ORDINANCE NO. 388

BEFORE THE BOARD OF SUPERVISORS
OF MARIPOSA COUNTY

The Board of Supervisors of the County of Mariposa do
ordain as follows:

ARTICLE I

Where this ordinance conflicts with any other ordinance
or regulations dealing with the same or similar matter, the pro-
visions of this ordinance shall govern.

ARTICLE II

Applications:

Section 1: Scope of matters to be heard by Planning
Commission.

The Planning Commission shall hear and decide:

(1) Each application for land use permit or variance permit.

(2) An appeal from an order, requirement, permit, decision
or determination made by the county staff in the
administration and enforcement of the zoning regulations.

(3) Each application for a tentative map and parcel map
waiver.

(4) Environmental Impact Reports, pursuant to California
Environmental Quality Act of 1970, Public Resources
Code Section 21000-21174, as amended by Chapter 1154
of the Statutes of 1972.

(5) Any other matter that may be designated by resolution.

Section 2: Application fees.

The fees for zoning applications, permits, appeals, and
environmental impact reports, and all other matters covered
by this ordinance shall be set by resolution.

Section 3: Refunds
If the applicant withdraws the application before the County
on any matter set forth pursuant to this ordinance, the
Planning Commission shall make no refund.

Section 4: Referral to Planning Commission.
When a person applies to the county for a rezoning, land
use permit, variance or other matter which relates to the
administration of zoning or land use regulations, the
applications shall be referred to the planning commission.
The procedure is provided in this article.

Section 5: Receipt of applications and setting for
hearing.
The secretary of the planning commission shall endorse the
date of its receipt on the application and set the matter
for hearing before the planning commission.

Section 6: Posting of public notice.
In addition to notice required by any other provision of law,
the Planning Commission shall have a copy of the notice of
the time and place of the hearing posted in not less than
3 places at least 10 days before the date set for the hearing.
The posting shall be on each public road within 300 feet of
the exterior boundaries of the affected land in conspicuous
places at a distance of not less than 200 feet apart.

Section 7: Posted notice may be dispensed with in
certain cases.
If the Planning Commission finds that the matter to be heard
is of county-wide interest and applicability and is not limited to specific property, it may order that the additional posting of the notice as prescribed in Section 6 need not be done.

Section 8: Form of notice to be posted.

The notice of the hearing which shall be in a newspaper of general circulation within the county. The notice of the hearing which is posted shall contain:

(1) the time and place of hearing;

(2) a brief description of the land which is the subject of the matter to be heard;

(3) the purpose of the hearing and the use of the land which is sought; and

(4) any other information which the Planning Commission considers necessary or desirable in the public interest.

ARTICLE 3.

Conduct of Public Hearings, Burden of Proof, Findings and Decision:

Section 10: Conduct of hearing and burden of proof of making showing.

The Planning Commission shall hear all persons interested in the matter. The applicant or petitioner has the burden and shall offer competent evidence in support of his application or petition.

Section 11: General standards in considering application. In considering an application, petition or matter, the Planning Commission shall consider:

(1) the health, safety and welfare of the residents of the county;
(2) the orderly development of the property in the County;

(3) the preservation of property values;

(4) the protection of the tax base;

(5) the effect on the neighborhood;

(6) the likelihood of a nuisance being created;

(7) the effect on the general plan of the county;

(8) special conditions or exceptional characteristics of the property and its location or surroundings; and,

(9) any other matters relevant to the inquiry.

Section 12: Specific findings by commission which are necessary to granting a variance.

A variance (which is a modification of the requirement of zoning regulations as to lot area, lot coverage, width, depth, side yard, rear yard, setback, parking space, height of building, or other regulation affecting the size, shape, or design of a lot or the placement of buildings on it) may not be granted unless the planning commission finds that:

(1) because of special circumstances concerning the subject property including its size, shape, topography, location, and surroundings, the strict application of the zoning regulations will deprive the property of privileges enjoyed by other properties in the vicinity and under the same land use classification; and,

(2) the variance, if granted, is not the grant of a
special privilege inconsistent with the
limitations upon other properties in the vicinity
and land use district in which the subject
property is located.

Section 13: Commission may grant variance subject to
conditions.

If the Planning Commission grants a variance, it may impose
any conditions it considers necessary to (1) assure that the
authorized adjustment will not constitute a grant of special
privilege inconsistent with the limitations on other pro-
properties in the vicinity and zone in which the subject
property is located and (2) secure substantially the purpose
of county regulations and give effect to the general plan.

Section 14: Specific findings by commission which are
necessary to granting land use permit.

