RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes X No ___)
As directed by the Board of Supervisors at the 11/26/91 meeting, staff has prepared the necessary documents, resolutions, and ordinances for the adoption of the Mariposa Town Planning Area Specific Plan Update. Pursuant to the Board's direction, staff recommends that the Board take the following actions:

1) Adopt a resolution certifying the Final Environmental Impact Report for the project.
2) Adopt a resolution amending the Mariposa County General Plan Land Use Map and rescinding and replacing the Mariposa TPA Specific Plan.
3) Waive the first reading and introduce an ordinance amending the Mariposa County Zoning Map.
4) Waive the first reading and introduce an ordinance adding Sub-Title 17.300 entitled "Mariposa TPA Specific Plan Zoning Regulations and Districts" to Title 17.
5) Waive the first reading and introduce an ordinance establishing regulations and standards for the division of property in the Mariposa TPA.
6) Authorize the Mariposa County Auditor to issue a warrant in the amount of $850 to the California Department of Fish and Game and a warrant in the amount of $25 to the Mariposa County Clerk. The costs for the warrants will be paid from the Planning Department budget and are necessary for the filing costs of a Notice of Determination for the EIR as required by Section 711.4 of the California Fish and Game Code.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

For the past several months the Board has considered the certification of the EIR and the adoption of the Specific Plan Update. At the November 26, 1991 meeting, the Board of Supervisors directed the Planning Department to prepare the appropriate documents for adoption of the Specific Plan Update. The documents have been prepared pursuant to Board actions on the Specific Plan Update at the 10/1, 10/15, 11/5, and 11/26 meetings.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERATIVES: Because several actions are necessary, there are numerous alternatives available to the Board. If any revisions are proposed by the Board, staff recommends that the public hearing be continued to allow staff to review the proposed revisions.
NEGATIVE ACTION: Negative action would result in the Specific Plan Update not being adopted and the current Specific Plan remaining in effect.

COSTS: ( ) Not Applicable
A. Budgeted current FY $_______
B. Total anticipated costs $_______
C. Required Add'l funding $_______
D. Source: __________________________________________________________________

SOURCE: ( ) 4/5ths Vote Required
A. Internal Transfers $_______
B. Unanticipated revenues $_______
C. Reserve for contingency $_______
D. Description: ____________________________
Balance in Reserve for Contingencies, if approved: $ __________
SPECIAL INSTRUCTIONS: List the attachments and number the pages consecutively:

1. Final Environmental Impact Report (including draft resolution and Draft EIR)
2. Draft resolution amending General Plan Map and adopting Specific Plan
   a. EIR Findings of Fact
   b. Mitigation Monitoring Program
   c. General Plan Findings of Consistency
   d. General Plan Map Amendments
   e. Mariposa TPA Specific Plan
3. Draft ordinance amending Zoning Map
4. Draft ordinance adding Sub-Title 17.300 to Title 17
   a. Sub-Title 17.300
   b. Mariposa TPA Specific Plan Zoning Map
5. Draft ordinance establishing regulations and standards for property divisions in TPA

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CLERK'S USE ONLY:
Res. No.: __________________________
Ord. No.: __________________________
Vote - Ayes: _________ Noes: ________
Absent: _________ Abstained: _________
( ) Approved ( ) Denied
\(\checkmark\) Minute Order Attached

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

DATE:
ATTEST: MARGIE WILLIAMS
Clerk of the Board of Supervisors
County of Mariposa, State of CA
By: __________________________

================================================================================

ADMINISTRATIVE OFFICER'S RECOMMENDATION

\(\checkmark\) Recommended
____ Not Recommended
____ For Policy Determination
____ Submitted with Comment
____ Returned for Further Action

Comment: ________________________________

A.O. Initials: ______________________________

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Action Form Revised 12/89
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: TONY LASHBROOK, PLANNING DIRECTOR
FROM: MARGIE WILLIAMS, CLERK OF THE BOARD
RE: CONTINUED PUBLIC HEARING

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on January 14, 1992

ACTION AND VOTE:

