RECOMMENDED ACTION AND JUSTIFICATION:

1. Adopt a resolution, adopting a Mitigated Negative Declaration and approving Design Review and Development Agreement No. 2002-203 with the recommended findings and conditions.

2. Waive the first reading and introduce an ordinance approving Development Agreement No. 2002-203 with the recommended findings and provisions.

3. Schedule the second reading for the Development Agreement, following the execution of the Development Agreement by the applicant, and the submittal of a legal description. The Development Agreement will be effective 30 days following the second reading.

The action is based upon the Planning Commission’s recommendation. Additional justification is included in the Staff Report to the Board of Supervisors.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: 1. Approve the design review application with amended conditions.
               2. Modify the environmental determination based upon substantial evidence in the record. If the environmental determination is modified, then the Development Agreement provisions may be modified.

NEGATIVE ACTION: Not applicable.

COSTS: (X) Not Applicable

A. Budgeted current FY
   $_________
B. Total anticipated Costs
   $_________
C. Required additional funding
   $_________
D. Internal transfers
   $_________

COSTS: ( ) 4/5th Vote Required

A. Unanticipated revenues
   $_________
B. Reserve for contingencies
   $_________
C. Source description:
   ____________________________

Balance in Reserve Contingencies, If Approved: $_________

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

1. Staff Report & Initial Study to Board of Supervisors
   with Attachments

CLERK’S USE ONLY

Res. No.: 59 3441  Ord. No.: _________
Vote - Ayes: _________  Noes: _________
Absent: _________  Abstained: _________

☐ Approved  ☐ Denied
☐ Minute Order Attached  ☐ No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: ____________________________

ATTEST: ____________________________

MARGIE WILLIAMS, Clerk of the Board

By: ____________________________

Deputy

ADMINISTRATIVE OFFICER’S RECOMMENDATION:

This item on agenda as:

☐ Recommended
☐ Not Recommended
☐ For Policy Determination
☐ Submitted for Comment
☐ Returned for Further Action

Comment: ____________________________

A.O. Initials: ____________________________

Action Form Revised 10/95
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS

Resolution  
No. 02-441  

WHEREAS a complete application for a Design Review Permit was received from Jolene Seale seeking approval of a 2-story mixed use structure including commercial and residential space, on November 1, 2001 on property more particularly described as Assessors Parcel Numbers 013-130-059 and 013-130-056; and

WHEREAS a Development Agreement application was submitted on July 29, 2002, following a preliminary design review process and staff determination that the project could have potentially significant environmental impacts; and

WHEREAS the proposed Development Agreement proposes to limit the allowed commercial uses within the proposed structure pending full improvement of the access road to 2-lane commercial standards; and

WHEREAS the proposed Development Agreement is an integral part of the Design Review Permit; and

WHEREAS the Planning Department circulated the applications among trustee and responsible agencies, interested public organizations, and others as appropriate; 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 was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS a duly noticed public hearing at the Planning Commission was scheduled for the 4th day of October, 2002; and

WHEREAS the Planning Commission public hearing was continued to the 15th day of November, 2002 in order for additional information to be provided to the Commission; and
WHEREAS the Planning Commission did hold a public hearing on the noticed data and considered all of the information in the public record, including the Staff Report and Initial Study, testimony presented by the public concerning the application, comments from affected agencies, and the comments of the applicant; and

WHEREAS the Planning Commission adopted Resolution No. 2002-027, recommending that the Board of Supervisors adopt a Negative Declaration with Mitigation Measures and approve Design Review and Development Agreement No. 2002-203 with the recommended findings, provisions and conditions; and

WHEREAS a duly noticed public hearing at the Board of Supervisors was scheduled for the 10<sup>th</sup> day of December, 2002; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed data and considered all of the information in the public record, including the Staff Report and Initial Study, testimony presented by the public concerning the application, comments from affected agencies, the comments of the applicant and the recommendation of the Planning Commission.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a mitigated Negative Declaration for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations.