The Planning Commission may not grant a land use permit
unless it finds that each of the following general con-
ditions exist:

(1) the establishment and maintenance of the use applied
for conform with the general plan with regard to
traffic circulation, population density and dis-
tribution and other aspects of the general plan
considered by the planning commission to be
pertinent;

(2) adequate utilities, access roads, drainage, and
other necessary facilities have been or will be
provided;

(3) the proposed use will not under the circumstances
of the particular case constitute a nuisance or be detrimental to the health, safety, peace, comfort, and general welfare of persons residing in the neighborhood; and,

(4) the proposed use is not detrimental or injurious to property and improvements in the neighborhood and is appropriate to the location, the lot and the neighborhood.

Section 15: Commission may grant land use permit subject to conditions.

If the Planning Commission grants a land use permit, it may impose any conditions which it considers necessary to secure the purpose of county regulations and give effect to the general plan.

Section 16: Time and manner of Planning Commission decision:

After hearing the evidence and considering the application, the Planning Commission shall make its findings and have them entered in the minutes of the commission and shall file them with the planning department. In its findings the commission shall report the facts found and its conclusion whether a permit, application or appeal is granted, granted with conditions or denied. The Planning Commission shall make it's findings at the next regular meeting after it orders the matters submitted to it for decision.

Section 17: When decision is final.

The decision of the Planning Commission is final ten (10) days after the date of the findings.
Section 18: Time limit on reapplication for same matter:

If the county denies an application or request, the applicant or his successor in interest may not file a new application or request for substantially the same thing for a period of six (6) months from the date the county takes action.

ARTICLE 4.

Expiration and Revocation of Land Use Permits

Section 21: Expiration of permits:

A land use permit which is not used within the time specified in the permit, or if no time is specified within 1 year after the permit is granted, is void.

A land use permit is void 1 year after the use for which it is issued is discontinued.

Section 22: Grounds for revocation of land use permit:

The Planning Commission may revoke a land use permit for one of the following grounds:

(1) violation of any zoning regulation of the county;
(2) violation of a condition of the permit after notice of the violation;
(3) causing or allowing a nuisance in connection with the premises; or
(4) conviction of a violation of state law in connection with the operation of the permitted use.

Section 23: Procedure for revocation.

If the Planning Commission finds that there is probable cause for revoking a land use permit, the Planning Commission shall direct the planning department to give notice of a
hearing to the permittee and the public in the same manner as notice of a hearing for an application for a land use permit. The Planning Commission shall hold a hearing on the question of revoking the permit and if it finds that grounds for revocation exists, it shall revoke the permit. Any person may appeal from an order granting or denying revocation.

ARTICLE 5.

Duties

Section 31: The duties of the Planning Commission shall include but are not limited to the following:

(a) It shall develop and maintain a general plan.

(b) It shall develop such specific plans as may be necessary or desirable.

(c) It shall periodically review the capital improvement program of the county.

(d) It shall review and study land use problems which may arise and recommend to the legislative body recommendations for the solution of said problems.

(e) It shall perform such other functions as the legislative body may provide.

ARTICLE 6.

Non-Conforming Uses.

Section 50: Historical Sites

Nothing in this Article shall apply to a designated historical site or building. Historical sites and buildings within Mariposa County shall be inventoried by the Historical
Preservation Advisory Committee and designated by the Board of Supervisors.

Section 51: Existing uses which do not conform

The use of land or the use of a building, structure or improvement upon land which does not conform to the land use regulations of the county may continue as provided in this article so long as the use does not violate any other ordinance, law or regulation.

The word "land, building, structure, or improvement" as used in this section refers only to that portion which is actually used for the use which does not comply with the land use regulations of the county. The term does not include an improvement or a use which violated any land use regulation of the county at the time the improvement or use began. Likewise the term does not include an improvement which is not a part of a use legal at the time it began shall be disregarded and the application of this article to non-conforming uses.

Section 52: Duration of nonconforming use.

The exception granted to nonconforming uses remains in effect for the following lengths of time, unless the time is otherwise extended or revoked:

(1) If the property is not improved with a building or structure and it is required that a conditional use permit is required under Ordinance No. 345, then the expiration time shall be that of the use permit.

(2) In other cases = 25 years, and for an additional
period of time so that the total life of the improvement from the date of construction is:

(a) For an apartment, flat, duplex and other multiple family dwelling = 30 years;
(b) Other dwelling, including single family residence = 35 years;
(c) Stores, warehouses, factories = 25 years.

Section 53: Revocation of nonconforming use.

