

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

5-26-09 Adopted
DATE: May 12, 2009
AGENDA ITEM NO. 47

DEPARTMENT: Planning

BY: Alvaro Arias, Associate Planner
PHONE: 742-1218

RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a resolution:

- 1) Finding that the project is exempt from environmental review,
- 2) Approving Zoning Amendment No. 2008-158 with findings as recommended by the Planning Commission.

Recommended action is based upon the Planning Commission's recommendations. Further justification is provided in the Staff Report to Board of Supervisors from Mariposa Planning. The action includes waiving the first reading and introducing an ordinance amending the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008-158.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve Zoning Amendment. Zoning of the 3.55-acre area would remain within the boundaries of the Open Watershed Overlay.

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$ _____		Staff Report to the Board with Attachments
Additional Funding Needed: \$ _____		(as listed on Page 4 of Staff Report)
Source:		_____
Internal Transfer _____		_____
Unanticipated Revenue _____ 4/5's vote		_____
Transfer Between Funds _____ 4/5's vote		_____
Contingency _____ 4/5's vote		_____
() General () Other _____		_____

CLERK'S USE ONLY: *SA*
 Res. No.: *09-220* Ord. No. *1052*
 Vote - Ayes: *5* Noes: _____
 Absent: _____
 Approved
 Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:
 Requested Action Recommended
 No Opinion
 Comments:

CAO: *[Signature]*

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

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California

By: _____
 Deputy

MARIPOSA COUNTY ORDINANCE NO. 1052
(Not to be Codified)

AN ORDINANCE AMENDING THE ZONING MAP OF MARIPOSA COUNTY

WHEREAS, a proposal to amend the zoning map for Mariposa County was initiated by John P. Boggs on September 2, 2008, and

WHEREAS the application is known as Zoning Amendment No. 2008-158. The application proposes to remove the Open Watershed Overlay Zoning District (OWO) designation from a 3.55 acre portion of a 35.68 acre parcel (Assessor's Parcel Number 014-550-003). The property will be entirely removed from the Open Watershed Overlay and only the underlying zoning district designation of Mountain Home will remain; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment No. 2008-158 on the 5th day of December 2008, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment No. 2008-158 on the 12th day of May 2009, in accordance with State Law and County Code; and

WHEREAS, Zoning Amendment No. 2008-158 has been found to be exempt from the provisions of the California Environmental Quality Act.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008-158. The amendment to the zoning of the parcel described in Exhibit 1, will remove the Open Watershed Overlay designation from said parcel. The amended alignment of the Open Watershed Overlay Zoning line boundary is shown in Exhibit 2.

BE IT FINALLY ORDAINED, this action is based on the amendment standards described in Section 17.60.010.C and the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as shown in Exhibit 3.

SECTION II: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

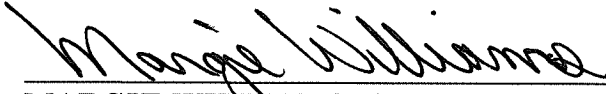
PASSED AND ADOPTED on this 26th day of May, 2009 by the following vote.

AYES:	Aborn, Turpin, Bibby, Cann, Allen
NOES:	None
ABSTAINED:	None
EXCUSED:	None
NOT VOTING:	None



BRAD ABORN, Chair
Mariposa County Board of Supervisors

Attest:



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

APPROVED AS TO FORM:



STEVEN W. DAHLEM, County Counsel

Exhibit 1

LEGAL

Parcel B according to that Parcel Map for ALAN TOD CRUM ET AL recorded in Book 20 of Parcel Maps Mariposa County Records at Page 34.

Excepting therefrom the following described parcel .

Beginning at northeasterly corner of said Parcel B; thence S. 03° 38' 52" E. along the east line of said Parcel B 781.90 feet to the southwest corner of Parcel C of said Crum Parcel Map; thence S. 89° 31' 48" W along the south line of said Parcel B 185.20 feet ; thence N. 03° 54' 37" W. 782.48 feet to a point on the north line of said Parcel B; thence N. 89° 38' 30" E along said north line 188.81 feet to the point of beginning .