BE IT FURTHER RESOLVED THAT the Board of Supervisors approves the Development Agreement for the project site, more particularly described as Assessors Parcel Numbers 013-130-059 and 013-130-056, subject to the following provisions:

1. The applicant shall execute a Development Agreement with the County of Mariposa prior to issuance of any permit for the commercial project. The Development Agreement shall:

   - Be effective for 30 years.

   - Specify that if the Development Agreement expires and is not renewed, or if the Development Agreement is canceled or becomes null and void, the County will begin proceedings with the intent to compel the property owner to improve the access road from Stroming Road to the project site to full commercial standards.

   - Specify that, at such time as the access road(s) from the closest county maintained road to the project site are improved to full commercial standards as determined by the Planning Director and Public Works Director, then the Development Agreement shall be canceled.

   - Be binding upon all existing and future property owners.

   - Limit uses within the structure to those uses which generate an average of less than 11.6 ADT (average daily trips) per 1,000 square feet of space based upon the current ITE (International transportation Engineers) Manual.
• Specify that the property owner shall participate in any formal or informal road maintenance and shared improvement efforts for the access road from the project site to Stroming Road. The level of participation shall be the property owner’s fair share, based upon usage. The property owner shall not be responsible for improvements required for future commercial development on an off-site property.

2. The format and content of the Development Agreement shall be approved by the Planning Director and County Counsel prior to execution.

3. Prior to final action by the Board of Supervisors (second reading) and prior to the issuance of any permit for the commercial project:

• All fees associated with the County’s processing of this project and filing of associated documents shall be paid.

• The applicant shall provide a written legal description of the property, prepared by a licensed individual.

• The development agreement shall be executed by the applicant.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors approves the design review project, based upon the execution of the Development Agreement, and subject to the following conditions:

1. The approved project is a 3,659 square foot structure. 1,500 square feet is approved for single-family residential uses, and 2,159 square feet is approved for commercial uses. The approved project is located on APN 013-130-059 and APN 013-130-056 (one legal parcel for development purposes). Access to the project is from an unnamed access easement off of Stroming Road. All required parking is proposed to be located on-site. Minor amendments in the approved project description, site layout and design may be approved by the Planning Director if a finding is made that the amendments don’t create impacts which were not reviewed by the lead agency, and the modified design conforms with adopted design review requirements.

2. The access road shall be improved to provide a turnout for passing near the existing driveway which serves the residence on APN 013-130-050. There shall also be adequate area for parking of fire apparatus at or adjacent to the new fire hydrant, which still allows vehicles to pass and exit the site. The length of the turnout and the tapers, and the parking area for fire apparatus at the hydrant shall comply with all requirements of the County Fire Chief. The location and design of these improvements shall be shown on the site plan and approved by the County Fire Chief prior to issuance of a grading permit for the project.

3. A turnaround at or near the parking lot shall be provided as required by the County Fire Chief. A hammerhead design may be approved. The turnaround shall be contained on-site or within an easement created for this purpose. The
turnaround provisions shall be shown on a plan and approved by the Fire Chief prior to issuance of a grading permit for the project.

4. The intersection of the access road and Stroming Road shall be re-aligned and reconstructed to provide for an encroachment which enables safe turning movements for automobile traffic both onto the access road and from the access road. Turning movements shall be in both directions. This requirement may entail improvements to the access road as well as to Stroming Road. The design of the improvements shall consider current standards contained in the Mariposa County Improvement Standards document. The design of the re-alignment shall be approved by the Public Works Director prior to issuance of a grading permit. The required intersection improvements shall be constructed and approved by the Public Works Director prior to issuance of a certificate of occupancy for the project. If portions of the improvements are to be constructed by the County as part of the Mariposa Creek Parkway project, the Public Works Director may authorize the issuance of a certificate of occupancy for the project without the full county improvements constructed, as long as a contract has been issued for the county constructed improvements and the county constructed improvements will be completed within a period of 6 months of less.

