RECOMMENDED ACTION AND JUSTIFICATION: Approve a resolution adopting a Negative Declaration and approving the Wawona Town Planning Area Specific Plan Update, General Plan Amendment 2011-001. The Plan Update has been accepted by the Wawona Town Planning Area Advisory Committee, environmental review has been conducted in accordance with the requirements of the California Environmental Quality Act, and the Planning Commission, following a public hearing, has recommended adoption of a Negative Declaration and approval of the Plan Update. The Yosemite National Park Superintendent has approved the Plan Update as proposed by the Planning Commission.

BACKGROUND AND HISTORY OF BOARD ACTIONS
The Wawona Town Planning Advisory Committee, at the direction of the Board of Supervisors, has been working for many years to update the Wawona Specific Plan, originally adopted in 1987, and subsequently amended. In February, 2011, following input and discussion with the National Park Service, WTPAC recommended a revised draft of the Plan and forwarded it to the Planning Department for preparation of environmental documents and consideration by the Planning Commission and the Board of Supervisors.

At a public hearing on October 7, 2011, the Planning Commission recommended the adoption of a Negative Declaration and approval of the Plan as amended at the hearing. The Yosemite National Park Superintendent, in a letter dated December 16, 2011, approved the Specific Plan Update as recommended by the Planning Commission at their October 7, 2011 hearing.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: The Board could refer the plan back to the Planning Commission to make further amendments to the text of the plan, which might include: 1) amendments to the policies within the plan; 2) amendments to the implementation measures within the plan; 3) amendments to the text of the land use classifications within the plan; or 4) amendments consisting of additional text or deleted text. Depending on the extent of the amendments, this option could take staff time to prepare, and require further review by the Yosemite National Park Superintendent. Additionally, the content of the amendments could affect the environmental review document.

Financial Impact? ( ) Yes (X) No  Current FY Cost: $  
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded  
Amount in Budget: $  
Additional Funding Needed: $  
Source: 
Internal Transfer  
Unanticipated Revenue  4/5's vote  
Transfer Between Funds  4/5's vote  
Continuity  4/5's vote  
( ) General ( ) Other  

List Attachments, number pages consecutively  
1. Board of Supervisors Staff Report  
2. Wawona Town Planning Area Specific Plan Update  
3. Planning Commission Resolution 2011-022  
4. Negative Declaration and Initial Study  
5. Yosemite National Park Superintendent's Letter  
6. Draft Board of Supervisor Resolution  
7. Letter from Superintendent Eastman  Signed from Ralph Parker  

CLERK’S USE ONLY:
Res. No.: 12-57  Ord. No.  
Vote – Ayes: 5  Noes:  
Absent:  Abstained:  
Approved  
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  
Revised August 2011  

COUNTY ADMINISTRATIVE OFFICER:
/\ Requested Action Recommended  
No Opinion  
Comments:  

/\
TO: KIRK SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Adopt a Resolution Adopting a Negative Declaration and Approving the Wawona Town Planning Area Specific Plan Update, General Plan Amendment 2011-001

RES. 12-37

THE BOARD OF SUPERVISORS OF MARIPSOA COUNTY, CALIFORNIA

ADOPTED THIS Order on January 17, 2012

ACTION AND VOTE:

11 Planning

PUBLIC HEARING to Adopt a Resolution Adopting a Negative Declaration and Approving the Wawona Town Planning Area Specific Plan Update, General Plan Amendment 2011-001

BOARD ACTION: Kris Schenk/Planning Director, was present. Larry Enrico/Senior Planner, presented the staff report, including review of the background of the Plan and Update, review of recommendations from the WTPAC (Wawona Town Planning Advisory Committee), and review of the Planning staff and Commission recommendations. He advised of the temporary camping use issue that was raised at the end of the update process and options for handling this issue. Chair Bibby reviewed the public hearing process. Supervisor Allen noted that he forwarded the William Rosenberg letter to Planning to address the questions that were raised; advised of a correction on circle page 76 of the Plan Update in Section A1.2.3 Nonconforming Uses and Structures to reflect “…shall be considered a nonconforming use…” He thanked the WTPAC for their work on this update, the National Park Service for their contributions, and the Planning staff for their work. He referred to the camping issue that was raised and noted that the testimony given during the Planning Commission’s hearing was a trespass issue; and he feels the camping issue needs to go back to the community/WTPAC and not hold up this Plan as it has already been through the process and approved by the Yosemite National Park Superintendent. Supervisor Stetson thanked everyone for their work on this Plan; and he commented on the overlay design of the flood plain and asked if this would help the property owners obtain insurance with this change. Staff responded in the affirmative.

