUTION - ACTION REQUESTED 2014-306

MEETING: June 24, 2014

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Resolution Initiating Amendments to County Code

RECOMMENDATION AND JUSTIFICATION:
Adopt a resolution of intention to initiate amendments to Mariposa County Code Title 17 to implement General Plan provisions for processing mining projects. Amendments are proposed to be initiated to: 1) Chapter 17.20 Mountain Home zone, 2) Chapter 17.24 Mountain Transition zone, 3) Chapter 17.28 Mountain General zone, 4) Chapter 17.32 General Forest zone, 5) Chapter 17.36 Mountain Preserve zone, 6) Chapter 17.40 Agriculture Exclusive zone, and 7) Chapter 17.148 Definitions.

One of the established purposes of the zoning ordinance, pursuant to Mariposa County Code Section 17.04.010, is to "implement the Countywide General Plan..."

This set of code amendments specifically implements the following:

General Plan Goal 11-3: "Provide for the reasonable development of mineral resources",

General Plan Policy 11-3a: "Mining occurs in balance with adjoining uses and resources compatibility", and

General Plan Implementation Measure 11-3a(1): "Require a conditional use permit for mining activity except where a land use designation permits such use".

The amendments will show surface and subsurface mining operations as a conditional use in the Mountain Home, Mountain Transition, Mountain General, General Forest and Mountain Preserve zones. Text in the Agriculture Exclusive zone and Definitions will be modified for internal consistency.

The amendments will also make text in County Code Title 17 consistent with text in the State Surface Mining and Reclamation Act (SMARA) and County Code Title 18, Chapter 18.02.

If initiated, the amendments will be taken through a full public and environmental review process, including review by the Planning Commission.
BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board of Supervisors adopted the General Plan in December 2006.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Do not adopt resolution. The process to amend County Code to implement the General Plan relative to processing mining permits would not be initiated.

Amend text of initiated amendments.

FINANCIAL IMPACT:
No impact. Will be processed using county staff.

ATTACHMENTS:
140624 BOS Resolution to Initiate Amendments for Mining Permitting (DOC)

CAO RECOMMENDATION
Requested Action Recommended

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Janet Bibby, District III Supervisor
SECONDER: John Carrier, District V Supervisor
AYES: Lee Stetson, Janet Bibby, Kevin Cann, John Carrier
EXCUSED: Merlin Jones
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS  

Resolution No. 2014-306  
A resolution of intention to initiate amendments to Mariposa County Code Title 17 to Implement General Plan Provisions for Processing Mining Projects  

WHEREAS, the Mariposa County Code is adopted by ordinance; and  

WHEREAS, Mariposa County Code Title 17 is the Zoning Ordinance. Section 17.04.010 establishes the purpose of the zoning ordinance to “implement the Countywide General Plan...”  

WHEREAS, the Mariposa County General Plan (“General Plan”) includes Chapter 11, the Conservation and Open Space Element; and  

WHEREAS, General Plan Section 11.1.03 Mineral Resources reads,  

“There is a need for mining of construction materials and the resources are available in the County. As residential development occurs, the County is going to need more local sources for slate, gravel, sand, and other construction material”;  

and  

WHEREAS, General Plan Section 11.2 General Plan Implementation reads,  

Goal 11-3: Provide for the reasonable development of mineral resources.  

“Policy 11-3a: Mining occurs in balance with adjoining uses and resources compatibility.  

Implementation Measure 11-3a(1): Require a conditional use permit for mining activity except where a land use designation permits such use.  

Timing: Short-term.  

Responsibility: Mariposa County Planning Department.  

Fiscal Impact: None.  