5. The construction of any of the required access improvements for this project shall not negatively impact any off-site improvements such as, but limited to, existing driveways serving existing residences.

6. The access road shall be cleared of flammable vegetation for a minimum of 10 feet on each side of the road. All trees shall be trimmed for a minimum clearance of 15 feet vertically above the road surface. These improvements shall be inspected and approved by CDF prior to issuance of a building permit for the structure.

7. Prior to issuance of any permit, and following Public Works' approval of the intersection re-alignment design, the applicant shall obtain a recorded non-exclusive easement to encompass all road and intersection improvements, including cuts and fills, which are not located within an existing easement. The easement shall be a minimum of 60-feet wide, or whatever additional easement width is determined necessary for future construction of a Town Class III standard road and encroachment. The easement shall be offered for dedication to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state the dedication is for "public road and utility purposes". The format of the offer of dedication document, and the description of the easement to be offered shall be approved by the Public Works Department, prior to recordation.

8. Prior to issuance of any permit, the easement within the applicant's parcels shall be made 60 feet wide and non-exclusive. The centerline of the easement shall coincide with the boundary line between the two adjacent parcels. The location of the required easement shall be as illustrated in Attachment O of the Staff Report to the Board of Supervisors, dated December 10, 2002. The easement shall be offered for dedication to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state the dedication is for "public road and utility purposes". The format of the offer of dedication document, and the description of
the easement to be offered shall be approved by the Public Works Department, prior to recordation.

9. The access road shall be named in accordance with County Road Naming Requirements. A road name application shall be submitted to the Planning Department and shall be approved by the Board of Supervisors prior to issuance of a certificate of occupancy to the structure. A road name sign shall be installed by the applicant at the intersection of Stroming Road and the access road prior to the issuance of a certificate of occupancy to the structure.

10. A covenant of non-protest for the future formation of a Zone of Benefit for Road Maintenance shall be recorded prior to issuance of a building permit to the structure. The format and content of the covenant shall be approved by the Planning and Public Works Departments. The covenant shall specify that the property owner and all future property owners waive their right to protest the formation of the Zone of Benefit, should one be proposed in the future. The covenant shall also specify that the property owner agrees to pay their fair share of the costs for formation of the Zone. The covenant will not be invoked unless all property owners served by the access road will be included in the Zone of Benefit.

11. The property owner shall participate (fair share) in any formal or informal road maintenance and improvement efforts for the access road from the project site to Stroming Road. This requirement shall be included in the provisions of the Development Agreement. The property owner shall not be responsible for improvements required for future commercial development on an off-site property.

12. The applicant shall submit a dimensioned parking plan showing all parking space dimensions and adequate backing area to be approved by the Planning Director prior to issuance of a grading permit for the project. The plan shall show that all parking spaces are located outside of the existing easement on-site. The plan shall show that all required parking improvements are entirely contained on-site. All improvements within the parking area shall comply with the standards contained in §17.336.030.C of County Code, including paving, and shall be maintained for the life of the project.

13. The parking lot shall comply with all handicapped accessibility requirements as established by Title 24 of California Code of Regulations. The Building Director shall approve the parking lot pursuant to these regulations prior to issuance of a grading permit for the project.

14. The cut bank along the rear of the structure shall not be greater than 10 feet in height, and shall not be steeper than 1-1/2 to 1. If cuts greater than 10 feet in height are necessary for the project or if the maximum 1-1/2 to 1 grade cannot be met, a retaining wall shall be used or the site plan shall be modified. Retaining wall material shall comply with design review requirements including but not limited to items such as color, finish, material, and surfaces. The grading plan shall ensure that all final slopes are stable and that final slopes can sustain vegetative re-growth. Final slopes shall be stabilized and seeded in accordance with the recommendations and standards of the Soil Conservation Service and the
County Grading Ordinance and/or landscaped in accordance with design review requirements. The cut area shall comply with the Grading Ordinance setback requirements from the property line. The applicant shall provide final grading plan information to the Planning and Building Departments for verification that these requirements are met prior to issuance of a grading permit for the project.