Tony Lashbrook, Planning Director;
Continued PUBLIC HEARING (Deliberation Phase) to
Consider (1) the Planning Commission's Recommendations
Regarding the Mariposa Town Planning (TPA) Area
Specific Plan Update and Draft Environmental Impact
Report (EIR); (2) Certification of the EIR; and (3)
Adoption of the Specific Plan Update (Continued from
11/26/91)
BOARD ACTION: Tony presented updated staff report and
reviewed recommended actions. Direction was given for
Board's Committee of Supervisors Erickson and
Radanovich to investigate disposition of these parcels
which were left out of the commercial zoning, as
requested, and report back to the Board.
1) Res. 92-37 adopted certifying the Final
Environmental Impact Report for the Project\Ayes:
(M)Radanovich, (S)Erickson, Baggett, Punte; Excused:
Taber.
2) Res. 92-38 adopted amending the Mariposa
County General Plan Land Use Map and rescinding and
replacing the Mariposa TPA Specific Plan\Ayes:
(M)Baggett, (S)Erickson, Radanovich, Punte; Excused:
Taber.
3) First reading was waived and an ordinance
introduced amending the Mariposa County Zoning
Map\Ayes: (M)Radanovich, (S)Baggett, Erickson, Punte;
Excused: Taber.
4) First reading was waived and an ordinance introduced adding Sub-Title 17.300 entitled "Mariposa TPA Specific Plan Zoning Regulations and Districts" to Title 17\Ayes: (M)Radanovich, (S)Baggett, Erickson, Punte; Excused: Taber.

5) First reading was waived and an ordinance was introduced establishing regulations and standards for the division of property in the Mariposa TPA\Ayes: (M)Radanovich, (S)Baggett, Erickson, Punte; Excused: Taber.

6) Authorization was given for the Mariposa County Auditor to issue a warrant to the California Department of Fish and Game in the amount of $850 and a warrant to the Mariposa County Clerk in the amount of $25 forthwith for the filing costs of a Notice of Determination for the EIR as required by Section 711.4 of the California Fish and Game Code\Ayes: (M)Erickson, (S)Radanovich, Baggett, Punte; Excused: Taber.

Tony Lashbrook advised that the resolution is not enforceable for 30 days; and thanked Duane Hall, Associate Planner, for his work on this project. Supervisor Radanovich requested letter of appreciation be sent to the members of the Mariposa Town Planning Advisory Committee. Hearing was closed.

cc: File
   Auditor
   County Counsel
   Supv. Erickson
   Supv. Radanovich

Minute Order - 2 - 01/14/92
January 13, 1991

TO: MARIPOSA COUNTY BOARD OF SUPERVISORS  
FROM: TONY LASHBROOK, PLANNING DIRECTOR  
SUBJECT: CORRECTIONS TO 1/14/91 AGENDA PACKET FOR MARIPOSA TPA SPECIFIC PLAN UPDATE

The following corrections are recommended for the Board's agenda packet on the Mariposa TPA Specific Plan Update:

1) To correct a typographical error on Page 142 of the Specific Plan, the last word of the third sentence of Paragraph 5 should read "sixteen".

2) To correct a typographical error on Page 28 of draft ordinance to add Sub-Title 17.300 (Page 43 of Agenda Packet), the eighth word of the third sentence of Paragraph 5 should read "sixteen".

3) Pages 167-168 of the Specific Plan should be replaced with Exhibit A of this memo. County Counsel recommends several minor revisions to the non-conforming use and structure standards to clarify their intent.

4) Page 40 of the draft ordinance to add Sub-Title 17.300 (Page 55 of Agenda Packet) should be replaced with Exhibit B of this memo. County Counsel recommends several minor revisions to the non-conforming use and structure standards to clarify their intent.
EXHIBIT A

CORRECTIONS TO PAGES 167-168
OF SPECIFIC PLAN
SECTION 3.5 ADMINISTRATION AND ENFORCEMENT

Section 3 in its entirety is intended to be adopted by ordinance and become a portion of the Mariposa County Zoning Code. All administrative portions of the Zoning Code are to be used in implementing these standards except as specifically provided for within this section.