Consequences: Code revision.”;  

and  

WHEREAS, General Plan Implementation Measure 11-3a(1) has not yet been completed; and  

WHEREAS, the only land use designation which permits such use is the Agriculture Working Landscape (AWL) land use; and  

WHEREAS, the zoning designations within Title 17 need to be amended to implement this General Plan short term implementation measure; and
WHEREAS, in addition to Title 17 Zoning, there are other county code provisions addressing mining; and

WHEREAS, County Code Chapter 18.02 is entitled “Surface Mining and Reclamation” and specifies its purpose is to establish procedures for the review and approval...to fulfill all of the mandatory requirements of the surface mining and reclamation act (SMARA) and its amendments, and to preserve and protect the mining industry in Mariposa County, while insuring responsible reclamation of involved sites; and

WHEREAS, it is important that County Code, including Titles 17 and 18, are internally consistent relative to provisions for mining, including definitions and procedural requirements; and

WHEREAS, “mining” is defined by Zoning, County Code Section 17.148.010 as,

"The removal of minerals, earth or construction materials from the earth, by methods including pits, tunnels, quarries, shafts, etc., and all necessary appurtenance thereto, for the purpose of resource extraction where the operation involves either the removal of more than one thousand (1,000) cubic yards of mineral, ores, and overburden, or involves the disturbance of more than one (1) acre of surface area.”;

and

WHEREAS, “mineral or construction material processing” is defined by Zoning, County Code Section 17.148.010 as,

"The mechanized crushing, classifying, or processing of mined ores for the purpose of extracting and producing materials, earth or construction materials on a site or lot.”;

and

WHEREAS, “surface mining operations” are defined by Surface Mining and Reclamation, County Code Section 18.02.020.Z as,

"...all, or any part of, the process in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include but are not limited to:

1. In-place distillation or retorting or leaching.  
2. The production and disposal of mining waste.  
3. Prospecting and exploratory activities.”;

and
WHEREAS, “subsurface mining operation” is defined by Surface Mining and Reclamation, County Code Section 18.02.020.X as,

"...the extraction of minerals and ore by underground means, including shafts, tunnels, drifts, stopes, adits, winzes, crosscuts, and raises."

and

WHEREAS, “mining permit” is defined by Surface Mining and Reclamation, County Code Section 18.02.020.L as,

"...an application requesting approval of a surface exploration activity, a surface mining operation, a sub-surface mining operation, or a sand and gravel (aggregate) mining operation which exceeds the surface disturbance thresholds of 1,000 cubic yards or surface area exceeding one (1) acre as specified in SMARA and this chapter. The absence of an approved surface mining permit and reclamation plan application precludes surface mining operations."

and

WHEREAS, “sand and gravel (aggregate) operation” is defined by Surface Mining and Reclamation, County Code Section 18.02.020.T as,

"...the extraction of sand, gravel, and cobbles from a stream bed, gravel bar, or stream terrace or the crushing of rock ripped or blasted from the walls of a quarry for use as construction material, road base, or decorative purposes."

and

WHEREAS, “mined lands” are defined by Surface Mining and Reclamation, County Code Section 18.02.020.K as including,

"...the surface, subsurface and ground waters of an area in which surface mining operations will be, are being or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from or are used in surface mining operations are located."

and

WHEREAS, Surface Mining and Reclamation, County Code Section 18.02.040.B requires a mining permit and reclamation plan,
...for any surface mineral exploration activity, surface mining operation, sub-surface mining operation, or sand and gravel (aggregate) extraction operation where one of the following occurs:

1. The mining operation will result in the movement or disturbance of earth materials of a volume greater than 1,000 cubic yards, or
2. The mining operation will result in the movement or disturbance of earth materials exceeding a surface area of one (1) acre.”

NOW BE IT THEREFORE RESOLVED THAT, the Board of Supervisors of the County of Mariposa does hereby initiate amendments to Chapters 17.20 Mountain Home zone, 17.24 Mountain Transition zone, 17.28 Mountain General zone, 17.32 General Forest zone, 17.36 Mountain Preserve zone, 17.40 Agriculture Exclusive zone, and 17.148 Definitions of Mariposa County Code. The amendment will not affect any other zones, including those established for higher density residential uses or general commercial uses, including towns and communities.