15. The property line along the entire southwestern property line shall be located in the field and shall be flagged with surveying lathe and tape, or temporary fencing. This shall be maintained during project construction, and removed following construction. The purpose of this requirement is to ensure that all construction activities, including grading are maintained on-site.

16. All exposed and/or disturbed soils created by grading or construction activities shall be watered down or suppressed during grading operations to reduce the generation of dust and other particulate matter. During non-grading periods, all stockpiles of debris, soil, sand, or other materials shall be protected from wind erosion.

17. All utilities, with the exception of propane storage tanks, shall be underground within the project site.

18. Prior to issuance of a building permit all flammable vegetation shall be removed from the building site a minimum distance of thirty (30) feet from any flammable building material, including stored building materials. This condition shall not apply to vegetation proposed to remain as finished site landscaping.

19. Prior to issuance of a building permit, the applicant shall comply with all of the Mariposa Public Utilities District requirements for water and sewer services, and for fire protection requirements. These requirements will include a new fire hydrant.

20. The location of the new fire hydrant shall be approved by both MPUD and the County Fire Chief, prior to issuance of a grading permit.

21. Prior to any construction occurring on the parcel, the applicant shall contact the Mariposa County Fire Department for verification of current fire protection development requirements. The applicant shall comply with all of the County Fire Department requirements.

22. The building elevations shall generally conform with those on file at the Planning Department dated 7-29-02 and approved by the Planning Commission. The base color for the proposed building shall be a light color in a warm tone. Trim may be brighter or darker colors to compliment architectural features. The color of the roof of the building shall be compatible with the building, and shall be a dimensional type (if applicable). The applicant shall submit a final material and color palette showing the proposed materials and colors for the building, and roofing, etc. which shall be approved by the Planning Director prior to issuance of a building permit.
23. All exterior mechanical equipment located on roof, building, and ground shall be enclosed or screened from public view either by utilizing materials compatible with the building or locating them away from public view. Proposed locations and screening of mechanical equipment shall be reviewed and approved by the Planning Department prior to issuance of a grading permit. This shall include, but not be limited to, HVAC units, backflow prevention devices, and equipment located on the building.

24. All exterior lighting fixtures shall be of a hooded type and shall be designed and located to confine lighting directly on the premises. Lighting should be of minimum, but adequate, intensity. Exterior lighting fixtures shall not shine light upon or directly illuminate any surface other than the area required to be lighted. The light fixtures shall be a “full cutoff” fixture as listed in the International Dark Sky Standards. In order to further reduce the effect of lighting on the neighboring residences, any freestanding light fixtures on the north, northeastern and northwestern side of the facility shall be provided by a fixture no higher than 8 feet or shall be placed at sidewalk level. A lighting plan showing the design and location of all exterior lights, including any lighting at sidewalk level, shall be submitted. The proposed building mounted fixture submitted with the design review application is not approved and shall be modified. The Planning Director shall approve the design of the lighting fixtures prior to issuance of the grading permit.

25. Refuse storage areas, dumpsters, and propane tanks shall be enclosed or screened from public view. Proposed locations and screening of these facilities shall be reviewed and approved by the Planning Department pursuant to applicable design review standards prior to issuance of a grading permit.

26. Prior to the issuance of a grading permit, the applicant shall submit a final landscaping plan for the new building and the parking lot. The landscaping plans shall indicate existing native trees within the development site to be retained (if any). The landscaping plan shall conform to §17.336.060.C of County Code, delineating the size, type, and location of landscape plantings as well as proposed irrigation methods. The landscaping plan shall provide for parking lot shading and building enhancement in conformance with §17.336.060.C.6. of County Code. This plan must be approved by the Planning Director prior to issuance of a grading permit.

27. All landscaping shall be maintained in good condition in order to present a healthy and neat appearance for the life of the development. Dead or diseased plants shall be immediately replaced with plants which meet the size requirements of Section 17.336.060 of County Code.

