RESOLUTION - ACTION REQUESTED 2017-583

MEETING: August 22, 2017

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: LLA No. 2016-209, LCA Mod No. 2016-210, GP/ZA No. 2016-208

RECOMMENDATION AND JUSTIFICATION:

The General Plan/Zoning Amendment will not be effective until the effective date of the ordinance adopted to rezone the properties pursuant to General Plan/Zoning Amendment Application No. 2016-208. The Waiving of the first reading and introduction of an ordinance amending the zoning map will be scheduled for Board of Supervisor’s action upon the completion of the lot line adjustment and the LCA Contract modification.

The recommended action is based on the project staff report and the Agricultural Advisory Committee’s and Planning Commission’s recommendations.

See attached staff report for additional information.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
None, specifically related to these applications.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Amended findings and conditions or denial.

FINANCIAL IMPACT:
None

ATTACHMENTS:
Staff Report (PDF)
Vicinity Map (PDF)
Site Plan Packet (PDF)
Williamson Act Contract No. 17 (PDF)
Agricultural Advisory Committee January 19 Draft Meeting Minutes (PDF)
CAO RECOMMENDATION
Requested Action Recommended

RESULT: ADOPTED [4 TO 0]
AYES: Rosemarie Smallcombe, Merlin Jones, Kevin Cann, Miles Menetrey
RECUSED: Marshall Long
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS

Resolution  
No 2017-583  

WHEREAS an application for General Plan/Zoning Amendment No. 2016-208, Lot Line Adjustment No. 2016-209, and Land Conservation Act Contract Modification No. 2016-210 was received on November 30, 2016 from the Mariposa County Unified School District, Frances Long, Trustee, Marshall Long, and Bryan and Victoria Imrie for property located at 4802 and 4808 Highway 140 & 4588, 4560, and 4852 Yaqui Gulch Road in the Mariposa area, also known as Assessor Parcel Numbers 012-180-042 (legal with 012-180-026 and 012-180-011), 012-180-013, 012-180-014, and 012-160-073; and

WHEREAS the application proposes to adjust the boundaries of four existing parcels, amending the General Plan land use and zoning designation of the subject parcels to coincide with the adjusted boundaries, and modifying existing LCA Contract No. 17 to match the adjusted parcel boundaries; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory Committee meeting of January 19th, 2017; and

WHEREAS a Staff Report to the Agricultural Advisory Committee was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Agricultural Advisory Committee did hold their meeting on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and their own knowledge of county-wide agricultural operations; and

WHEREAS the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors approve General Plan/Zoning Amendment No. 2016-208, Lot Line Adjustment No. 2016-209 and Land Conservation Act Contract Modification No. 2016-210; and

WHEREAS a duly noticed Planning Commission public hearing for the project was scheduled for the 5th day of May 2017; and

WHEREAS the Planning Department determined that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the
environment and therefore is exempt from the provisions of the California Environmental Quality Act per the General Rule Exemption; Section 15061, CEQA Guidelines; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, the proposed environmental determination, and the comments of the applicant; and

WHEREAS the Planning Commission of the County of Mariposa did adopt Planning Commission Resolution No. 2017-003, recommending to the Mariposa County Board of Supervisors that they approve General Plan/Zoning Amendment Application No. 2016-208, Lot Line Adjustment No. 2016-209, and Land Conservation Act Contract Modification No. 2016-210; and

WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 18th day of July 2017, but that hearing was canceled due to the Detwiler fire and rescheduled for August 22, 2017 and appropriately noticed; 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, the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report packet, testimony presented by the public and comments from the applicant.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors finds that the project is exempt from environmental review.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve General Plan/Zoning Amendment Application No. 2016-208, Lot Line Adjustment No. 2016-209, and Land Conservation Act Contract Modification No. 2016-210, with the General Plan/Zoning Amendment being effective upon the effective date of the ordinance adopted to rezone the properties pursuant to General Plan/Zoning Amendment Application No. 2016-208 upon the completion of the lot line adjustment and Land Conservation Act contract modification. The Waiving of the first reading and introduction of an ordinance amending the zoning map will be scheduled upon the completion of the lot line adjustment and the LCA Contract modification.

BE IT THEREFORE FINALLY RESOLVED THAT the Board of Supervisors approves this project based upon the findings set forth in Exhibit 1.