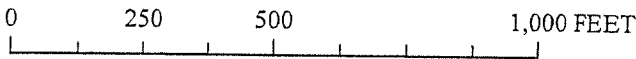
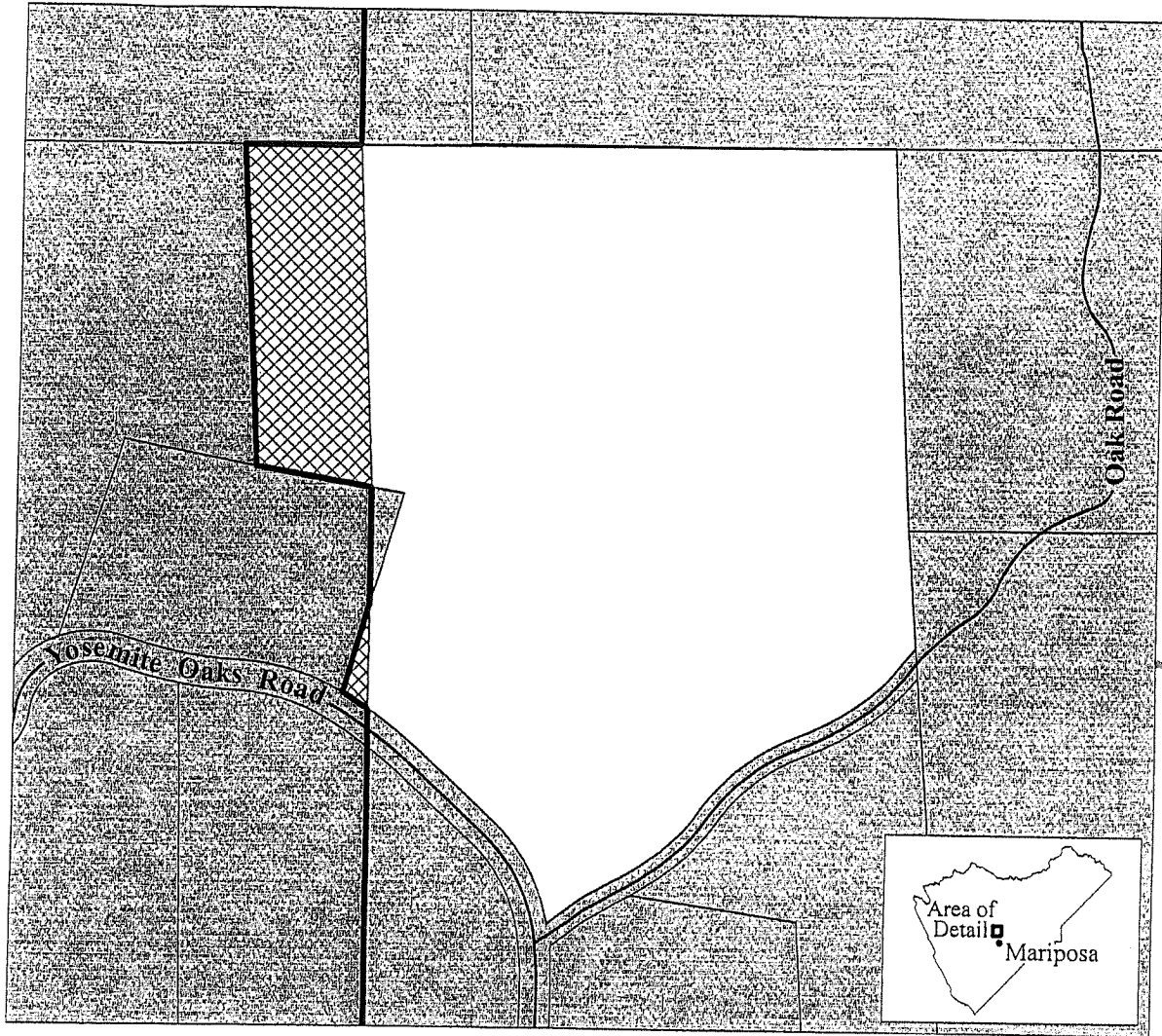
Leaving 35.68 acres remaining.