28. Prior to issuance of a certificate of occupancy, the applicant shall submit a Sign Design Review Plan for the proposed structure, delineating the location, size, materials, colors, lettering, and lighting method for all on-site signage. The proposed signage shall be in conformance with §17.336.060.D of County Code. If tenants are not known prior to issuance of a certificate of occupancy, the sign location and size may be approved, with additional information to be submitted by
the tenant prior to installation of the signs. The subsequent review will require a
sign permit and review fees.

29. Construction activities occurring outside shall not commence prior to the hours of
7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturdays. All construction
activities occurring outside shall cease by sunset Monday through Saturday. No
construction shall be permitted on Sundays. The Planning Department shall
monitor noise through complaints by the neighbors.

30. Provisions shall be made for the on-site storage of all solid waste generated during
construction and operation of the project. All solid waste shall be removed from
the site on a weekly basis to maintain the site in a safe and attractive condition.

31. A grading permit shall be obtained prior to any grading activities on-site. The
work shall be subject to all grading ordinance standards, including erosion control
requirements.

32. Grading work for the project is encouraged to occur during the months of April
through October. If grading work will occur between November 1 and April 1, a
sediment control plan prepared and approved in accordance with Mariposa County
Code, Grading §15.28.120(c) shall be required.

33. Native blue oak seedlings and saplings which are on the project site but not within
the project construction area shall be protected during grading and construction
activities. The protection shall be accomplished by temporarily fencing all areas on
the project parcels which are outside of the areas requiring grading or related
grading activities. Temporary fencing may be snow fence or similar fencing. The
temporary fencing shall be maintained for the duration of the project construction
activities.

34. The applicant shall pay all fees associated with the County’s filing of documents for
the Negative Declaration. The Department of Fish and Game filing fee ($1,250)
and County Clerk fee ($25) shall be paid within five (5) workdays of the adoption of
the Negative Declaration by the Board of Supervisors. Pursuant to the California
Environmental Quality Act §21089(b), the project is not operative, vested, or final
until the filing fees required pursuant to §711.4 of the Fish and Game code are
paid.

BE IT FINALLY RESOLVED THAT the action to approve the projects is based on the
following findings supported by substantial evidence in the public record:

DEVELOPMENT AGREEMENT FINDINGS:

Finding No. 1: The agreement is consistent with the objectives, policies, general land
uses and programs specified in the general plan.

The Development Agreement has no impacts on the objectives, policies and general
land uses and programs specific in the Mariposa Town Planning Area Specific Plan
and the Mariposa County General Plan. The Development Agreement does not
change the land use standards of the plan. The Development Agreement will create use restrictions on the subject property to limit traffic until the access road is fully improved to commercial standards. The Development Agreement is necessary in order to allow the commercial development on the site with existing access conditions.

The Development Agreement will allow a commercial office structure close to an established commercial core within a population center. The Land Use Element of the General Plan states TPAs are for the purposes of being centers of population concentration and providing basic services to residents.

The commercial project includes a residential unit. The Housing Element encourages mixed-use developments, especially in areas where a full range of services are offered.

The Development Agreement is consistent with, or will have no negative effect on the other goals, policies, and standards of the Mariposa County General Plan.

Finding No. 2: The agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use zone in which the real property is located.

The purpose of the agreement is to impose use restrictions to ensure that the traffic to the project site is limited pending full improvement of the access road. The agreement will not change the land uses allowed on the site, just limit them temporarily. Although the area is planned for commercial uses, the area is now developed with residential uses. The Development Agreement will have the secondary effect of ensuring less intense commercial use of the site, to be more compatible with the residential neighborhood.

Finding No. 3: The agreement is in conformity with public convenience, general welfare, and good land use practices.

See Finding No. 1.

Finding No. 4: The agreement will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the county as a whole.