ON MOTION BY Supervisor Jones, seconded by Supervisor Menetrey, this resolution is duly passed and adopted this 22nd day of August 2017 by the following vote:
AYES: Jones, Menetrey, Smallcombe, and Cann

NOES: None

EXCUSED: Long

ABSTAIN: None

Rosemarie Smallcombe, Vice-Chair
Mariposa County Planning Commission

Attest:

Mary Schlicher, Deputy
René LaRoche
Clerk of the Board of Supervisors

Approved as to Form:

Steven W. Dahlem
County Counsel
Lot Line Adjustment Findings

In accordance with the Subdivision Map Act, the Mariposa County Zoning Code, and the California Environmental Quality Act, the following findings are made for Lot Line Adjustment No. 2016-209:

1. **FINDING:** The lot line adjustment involves four parcels. Parcels 2, 3, and 4 meet the minimum parcel size and density standards of their respective zones and land use designations in their existing and modified configurations. Parcel 1, which is developed with school facilities, does not meet the minimum parcel size of the Agriculture Exclusive. This parcel will remain the same size after the adjustment. Additionally, it will not be nonconforming with regards to parcel size upon the completion of the rezone application associated with this project. This rezone will change it to Public Sites. This finding is made in accordance with the provisions of Section 17.108.040 of the Mariposa County Zoning Ordinance and Section 5.3.04.D and Implementation Measure 10-2a(2) of the Mariposa County General Plan.

2. **FINDING:** The lot line adjustment involves four existing adjacent parcels. The adjustment results in land being taken from each parcel and being added to an adjacent parcel and a greater number of parcels than originally existed is not being created. This finding is made in accordance with the provisions of Section 66412(d) of the State Subdivision Map Act.

Williamson Act Contract Modification Findings

In accordance with Mariposa County Resolution No. 10-150 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. **FINDING:** The property is currently and will continue to be used for agricultural purposes. This applies to the entire project site.

2. **FINDING:** The amended contracts will reflect the adjusted boundaries. Staff will prepare two separate contracts for the involved parcels that are under contract since both contract areas will meet the minimum requirements for a Williamson Act Contract. There will be no reduction in acreage under contract as a result of the modification. There are other parcels that are part of Contract No. 17 that will remain under that contract. These include APN 012-180-029 and APN 012-180-031, both of which are larger than 160 acres. The use of this property for cattle grazing or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters).

3. **FINDING:** The modified contracts will restrict the adjusted boundaries for the same term as the existing contract on the properties.

4. **FINDING:** There is no net decrease in the total amount of acreage under contract.

5. **FINDING:** At least 90% of the land under the original contract remains under the new contract (for both parcels).
6. **FINDING:** After the adjustment, both parcels will be large enough to sustain their agricultural use (dryland grazing). This finding is made pursuant to review of the project by the Mariposa County Agricultural Advisory Committee at their meeting on January 19, 2017.

7. **FINDING:** The LLA will not compromise the long-term agricultural productivity of the parcels or other agricultural lands subject to contracts as the adjustment is a minor change in acreage. The LLA will remove a portion of land that is currently improved and used for access for an off-site parcel and replace it with an area that is undeveloped.

8. **FINDING:** The LLA is not likely to result in the removal of adjacent land from agricultural use. There is no evidence to support a finding that this minor adjustment will have any effect on adjacent agricultural uses.

9. **FINDING:** The LLA does not result in a greater number of developable parcels than existed prior to the adjustment.

10. **FINDING:** The LLA is consistent with the General Plan, including Section 5.3.05.D and Implementation Measure 10-2a(2).

11. **FINDING:** The approval of the Williamson Act Contract Modification is based upon review of the project specific and site specific details of this case, as well as the estate planning needs of the applicant.

### General Plan/Zoning Amendment No. 2016-208 Findings

Pursuant to the Mariposa County Zoning Ordinance, section 17.128.050, and the Mariposa County General Plan the following findings must be made before a zoning amendment may be approved.

1. *That such an amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare;*

The project proposes a General Plan Amendment to three areas in order to coincide with the parcel boundaries as modified by the lot line adjustment. There is a 0.89 acre portion that is being changed from Agriculture/Working Landscape (AWL) to Rural Economic with a Recreation subclassification to match the rest of the 36 acre parcel. In exchange a 0.89 acre portion is being changed from Rural Economic to the Agriculture/Working Landscape land use. This amendment in land use will remove a portion that is currently being used for an access easement for an off-site parcel from the AWL land use and an undeveloped portion will be placed in the AWL land use. No loss of AWL land occurs. An additional 0.17 acre portion is being changed from the Residential land use to the Rural Economic land use. This portion provided access to a school site and a zipline park. A 0.17 acre portion is also being amended from the Rural Economic land use to the Residential land use. This area currently contains structures that belong to the school site that were constructed over the property line, which is being addressed by the lot line adjustment. The amendments to the General Plan land use are in the public interest as it will ensure that the property boundaries as modified by the lot line adjustment are consistent with the land use designation being applied to the rest of the parcel. These changes will not have a significant adverse effect on the general public health, safety, peace, and welfare.
The project also proposes zoning amendments to ensure consistently with the property boundaries as modified by the lot line adjustment. In addition, the school site, which is currently in the Agriculture Exclusive zone will be rezoned to Public Sites. This zone is the most appropriate for the site as the site is fully developed with school facilities and is not being, nor has it been used for agricultural activities. Therefore, the amendments are in the general public interest and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