BE IT THEREFORE FURTHER RESOLVED THAT, the action to initiate the amendments only authorizes staff to process the amendments pursuant to Zoning, County Code Section 17.128.020.B. This action does not commit the Board of Supervisors to approval action as a result of processing.

BE IT THEREFORE FURTHER RESOLVED THAT, the amendments to Title 17 initiated for processing by this action will read as shown in Attachments 1 through 7 (new text shown in italicized underlined font and deleted text shown in strikethrough font).

BE IT THEREFORE FINALLY RESOLVED THAT, all other text in Title 17 of County Code shall remain unchanged.

ON MOTION BY Supervisor Bibby, seconded by Supervisor Carrier, this resolution duly passed and adopted this 24th day of June, 2014 by the following vote:

AYES: STETSON, BIBBY, CANN, CARRIER

NOES: NONE

EXCUSED: JONES

ABSTAIN: NONE

Kevin Cann, Chair
Mariposa County Board of Supervisors

ATTEST: René LaRoche
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Steven W. Dahlem
County Counsel
ATTACHMENT 1
Amendments to Chapter 17.20

Chapter 17.20

MOUNTAIN HOME ZONE (MHZ)

Sections:

17.20.010 Mountain home zone (MHZ).

17.20.010 Mountain home zone (MHZ).
The MHZ as designated on the Mariposa County land use map, is applied to land best suited for moderate residential densities based upon suitability of terrain, location adjacent to population centers and services areas. This land use classification is provided to accommodate the major portion of the rural homesite growth of the county.

A. Development standards for MHZ. Development standards for the MHZ shall be as follows:

1. Uses:
   a. Permitted uses: Residential and those applicable uses listed under Chapter 17.108 of this Title. (Ord. 704 Sec.1, 1988).
   b. Conditional uses: Churches, subject to parking standards as required in Section 17.108.120(F) of this Title; private schools, except as permitted by Section 17.108.060(I); and mining, which may include mineral or construction material processing, in conformance with the State Surface Mining and Reclamation Act and County Code mineral or construction material processing, quarrying or aggregate processing shall be allowed by use permit issued for one (1) year. The permit shall be renewed if conditions are met and the site is maintained in accordance with the Surface Mining Act, Mariposa County Code and Water Quality Control Board Standards and renewal of the use permit does not significantly interfere with residential uses. Processed, stockpiled material can be removed after permit to process has expired provided that terms of the reclamation plan are met. (Ord. 816 Sec.V, 1991).
   c. Prohibited uses: All uses listed in section 17.108.200 of this Title and other uses not listed above are prohibited, except similar uses in compliance with Section 17.108.120 and 17.108.030 of this Title. (Ord. 1086 Sec.I, 2011; Ord. 912 Sec.II, 1997).

2. Minimum parcel or lot size: No parcel of real property shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance, where any one (1) of the parcels so created will be less than five (5) acres in gross area.

3. Density: One (1) single family residence per five (5) acres. (Ord. 704 Sec.1, 1988).
ATTACHMENT 2
Amendments to Chapter 17.24

Chapter 17.24

MOUNTAIN TRANSITION ZONE (MTZ)

Sections:

17.24.010 Mountain Transition Zone (MTZ).

17.24.010 Mountain transition zone (MTZ).

The Mountain Transition Zone (MTZ) as designated on the Mariposa County land use map, is applied to lands with limited development potential.

A. Development standards for MTZ. Development standards for the MTZ shall be as follows:

1. Uses:
   a. Permitted uses: Residential, and those applicable uses listed under Chapter 17.108. (Ord. 704 Sec.1, 1988).
   b. Conditional uses: Churches, subject to parking standards as required in Section 17.108.120(F) of this Title; private schools, except as permitted by section 17.108.060(I); and mining, which may include mineral or construction material processing, in conformance with the State Surface Mining and Reclamation Act and County Code. (Ord. 816 Sec.VI, 1991).
   c. Prohibited uses: All uses listed in section 17.108.200 of this Title and other uses not listed above are prohibited, except similar uses in compliance with Section 17.108.120 and 17.108.030 of this Title. (Ord. 1086 Sec.I, 2011; Ord. 912 Sec.II, 1997).