A. Non-Conforming Uses and Structures

All legally established uses and structures which are in existence at the time of the adoption of this plan but which are not in conformance with the standards of this plan shall be deemed non-conforming uses and/or structures and shall comply or be consistent with the following provisions:

1. Non-conforming uses shall be allowed to continue and to be maintained, but shall not be allowed to expand. The expansion of non-conforming structures shall be allowed if such expansion, including its use, complies with all standards of the Specific Plan.

2. Continuation of a non-conforming use may include a change of ownership, tenancy or management where the previous line of business or other function is substantially unchanged. A non-conforming use may be changed to a non-conforming use of equal or less intensity. In no case shall a different use be allowed that would increase the level of non-conformance with any standard contained herein. Whenever a non-conforming use has been changed to a less intensive use, or to a conforming use, such use shall not thereafter be changed to a more intensive use or non-conforming use.

3. Abandonment of Non-Conforming Use

a. Residential Uses

If a non-conforming residential use is abandoned or discontinued for a period of three (3) consecutive years or more, any subsequent use of the building or premises shall conform to the use and density regulations of the zone in which it is located. For reasonable cause, the Planning Director may grant one (1) year extensions to the time period up to a maximum time extension period of two (2) years.

b. Commercial-Industrial uses

If a non-conforming commercial or industrial uses is abandoned or discontinued for a period of
twelve (12) consecutive months or more, any
subsequent use of the building or premises shall
conform to the regulations of the zone in which it
is located. For reasonable cause, the Planning
Director may grant a one (1) year extension to the
time period.

4. When a building or other structure which does not
conform to the provisions of this Specific Plan is
damaged or destroyed, it may be restored or rebuilt to
accommodate its original use. Such restoration or
rebuilding shall conform to existing building code
requirements and standards. If the rebuilt structure
is located in such a manner that it would not comply
with the standards of this Specific Plan or contains a
use that is non-conforming, it shall not exceed the
size of the original building.
EXHIBIT B

CORRECTIONS TO PAGE 40

OF DRAFT ORDINANCE TO ADD SUBTITLE 17.300
CHAPTER 17.340
NON-CONFORMING USES AND STRUCTURES

17.340.010 Definition of Non-Conforming Use or Structure.
All legally established uses and structures which are in existence at the time of the adoption of this Sub-Title but which are not in conformance with the standards of this Sub-Title shall be deemed non-conforming uses and/or structures.

Non-conforming uses and structures shall comply or be consistent with the following provisions:
A. Non-conforming uses shall be allowed to continue and to be maintained, but shall not be allowed to expand. The expansion of non-conforming structures shall be allowed if such expansion, including its use, complies with all standards of this Sub-Title.
B. Continuation of a non-conforming use may include a change of ownership, tenancy or management where the previous line of business or other function is substantially unchanged. A non-conforming use may be changed to a non-conforming use of equal or less intensity. In no case shall a different use be allowed that would increase the level of non-conformance with any standard contained herein. Whenever a non-conforming use has been changed to a less intensive use, or to a conforming use, such use shall not thereafter be changed to a more intensive use or non-conforming use.

17.340.030 Abandonment of Non-Conforming Use. A.
Residential Uses: If a non-conforming residential use is abandoned or discontinued for a period of three (3) consecutive years or more, any subsequent use of the building or premises shall conform to the use and density regulations of the zone in which it is located. For reasonable cause, the Planning Director may grant one (1) year extensions to the time period up to a maximum time extension period of two (2) years.
B. Commercial-Industrial Uses: If a non-conforming commercial or industrial use is abandoned or discontinued for a period of twelve (12) consecutive months or more, any subsequent use of the building or premises shall conform to the regulations of the zone in which it is located. For reasonable cause, the Planning Director may grant a one (1) year extension to the time period.