The public portion of the hearing was opened and input was provided by the following:
Dr. Ralph Harder, resident of Sutter Creek, stated he owns a cabin in Wawona – for 43 years. He referred to his email and noted that the WTPAC began working on this Plan in February 1998, versus the June 2003, date mentioned in the staff report.

Edward Mee, resident of Wawona and Chair of the WTPAC, stated they are proud of this document and it is important to the community. He commented on their work on the Plan and noted the importance of the Park. He thanked County staff and the Park Service. He agrees with Supervisor Allen that the Plan should move forward with adoption and that the camping issue should go back to the community.

Gene Spindler, member of the WTPAC, thanked Supervisor Allen for his support; and he thanked Larry Enrico and Kris Schenk for their work. He referred to the staff report and the options for action; and he recommended that the Board take action to approve the Plan today.

Anita Starchman Bryant, Starchman & Bryant Law Offices, advised they are representing David and Noel Fragoglia. She referred to her letter to the Board and the issues raised relative to the camping use, and she provided information on the Fragoglias’ limited historic use of their property for camping activities. She feels the limitations on temporary camping were introduced to restrict their clients’ use of their property in retaliation for their opposition to trespassing on their land. It is their position that the Fragoglias have established a legally existing nonconforming use. She feels the proposed camping use in the Plan is too restrictive, and she does not feel that Title 17 is applicable because of the hook-up requirements – establishment of a septic is prohibited by the Floodplain-Overlay designation. She asked for clarification of Supervisor Allen’s request for a moratorium. Attorney Starchman Bryant responded to questions from the Board relative to the number of camping days on this parcel and whether there have been any concerns relative to this use. Supervisor Allen advised of his discussion with law enforcement officials for Wawona on Saturday – there was no issue with the camping until the trespass issue came up. Attorney Starchman Bryant advised she compared the Plan Update to the old Plan and she applauded the efforts of staff and the community and she feels the changes are good, with the exception of the temporary camping use.

June Sloan, taxpayer in Wawona for 62 years, stated her family appreciates the Park Service and Planning staff and the WTPAC for their work on this plan for the “Wawona village.” She asked why the infrastructure was not planned for full build-out of the area.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to the status of the camping issue on the parcel in question if the Plan Update is adopted; and relative to Title 17 and the temporary septic hook-up requirements for camping. Steve Dahlem/County Counsel, noted that for the record, the Board is making a legally established nonconforming use determination on the record at this time on the camping issue. Larry Enrico suggested revised language on circle page 29 of the Plan Update to reflect that the WTPAC was reactivated in the fall of 1987 and the committee members were appointed and their first meeting was held in February 1998, and that the committee met regularly thereafter.

(M)Allen, (S)Stetson, Res. 12-37 was adopted adopting a Negative Declaration and approving the Wawona Specific Plan Update, General Plan Amendment Application No. 2011-001, with direction that the temporary camping issue be referred back to the WTPAC for resolution, and with the changes in the Plan Update on circle page 76 to add “use” and on circle page 29 to clarify the history of the WTPAC as discussed/Ayes: Unanimous. The hearing was closed.