2. Minimum parcel or lot size: No parcel of real property in the MTZ shall be divided or split into two (2) or more parcels by voluntary transfer, court action, or other conveyance where any one (1) of the parcels so created will be less than twenty (20) acres or one-half of one legal quarter-quarter section in gross area.

3. Density: One (1) single family residence per twenty (20) acres or one-half of a legal quarter-quarter section. (Ord. 704 Sec.1, 1988).
ATTACHMENT 3
Amendments to Chapter 17.28

Chapter 17.28

MOUNTAIN GENERAL ZONE (MGZ)

Sections:

17.28.010 Mountain general zone (MGZ).

17.28.010 Mountain general zone (MGZ).
The Mountain General Zone (MGZ) as designated on the Mariposa County land use map, is applied to lands characterized by terrain that is less suitable for moderate or high residential densities or intense use, or is remote from established service centers. Due to the requirement for larger parcel sizes, diverse uses with minimum potential for use conflicts are possible within this classification.

A. Development standards for MGZ.

Development standards for the MGZ shall be as follows:

1. Uses:
   a. Permitted uses: Residential; non-commercial recreation; mining, which may include mineral or construction material processing, for parcels located in the General Plan Agriculture Working Landscape land use classification, when conducted in conformance with the State Surface Mining and Reclamation Act and County Code; mining and rock processing in conformance with Surface Mining Act, county code and those applicable uses listed under Chapter 17.108 of this Title. (Ord. 704 Sec.1, 1988).
   b. Conditional uses: Churches, subject to parking standards as required in Section 17.108.120(F) of this Title; private schools, except as permitted by Section 17.108.060(I); membership or public parks and camps which require no permanent facilities; guest ranches, hunting clubs, public stables and riding trails; and mining, which may include mineral or construction material processing, for parcels other than as identified herein, when conducted in conformance with the State Surface Mining and Reclamation Act and County Code. (Ord. 816 Sec.VII, 1991).
   c. Prohibited uses: All uses listed in section 17.108.200 of this Title and other uses not listed above are prohibited, except similar uses in compliance with Section 17.108.120 and 17.108.030 of this Title. (Ord. 1086 Sec.I, 2011; Ord. 912 Sec.II, 1997).

2. Minimum parcel or lot size: No parcel of real property in the MGZ shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance where any one (1) of the parcels so created will be less than forty (40) acres or a legal quarter-quarter section in gross area.

3. Density: Two (2) single family residences per forty (40) acres or a legal quarter-quarter section. (Ord. 704 Sec.1, 1988).
ATTACHMENT 4
Amendments to Chapter 17.32

Chapter 17.32

GENERAL FOREST ZONE (GFZ)

Sections:

17.32.010 General forest zone (GFZ).

17.32.010 General forest zone (GFZ).
The General Forest Zone (GFZ) as designated on the Mariposa County land use map, is applied to lands under private ownership located primarily within the boundaries of national forest lands that are best suited for low density residential, timber management, agriculture and mining.

A. Development standards for GFZ.

1. Uses:

   a. Permitted uses: Residential, sustained yield timber management; mining, which may include mineral or construction material processing, for parcels located in the General Plan Agriculture Working Landscape land use classification, when conducted in conformance with the State Surface Mining and Reclamation Act and County Code; mining, rock and mineral processing in compliance with the Surface Mining Act and county code, non-commercial recreation, and those applicable uses listed under Chapter 17.108 of this Title. (Ord. 704 Sec.1, 1988).

   b. Conditional uses: Employee housing; churches, subject to parking standards as required in Section 17.108.120(F) of this Title; private schools, except as permitted by section 17.108.060(I); membership or public parks and camps which require no permanent facilities; guest ranches, hunting clubs, public stables, and riding trails); and mining, which may include mineral or construction material processing, for parcels other than as identified herein, in conformance with the State Surface Mining and Reclamation Act and County Code. (Ord. 816 Sec.VIII, 1991).

   c. Prohibited uses: All uses listed in section 17.108.200 of this Title and other uses not listed above are prohibited, except similar uses in compliance with Section 17.108.120 and 17.108.030 of this Title. (Ord. 1086 Sec.I, 2011; Ord. 912 Sec.II, 1997).