The Initial Study/Negative Declaration adopted for the project studied these issues and determined the project will not have a significant effect on the environment, including the surrounding area, with the mitigation measures adopted. The Development Agreement is an integral part of the project to limit uses on the project site pending full improvement of the access road to commercial standards. The project is for a commercial development which has the potential to support the needs of county residents.
The project will have an adverse impact on wildlife resources and is subject to the Department of Fish and Game filing fee for the Negative Declaration (California Government Code, Fish and Game Filing Fees §711.4). This finding is based upon input on the project from the Department of Fish and Game. Fish and Game stated that, although the project is relatively minor in its scope, the project will result in the destruction of at least some habitat, and is not considered DeMinimis in its effect on fish and wildlife.

Finding No. 5: The agreement will not adversely affect the orderly development of property or the preservation of property values.

The Development Agreement will further the orderly development of property by limiting the intensity of uses pending full improvement of the road to commercial standards. The standards established by the design review standards will help to preserve property values in the area, by ensuring high quality development which is compatible with the community character.

Finding No. 6:The agreement is consistent with the provisions of Government Code Sections 65864 through 65869.5.

The Development Agreement has been prepared in accordance and is consistent with the Government Code.

DESIGN REVIEW FINDING

Based upon the compliance with the recommended conditions, the proposed site plan and project design comply with the architectural theme and development guidelines established for the Mariposa Town Planning Area and with other applicable standards established by Chapter 17.336 of the Mariposa County Zoning Ordinance.

ON MOTION BY Supervisor Parker, seconded by Supervisor Balmain; this resolution is duly passed and adopted this 10th day of December 2002 by the following vote:

AYES: Balmain, Parker, Pickard, Stewart

NOES: None

EXCUSED: Reilly

ABSTAIN: None

NOT VOTING: None

[Signature]

Robert C. Stewart, Chairman
Mariposa County Board of Supervisors
ATTEST:

MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

JEFFREY G. GREEN
Mariposa County Counsel
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ERIC TOLL, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: Design Review and Development Agreement for Proposed Mixed Use in the Mariposa Town Planning Area Near Stroming Road Resolution No. 02-441

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on December 10, 2002

ACTION AND VOTE:

2:16 p.m. Sarah Williams, Deputy Director, appeared on behalf of Eric Toll, Planning Director;


BOARD ACTION: Sarah Williams presented the staff report and responded to questions from the Board relative to MPUD’s requirement and location of the fire hydrant; requirement and location of the turnouts for fire equipment; length of the driveway/road to the project site; existing standards for turnouts; whether any other agencies have provided input on this type of project; and the application of the fees for Fish and Game.

The public portion of the hearing was opened and input was provided by the following:
- Steve Morgan, Project Architect representing the applicant, thanked Sarah Williams for her assistance and stated he feels her report was thorough. He stated he was willing to answer any questions. He responded to questions from the Board relative to the size of the project and the requirement to widen the road if the average daily traffic count increases; and relative to the term of the development agreement.

The public portion of the hearing was closed and the Board commenced with deliberations. Sarah Williams provided additional information relative to the Fish and Game fee issue. She advised that Tuolumne County adopted a set of standards, that were approved by Fish and Game, which allows for a project that meets those standards to not be subject to the Fish and Game fees. She advised that the Planning Commission will review this option. (M)Parker, (S)Balmain, Res. 02-441 was adopted adopting a Mitigated Negative Declaration and approving Design Review and Development Agreement No. 2002-203 with the recommended findings and conditions; first reading was waived and Ordinance was introduced approving Development Agreement No. 2002-203 with the recommended findings and provisions; and
direction was given for the second reading of the Ordinance to be scheduled following execution of the Development Agreement by the applicant, and the submittal of a legal description. Further discussion was held relative to the Fish and Game fee requirement; location of the hydrant and turnouts. Staff responded to questions from the Board relative to these issues, and advised that the turnout would become part of the road once it is further improved in the future. Ayes: Balmain, Stewart, Parker, Pickard; Excused: Reilly. The hearing was closed.

cc: File