2. That such an 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;

a. The General Plan land use designation amendments will improve the General Plan by ensuring that the land use designations among the parcels involved follow parcel boundaries and correspond with the rest of the parcels including uses currently on-site. This will prevent parcels having multiple land use designations and be in compliance with the General Plan requirement that parcels less than 40 acres only have one land use designation.

b. The requested zoning designation amendments will ensure that all parcels have one zoning designation corresponding to the modified parcel boundaries. The school site is fully developed with school facilities and the Public Site zone is the appropriate zoning designation for the uses that have been developed on the site.

3. That such an amendment conforms to the requirements of state law and county policy;

With respect to notice, hearings and findings requirements, the project was reviewed in accordance with state law and county policy.

4. That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan;

The General Plan limits multiple land use designations on parcels under 40 acres in size. The General Plan amendment will ensure that the project is consistent with this requirement. By ensuring that the zoning designations coincide with the modified parcel boundaries, it will prevent issues with inconsistent uses occurring on the parcels. Additionally, the Land Conservation Act Contract Policies require that all lands under contract be under the Agriculture Exclusive zone.

5. In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map:

a. 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; and

The lot line adjustment modifies the parcel boundaries to ensure that appurtenant structures and uses are located on the correct parcel. The amendments to the General Plan land use designation and zoning ensure that the modified parcels remain consistent with the designation applied to the rest of the parcel. The school site is already fully developed with school facilities and the Public Sites zoning designation is the most appropriate for such uses.
b. the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. The proposal will not affect employment opportunities or basic services. The changes will ensure that the parcels will remain consistent with the designations applied to the rest of the parcel after the lot line adjustment is completed.

**CEQA Finding**

The Board of Supervisors finds that the proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3). The amendments will not result in a direct or reasonably foreseeable indirect physical change in the environment and there is no possibility that the amendments may have a significant effect on the environment.

This project will not result in any new construction on the ground.

**Recommended Processing Conditions / Steps for Completing Lot Line Adjustment No. 2016-209 (Lot line adjustment and Amended Williamson Act Contract application must be completed concurrently)**

**Step 1:**

- **APPLICANT'S RESPONSIBILITY - Transfer Description:** The project shows that there will be a transfer of property. A land surveyor or other qualified individual must provide the County Surveyor (Department of Public Works, 4639 Ben Hur Road, Mariposa 95338) with typed, stamped and signed legal descriptions describing those portions of the approved lot line adjustment which are to be transferred. The County Surveyor requests that copies of all documents referred to in the legal descriptions and copies of the lot closure computations (including error or closure, ratio of precision and acreage) be supplied with copies of the descriptions to validate the content of the descriptions. The County Surveyor will not accept area summary calculations.

- **APPLICANT'S RESPONSIBILITY - Amended Parcel Boundary Descriptions:** A land surveyor or other qualified individual must provide the County Surveyor (Department of Public Works, 4639 Ben Hur Road, Mariposa 95338) with typed, stamped and signed legal descriptions describing the amended parcels (descriptions that include and exclude the transfer pieces). The County Surveyor requests that copies of all documents referred to in the legal descriptions and copies of the lot closure computations (including error or closure, ratio of precision and acreage) be supplied with copies of the descriptions to validate the content of the descriptions. The County Surveyor will not accept area summary calculations.

**Step 2:**

- **COUNTY SURVEYOR RESPONSIBILITY – Review of Legal Descriptions:** If satisfactory, the County Surveyor will approve the legal descriptions and forward them to Mariposa Planning. There will be legal description review fees charged directly to the applicants from the County
Surveyor (Public Works) for their time. Please check with the County Surveyor for their fee rates.