Reserving therefrom all easements of record.



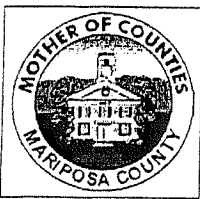
Exhibit 2

Zoning Amendment No. 2008-158







MAP DATE: April 28, 2009

DATA SOURCE: Assessor Parcel Map Update December 30, 2008



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<http://www.mariposacounty.org/planning>

-  Site Location
APN 014-550-003
-  Portions of the parcel to be removed from the Open Watershed Overlay Zone
-  Assessor Parcel Map
-  Amended boundary of the Open Watershed Overlay Zone

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.

Exhibit 3

1. **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.

2. **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.

6. **FINDING:** The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

EVIDENCE: 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. A change to the boundaries is allowed per Mariposa County Code Section 17.60.010.C if it can be proven that the property lies outside of the Stockton Creek watershed. The underlying zoning designation for the subject property is Mountain Home (MH). The property will remain in the Mountain Home zone, which is applied to land best suited for moderate residential based on suitability of terrain as well as being located adjacent to population centers and service areas.

END



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BRAD ABORN, CHAIR
JANET BIBBY, VICE CHAIR
LYLE TURPIN
KEVIN CANN
JIM ALLEN

DISTRICT I
DISTRICT III
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2008-158; an Amendment to Change the Boundaries of the Open Watershed Overlay Zoning District (OWO) to Remove a 3.55 Acre Portion of a 35.68 Acre Parcel (APN 014-55-003) from the Open Watershed Overlay Zoning District (OWO) Designation. Adopt a Resolution Approving the Project, find that the Project is Exempt from Environmental Review, Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map. The Project Site is Located at 5368 Oak Road

RESOLUTION 09-220

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on May 12, 2009

ACTION AND VOTE:

11:42 a.m. Kris Schenk, Planning Director;
PUBLIC HEARING to Consider Zoning Amendment No. 2008-158; an Amendment to Change the Boundaries of the Open Watershed Overlay Zoning District (OWO) to Remove a 3.55 Acre Portion of a 35.68 Acre Parcel (APN 014-55-003) from the Open Watershed Overlay Zoning District (OWO) Designation. Adopt a Resolution Approving the Project, find that the Project is Exempt from Environmental Review, Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map. The Project Site is Located at 5368 Oak Road

BOARD ACTION: Kris Schenk and Alvaro Arias/Associate Planner, presented the staff report. Alvaro Arias advised of a fax they received this morning from Kirk Crum concurring with the request to remove the 3.55 acre portion from the OWO designation.

The public portion of the hearing was opened and input was provided by the following:

Anita Starchman Bryant, Starchman Bryant Law Offices, advised that Russ of Freeman and Seaman Land Surveyors is present to respond to questions. She advised that this property is not a part of the OWO area; and she hopes that there will be consideration in making this process easier for applicants in the same situation in the future.

Staff responded to questions from the Board and clarified that this item just deals with the OWO; relative to contacting the other agencies; and relative to the process for taking the recommended actions. The public portion of the hearing was closed. (M)Bibby, (S)Allen, Res. 09-220 was adopted finding that the project is exempt from environmental review and approving Zoning Amendment No. 2008-158 with findings as recommended by the Planning Commission/Ayes: Unanimous. (M)Bibby, (S)Allen, the first reading was waived and an Ordinance introduced amending the Zoning Map of

Mariposa County pursuant to Zoning Amendment 2008-158. The Clerk of the Board read the title of the Ordinance into the record/Ayes: Unanimous. The hearing was closed.

Cc: File