17.340.040 Restoration.
When a building or other structure which does not conform to the provisions of this Sub-Title is damaged or destroyed, it may be restored or rebuilt to accommodate its original use. Such restoration or rebuilding shall conform to existing building code requirements and standards. If the rebuilt structure is located in such a manner that it would not comply with the standards of this Sub-Title or contains a use that is non-conforming, it shall not exceed the size of the original building.
MARIPOSA COUNTY RESOLUTION NO. 92-38

A RESOLUTION AMENDING THE MARIPOSA COUNTY GENERAL PLAN LAND USE MAP AND RESCINDING AND REPLACING THE MARIPOSA TOWN PLANNING AREA SPECIFIC PLAN

WHEREAS, Government Code Sections 65450 through 65457 provide for the development, adoption, and implementation of Specific Plans as a means of implementing the General Plan; and

WHEREAS, the town of Mariposa and the surrounding area have been designated a Town Planning Area (TPA) by the Mariposa County General Plan and the General Plan states specific land use policies shall be developed for each TPA; and

WHEREAS, a Specific Plan has been previously adopted for the Mariposa TPA and the Mariposa County Board of Supervisors has initiated an update to the Mariposa TPA Specific Plan; and

WHEREAS, the Board established a public review period for the Specific Plan update and held noticed public hearings to receive comments on the Specific Plan and associated amendments to the General Plan; and

WHEREAS, the Mariposa County Planning Commission has reviewed the Specific Plan update and recommended approval of the Specific Plan and associated general plan amendments with modifications; and

WHEREAS, the Board of Supervisors has considered the Planning Commission's recommendation; and

WHEREAS, the Board, acting as the Lead Agency, has certified as complete and adequate an Environmental Impact
Report (EIR) for the project in accordance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the Mariposa County Environmental Review Policies and Procedures.

NOW THEREFORE BE IT RESOLVED that the Mariposa County Board of Supervisors hereby takes the following actions:

1) The Findings of Fact as stated in Exhibit "A" attached hereto are hereby adopted in accordance with Sections 15091 to 15093 of the California Environmental Quality Act Guidelines for the significant environmental effects identified in the Final Environmental Impact Report certified for the project.

2) The Mitigation Monitoring Program delineated in Exhibit "B" attached hereto is hereby adopted in accordance with Section 21081.6 of the California Environmental Quality Act.

3) The General Plan Findings of Consistency as stated in Exhibit "C" attached hereto are hereby adopted in accordance with Section 2.504 of the Mariposa County General Plan.

4) The General Plan Land Use Map is hereby amended as shown in Exhibit "D" attached hereto. The Mariposa Town Planning Area boundary line and the land use classifications of properties as identified in Exhibit "D" are modified as indicated in Exhibit "D".

5) The Mariposa Town Planning Area Specific Plan, adopted by County Resolution No. 81-54, is rescinded and replaced in its entirety by Exhibit "E" entitled "Mariposa
Town Planning Area Specific Plan", attached hereto and by this reference incorporated herein.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors on this 14th day of January, 1992 by the following vote:

AYES: Baggett, Punte, Erickson, Radanovich

NOES: None

ABSTAINED: None

EXCUSED: Taber

SALLY S. PUNTE, Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS
Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

JEFFREY C. GREEN
County Counsel
EXHIBIT "A"

CALIFORNIA ENVIRONMENTAL QUALITY ACT
FINDINGS OF FACT AND STATEMENT OF OVER RIDING CONSIDERATIONS FOR THE
ADOPTION OF THE MARIPOSA TOWN PLANNING AREA SPECIFIC PLAN UPDATE

The Mariposa County Board of Supervisors is proposing to amend the Mariposa County General Plan Land Use Map, the Mariposa County Zoning Map, and the Mariposa County Zoning Ordinance and to rescind and replace the Mariposa Town Planning Area (TPA) Specific Plan as part of the Mariposa TPA Specific Plan Update. The Board has prepared and certified a Final Environmental Impact Report (EIR) for the project that satisfies the requirements of the California Environmental Quality Act (CEQA). The Board in the Final EIR has identified certain significant adverse environmental impacts that may occur with the approval of the Specific Plan Update.

Prior to approving the Specific Plan Update, the Board of Supervisors is required to make findings explaining how each significant adverse environmental impact has been addressed in accordance with CEQA and the CEQA Guidelines. For each potential environmental impact identified in the Final EIR, the Board of Supervisors makes one of the following findings:

1) The environmental impact will not be significant.

2) Mitigation measures or alterations where feasible have been required in or incorporated into the Specific Plan which eliminate or substantially reduce to a non-significant level the significant environmental impact.