Step 3:

☑ APPLICANT'S RESPONSIBILITY - Payment of Taxes: Note (this step may be done concurrently with Steps 1 and 2). As required by the County Tax Collector and the Assessor/Recorder, a Verification of Taxes Paid Form allowing recordation of a Certificate of Compliance must be submitted to Mariposa Planning for both parcels involved in the project. In general, taxes on the subject parcels must be paid a year in advance for the next tax year before the Assessor can map the change and assign the new Assessor Parcel Numbers. Please contact the Tax Collectors Office directly [(209) 966-2621] for more information and the amount you will need to pay. Ask them to forward the Verification of Taxes Paid Form allowing recordation of Certificates of Compliance for each parcel to Mariposa Planning. The Assessor/Recorder will not allow us to record the Certificates of Compliance without this form.

Step 4:

☑ APPLICANT'S RESPONSIBILITY – Recordation of Grant Deed: Applicant records the transfer grant deeds with the legal descriptions that have been reviewed and approved by the County Surveyor. Applicant provides Mariposa Planning with copies of the recorded grant deeds.

☑ APPLICANT'S RESPONSIBILITY – Recordation of Modified Trust Deeds: The Preliminary Title Reports show that the properties (except the MCUSD parcel) have a Trust Deed on it. Any Trust Deed must be modified to reflect the new parcel configurations. The applicant shall record the amended trust deed with the legal description that have been reviewed and approved by the County Surveyor. Applicant provides Mariposa Planning with a copy of the recorded amended trust deeds. As an alternative, the applicant may provide reconveyance documents to Mariposa Planning (showing the trust deed has been paid off).

☑ APPLICANT'S RESPONSIBILITY – Modification of Conservation Easement: The Preliminary Title Reports show that the Long properties have a Conservation Easement on it. Any conservation easement must be modified to reflect the new parcel configurations. Applicant provides Mariposa Planning with a copy of the recorded amended conservation easement. As an alternative, the applicant may provide a letter from the Sierra Foothill Conservancy that documents to Mariposa Planning that the conservation easements have been modified to the satisfaction of the Sierra Foothill Conservancy and any other affected agency.

Step 5:

☑ MARIPOSA PLANNING RESPONSIBILITY – Preparation of Certificates of Compliance: Mariposa Planning will prepare a Certificate of Compliance for each adjusted parcel involved in the lot line adjustment, when the above standard requirements are met. Following preparation of the documents, Mariposa Planning will determine the required recording fees for the documents and notify the applicant of the required fees. The Recorders fee charge is $14.00 for the first page and $3.00 for each additional page for each Certificate of Compliance. The number of pages varies with Certificates of Compliance, and that is why the recording fee cannot be determined until this step in the process.
Step 6:

☑️ APPLICANT’S RESPONSIBILITY – Payment of Recording Fees: The applicant shall submit a check (made payable to the Mariposa County Recorder) based upon the recording fees determined in Step 5 above.

Step 7:

☑️ MARIPOSA PLANNING RESPONSIBILITY – Recodaration of Certificates of Compliance: Mariposa Planning will record the Certificates of Compliance for each parcel involved in the lot line adjustment. This step completes the Lot Line Adjustment. The Certificate of Compliance confirms that the parcel was created legally and is eligible for development permits. A copy of the final recorded Certificate of Compliance will be mailed to the applicant(s) a few weeks following the recodaration. In the case of proposed

Recommended Processing Conditions / Steps for Completing Land Conservation Act Contract No. 2016-210 (Amended Williamson Act Contract application and lot line adjustment must be completed concurrently)

1. Preparation of Legal Description (APPLICANT'S RESPONSIBILITY): Prior to recodaration of the Williamson Act Contracts, a typed, stamped, and signed copy of the approved legal description for modified Parcel 3 and 4 must be provided by the applicant to Mariposa Planning.

2. Preparation of Williamson Act Contract (MARIPOSA PLANNING RESPONSIBILITY): In order to complete this project, a Williamson Act Contract will be prepared by Mariposa Planning. Mariposa Planning will coordinate obtaining the signature of the representative authorized by the Board of Supervisors to sign the contract. Mariposa Planning will send the original contact to the property owner(s) involved in the application.

3. Signing and Notarizing the Williamson Act Contracts (APPLICANT’S RESPONSIBILITY): The contracts must be signed by the applicant(s), and the signature(s) must be notarized.

4. Recordation of Contract (MARIPOSA PLANNING RESPONSIBILITY): When the contract has been signed and notarized by both parties, Mariposa Planning will record the contract concurrently with or following the Certificates of Compliance required to complete the Lot Line Adjustment (step 5 in LLA Processing Conditions above). This step completes the Land Conservation Act Contract Modification Process.