2. Minimum parcel or lot size: No parcel of real property in the GFZ shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance where any one (1) of the parcels so created will be less than forty (40) acres or a legal quarter-quarter section in gross area.

3. Density: Two (2) single family residences per forty (40) acres or a legal quarter-quarter section. (Ord. 704 Sec.1, 1988).
ATTACHMENT 5
Amendments to Chapter 17.36

Chapter 17.36

MOUNTAIN PRESERVE ZONE (MPZ)

Sections:

17.36.010 Mountain preserve zone (MPZ).

17.36.010 Mountain preserve zone (MPZ).
The Mountain Preserve Zone (MPZ) as designated on the Mariposa County land use map, is applied to lands that are suitable for extremely low density residential development due to terrain and lack of accessibility. These lands are under private ownership within or adjacent to publicly owned lands, with brush and grass cover, and some timber.

A. Development standards for the MPZ. Development standards for the MPZ shall be as follows:

1. Uses:
   a. Permitted uses: Residential, non-commercial recreation; mining, which may include mineral or construction material processing, for parcels located in the General Plan Agriculture Working Landscape land use classification, when conducted in conformance with the State Surface Mining and Reclamation Act and County Code, and mining, milling or mineral processing when in conformance with the Surface Mining Act and county code, and those applicable uses listed under Chapter 17.108. (Ord. 704 Sec. 1, 1988).
   b. Conditional uses: Employee housing; private schools, except as permitted by section 17.108.060(1); and mining, which may include mineral or construction material processing, for parcels other than as identified herein, in conformance with the State Surface Mining and Reclamation Act and County Code. (Ord. 816 Sec.IX, 1991).
   c. Prohibited uses: All uses listed in section 17.108.200 of this title and other uses not listed above are prohibited, except similar uses in compliance with section 17.108.120 and 17.108.030 of this title. (Ord. 1086 Sec.I, 2011; Ord. 912 Sec.II, 1997).

2. Minimum parcel or lot size: No parcel of real property in the MPZ shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance where any one (1) of the parcels so created will be less than one hundred sixty (160) acres or a legal quarter section in gross area.

3. Density: Two (2) single family residences per one hundred sixty (160) acres or a legal quarter section. (Ord. 704 Sec.1, 1988).
ATTACHMENT 6
Amendments to Chapter 17.40

Chapter 17.40

AGRICULTURE EXCLUSIVE ZONE (AEZ)

Sections:

17.40.010 Agriculture exclusive zone (AEZ).

17.40.010 Agriculture exclusive zone (AEZ).

The Agriculture Exclusive Zone (AEZ) as designated on the Mariposa County land use map, is applied to land considered to be most desirable for agriculture use. The purpose is to preserve the agricultural industry of Mariposa County as a viable economic activity.

A. Development standards for the AEZ. Development standards for the AEZ shall be as follows, with the express provision that any agritourism or agri-nature tourism use shall comply with all federal, state and local laws and regulations. In this code, agritourism and agri-nature tourism are subject to the same standards and regulations:

1. Uses:

   a. Permitted uses: Ranching and commercial vineyards and orchards, nurseries, greenhouses, wineries, processing plants for products grown on-site (not including dairies), seasonal sale of agricultural products grown on-site from roadside stands or produce stands, permanent facilities for sale of and/or tasting rooms for agricultural products produced or processed on-site in accordance with the standards established by Section 17.108.070, u-pick operations, collaborative sales of agricultural products in accordance with state and federal standards, agricultural homestays in accordance with standards established by Section 17.40.010.A.4 and in conjunction with the primary agriculture production use of the property, Bed and Breakfasts and Transient Rentals which are managed by permanent on-site managers in accordance with the standards of section 17.108.180; collaborative agri-nature tourism events, horseback riding as an agritourism use, commercial row crops and other similar agricultural uses when conducted in a manner consistent with proper and accepted customs, standards, and practices, except those listed as administrative or conditional uses below; low density residential and employee housing in accordance with the density standards of this chapter; accessory buildings and accessory uses, barns, private stables, farm equipment shelters, and other out buildings; home enterprises, rural home industry, public schools, public parks and other public facilities, such as volunteer fire departments, utility transmission and distribution lines, towers, poles and substations; mining, which may include mineral or construction material processing, for parcels located in the General Plan Agriculture Working Landscape land use classification, in conformance with the State Surface Mining
and Reclamation Act and County Code mining, rock and mineral processing when in compliance with the Surface Mining and Reclamation Act; private airstrips and heliports for personal use by the property owner; and agricultural activities associated with a 4-H and/or FFA project or projects; and those applicable uses listed under Chapter 17.108. Limited agritourism and agri-nature tourism uses and activities pursuant to the definitions for agritourism and agri-nature tourism and in accordance with the development standards established by Section 17.40.010.A.4 shall be permitted...

...c. Conditional uses: Intensive commercial agricultural uses including but not limited to the following: commercial hog ranches, livestock feed lots when confinement is for the purpose of finishing livestock for market, and commercial poultry farming; fertilizer plants or yards; animal sales yards; dairies; dairy processing plants; experimental agricultural operations determined by the planning director that the operation could impact other agricultural operations in the county, including, but not limited to, those associated with the agri-biotech industry and genetic technologies; dormitory style housing facilities for employees; slaughter houses; mining, which may include mineral or construction material processing, for parcels other than as identified herein, in conformance with the State Surface Mining and Reclamation Act and County Code; very large and frequent agritourism uses and activities pursuant to the definition for agritourism for groups of 36 or more persons per day for ongoing activities up to more than 250 people per week and in accordance with the development standards established by Section 17.40.010.A.4; commercial hunting, hunting dog trials when fire arms are discharged, and game bird clubs; commercial target or shooting ranges, including archery; dude or guest ranches, riding clubs, commercial stables or animal boarding facilities and similar activities (which are not established as part of an agritourism operation or as a Rural Home Industry operation and meeting the standards and provisions listed in Section 17.108.080 and pertinent standards in 17.108.070); private schools, except as permitted by Section 17.108.060(I); churches; and recreational camps or religious organization camps; Transient Rentals with no on-site manager in accordance with the standards of Section 17.108.180; Glamping in accordance with the standards established by Section 17.108.180, except as modified by the standards herein. In addition to other conditions placed on them by the planning commission, slaughter houses shall have a minimum setback of fifteen hundred (1500) feet from state highways and adjacent higher density land use classifications or property lines. Agricultural activities associated with a 4-H and/or FFA project or projects shall not be subject to a conditional use permit.
ATTACHMENT 7
Amendments to Chapter 17.148

Chapter 17.36

DEFINITIONS

Sections:

17.148.010 Definitions of terms and phrases.

Mineral or construction material processing:
The mechanized crushing, classifying, or processing of mined materials, ores, or the purpose of extracting and producing materials, earth or construction materials on a site or lot.

Mining:
The removal of minerals, earth or construction materials from the earth, by methods including pits, tunnels, quarries, shafts, drifts, stopes, adits, winzes, cross-cuts, raises, overburden removal, mining by the auger method, dredging, etc., and all necessary appurtenances thereto, for the purpose of resource extraction where the operation involves either the removal of more than one thousand (1,000) cubic yards of mineral, ores, and overburden, or involves the disturbance of more than one (1) acre of surface area. Mining includes a surface exploration activity; a surface mining operation; a sub-surface mining operation; or a sand, gravel (aggregate), or cobble mining operation which exceeds the thresholds established herein. Mining includes surface work incidental to a surface or sub-surface mine, in-place distillation or retorting or leaching, and the production and disposal of mining waste.