3) Specific economic, social, or other considerations make the mitigation measures or project alternatives identified in the Final EIR infeasible, and the unavoidable significant environmental impact is acceptable due to overriding concerns. This finding is referred to as a "Statement of Overriding Considerations".

The findings and supporting evidence for each potential environmental effect are contained in the Final EIR certified for the project with the following exceptions:

1) The Board adopts Option #1 of Mitigation Measures No. G.1(c) and G.1(d). Therefore, the Board adopts Option #1 of the Finding for the State highway traffic impacts discussed in Section G.1 and adopts a "Statement of Overriding Considerations" for the significant circulation and traffic impacts on the intersections of Highway 49 North/Joe Howard Street, Highway 49 North/Smith Road, and Highway 140/Smith Road. The reasons stating why Option #2 of the mitigation measure is infeasible and supporting the adoption of overriding considerations are stated in the Final EIR.

2) The Board adopts Option #1 of Mitigation Measure No. G.2(c). Therefore, the Board adopts Option #1 of the Finding for the
County road traffic impacts discussed in Section G.2 and adopts a "Statement of Overriding Considerations" for the circulation and traffic impacts along Smith Road. The reasons stating why Option #2 of the mitigation measure is infeasible and supporting the adoption of overriding considerations are stated in the Final EIR.

3) The Board adopts Option #1 of Mitigation Measure No. G.3(c). Therefore, the Board adopts Option #1 of the Finding for the pedestrian circulation impacts discussed in Section G.3 and adopts a "Statement of Overriding Considerations" for the pedestrian circulation impacts along Smith Road. The reasons stating why Option #2 of the mitigation measure is infeasible and supporting the adoption of overriding considerations are stated in the Final EIR.

The adoption of these findings fulfills the requirements of Sections 15091, 15092, and 15093 of the California Environmental Quality Act Guidelines thereby permitting the Board of Supervisors to approve the Specific Plan Update.
EXHIBIT "B"

MITIGATION MONITORING PROGRAM FOR THE
MARIPOSA TPA SPECIFIC PLAN UPDATE
FINAL ENVIRONMENTAL IMPACT REPORT

As part of the environmental review process, Section 21081.6 of the California Environmental Quality Act requires a public agency to adopt a reporting or monitoring program for mitigation measures adopted as part of a Negative Declaration or EIR. The purpose of this reporting or monitoring program is to demonstrate how the mitigation measures will be incorporated into the project and to ensure the mitigation measures will be complied with during project implementation.

The Final Environmental Impact Report (EIR) certified for the Mariposa TPA Specific Plan Update identified several mitigation measures that must be incorporated into the Specific Plan to eliminate or substantially reduce significant environmental impacts. The Final EIR was written so that information on mitigation monitoring was included with the discussion of the applicable mitigation measure. This information on mitigation monitoring fulfills the requirements of Section 21081.6. Those sections of the Final EIR designated as "Mitigation Monitoring" are hereby referenced and incorporated as the Mitigation Monitoring Program for the Mariposa TPA Specific Plan Update.
EXHIBIT "C"

MARIPOSA COUNTY GENERAL PLAN
FINDINGS OF CONSISTENCY

1. It is in the public interest to modify the Mariposa Town Planning Area (TPA) boundary line so that the TPA line follows legally definable survey lines and conforms with the requirements of State law. This will improve the General Plan by establishing specific land use policy as to which properties should be placed in the Mariposa TPA and allowing for specific and defined zoning districts for the TPA. The properties affected by the amendment will be placed in the same land use classifications as adjacent properties thereby not resulting in land use compatibility conflicts.

2. The general plan amendments and Specific Plan Update have been processed in accordance with the requirements of State law and County regulations and established policy. An Environmental Impact Report has been certified in accordance with the California Environmental Quality Act (CEQA) and the required CEQA findings have been made for the project.

3. The general plan amendments and Specific Plan have been reviewed for consistency with the goals, policies, and standards of the General Plan. The amendments and Specific Plan are consistent or will have no effect on the goals, policies, and standards of the General Plan. A discussion of the Specific Plan's consistency with the General Plan is contained in Section 2.1(B) of the Specific Plan.