The planning commission may revoke the nonconforming use which is granted by section 51 if it finds that:

(1) The improvement which exists on the property is such that to require the property to be used only for uses permitted in the applicable land use district would not impair the constitutional rights of any person;

(2) The nature of the improvements are such that the improvements can be altered so as to permit the use of the property in conformity with the uses permitted in the land use district in which the property is located without impairing the constitutional rights of any person;

(3) The use for which the exception is granted by section 51 has ceased or has been suspended for a consecutive period of 90 days, or more.

Section 54: Alterations.

A building or structure which is a nonconforming use may be altered if the alteration is not to an extent exceeding in aggregate cost 25% of the value of the building or structure.
Section 55: Restoration.

A nonconforming building or structure may be rebuilt and continued in use if it is damaged by fire, collapse, explosion, or act of God, occurring the effective date of this ordinance, if the expense of the work does not exceed 40% of the value of the building or structure at the time the work is done.

Section 56: General regulations governing nonconforming uses.

The following regulations apply to each nonconforming use:
1. no physical change in the use is permitted other than ordinary maintenance and repair;
2. no increase or enlargement of the area, space, or volume occupied and used is permitted;
3. if the nonconforming use is replaced by a conforming use, the nonconforming use is automatically terminated.

Section 57: Certificate of nonconforming use.

The Planning Commission shall compile a list of all nonconforming uses which exist within the county and shall issue a "certificate of nonconforming use" to the owner of property upon which a nonconforming use exists. No use of land, building or structure may be made other than that specified in the certificate of nonconforming use unless the use conforms with the land use district in which the property is located.

The Planning Commission shall file a copy of each certificate of nonconforming use in the office of the building department. No building permit may be issued to an applicant
for property for which a certificate of nonconforming use exists.

Section 58: Changes in land use district.

When the county changes the boundaries of the land use
district or rezones an area from one land use district to
another, this article also applies to a nonconforming use
created by the change in boundaries or change in land use
district classification.

Section 59: Extensions of, or variances from,

nonconforming uses.

An extension of or variance from any of the sections of
this article may be granted upon a showing of exceptional
circumstances. In deciding whether there are exceptional
circumstances, the Planning Commission shall weigh the
following items:

(1) Extraordinary circumstances are shown as to
    the property.

(2) The extraordinary circumstances directly relating
to the need for relief.

(3) An unnecessary hardship will result if an ex-
    tension or variance is not granted.

(4) The proposed extension or variance will not
    injure neighboring properties or use thereof,
    not be detrimental to the public welfare.

(5) The proposed extension or variance will not be
tantamount to a rezoning of the property.

ARTICLE 7

Appeals
Section 61: Appeal from decision of Planning Commission.

A person who is dissatisfied with the findings of the Planning Commission may appeal to the board by filing a notice of appeal with the county within 10 days after the findings are filed.

Section 62: Time and manner of conducting hearing to be set by board.

When the appeal is filed, the files and papers shall be transmitted to the board of supervisors. The board of supervisors shall set the matter for hearing by entering an order fixing the date of the hearing. In the order, the board of supervisors shall designate whether the hearing will be on the record alone, on the record as supplemented by new evidence, on issues designated by the board, or as a new matter. The order shall be made at the first regular meeting of the board after the appeal is filed. The hearing on appeal shall be set for a time not later than 60 days from the date the appeal is taken.

Section 63: Notice of hearing on appeal.

The Board of Supervisors shall give notice of the time and place of the hearing or appeal by mailing copies of the notice by first class mail, postage prepaid, to the applicant or petitioner, the appellant and to any interested person who has filed a written request for notice with the county.

Section 65: Hearing and decision of appeal by Board.

The Board of Supervisors shall hear the matter as designated in the order fixing the hearing. The Board of Supervisors shall make its findings and conclusions in writing within
10 days after it orders the matter submitted to it for
decision. The findings and conclusions shall be filed with
the County Clerk within 10 days after the decision on appeal.
The clerk shall certify a copy of this report to the Planning
Commission. In its findings the Board of Supervisors shall
report the facts found and its conclusions whether the
applications or petition should be granted, granted with
conditions, or denied. The decision of the board is final.

VALIDITY:

Should any section or part of a section, clause or provision
of this ordinance be declared by any Court to be invalid,
the same shall not affect the validity of the ordinance as
a whole or any part thereof, other than the part so declared
to be invalid.

PASSED AND ADOPTED by the Board of Supervisors of the
County of Mariposa this 1st day of October, 1974;
by the following vote:

AYES: Davis, Hurlbert, Long, Richardson

NOES: Moffitt

NOT VOTING: None

ABSENT: None

HERBERT R. DAVIS, JR., Chairman
Board of Supervisors of the
County of Mariposa

ATTEST:

ELLEN P. RITTER, County Clerk
and Ex-Officio Clerk of the
Board of Supervisors