Cc: Steven W. Dahlem, County Counsel
    Bill Davis, Auditor
    File
WHEREAS, Section 65300 et seq. of the California Government Code requires each county to adopt a comprehensive, long-term general plan for the physical development of each county; and

WHEREAS, on December 18, 2006, the Board of Supervisors of the County of Mariposa ("County") adopted a comprehensive update of the County's General Plan ("General Plan"), which identified 17 planning areas, including the Wawona Town Planning Area; and

WHEREAS, a Specific Plan was adopted for the Wawona Town Planning Area in 1987 under the previous County General Plan, and amendments were made to the Plan in 1990, 1991, and 2007; and

WHEREAS in 2003 as part of the General Plan Update process, the Mariposa County Board of Supervisors affirmed continuation of the Wawona Town Planning Area Specific Plan and authorized completion of a comprehensive revision to the Wawona Specific Plan Update; and

WHEREAS, between June, 2003 and February, 2011, the Wawona Town Planning Advisory Committee held noticed public meetings to consider, debate, evaluate, and develop the structure and content of the draft Wawona Specific Plan Update; and

WHEREAS, on the 11th day of February 2011, the Wawona Town Planning Advisory Committee conducted a public meeting, and following public comment and discussion, took action to forward the recommended draft Wawona Specific Plan Update to the Planning Commission for their consideration; and

WHEREAS, an Initial Study and Negative Declaration of Environmental Impact were prepared for the Wawona Specific Plan Update pursuant to the California Government Code, Mariposa County Code, the California Environmental Quality Act (CEQA) and local administrative procedures; and

WHEREAS the Initial Study and Negative Declaration of Environmental Impact was available on July 8, 2011; and

WHEREAS, the Plan establishes land use designations and specific policies for the Wawona Town Planning Area; and
WHEREAS, the objective of the Plan is to preserve the residential and recreational character of the area; and

WHEREAS, new zoning classifications, consistent with the Plan land use designations, and adoption of specific design guidelines and development standards for the Wawona Town Planning Area will be considered by the Board of Supervisors under separate future actions; and

WHEREAS, the Planning Department circulated the Wawona General Plan Amendment among trustee and responsible agencies, interested public organizations, Native American contacts, and others as appropriate; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 7th day of October, 2011; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered the information in the public record, including the Staff Report, the Initial Study, and Negative Declaration of Environmental Impact, and the draft Wawona Town Planning Area Specific Plan update.

WHEREAS, Planning Commission adopted Resolution 2011-022, recommending that the Board of Supervisors adopt a Negative Declaration, and further recommending Board of Supervisors approval of the Wawona Specific Plan Update, General Plan Amendment 2011-001; and

WHEREAS, the Wawona Specific Plan Update, as recommended by the Planning Commission, was referred to the Yosemite National Park Superintendent for review and approval prior to final action by the Board of Supervisors; and

WHEREAS, Yosemite National Park Superintendent, Don Neubacher, in a letter dated December 16, 2011, approved the Wawona Town Planning Area Specific Plan Update, as amended by the Planning Commission at its meeting on October 7, 2011; and

WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 17th day of January, 2012; 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 concerning the application, and comments and recommendations from the Planning Commission.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a resolution adopting a Negative Declaration and directing staff to file a Notice of Determination for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving General Plan Amendment No. 2011-001.
BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt the December, 2011 Wawona Town Planning Area Specific Plan Update as provided as Attachment 1 to the staff report dated January 17, 2012.

BE IT THEREFORE FURTHER RESOLVED THAT project approval is based on the findings set forth in Exhibit 1 and supported by substantial evidence in the public record.

ON MOTION BY Supervisor Allen, seconded by Supervisor Stetson, this resolution duly passed and adopted this 17th day of January, 2012 by the following vote:

AYES:    STETSON, TURPIN, BIBBY, CANN, ALLEN
NOES:    NONE
EXCUSED: NONE
ABSTAIN: NONE

Janet Bibby, Chair
Board of Supervisors

Attest:

Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Steven W. Dahllem
County Counsel
- EXHIBIT 1 -

FINDINGS OF APPROVAL

The Mariposa County Zoning Ordinance, Section 17.128.050 establishes findings that must be approved in order to amend the General Plan. Staff recommends General Plan Amendment Application No. 2011-001 be approved based upon the following findings:

1. **CEQA Finding**

   An Initial Study Checklist was prepared for the Wawona Town Planning Area Specific Plan Update. On the basis of this Initial Study Checklist and the certified Environmental Impact Report for the Mariposa County General Plan, the County has prepared a Negative Declaration of Environmental Impact in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. The Negative Declaration of Environmental Impact and Initial Study Checklist were advertised and available for a public comment period of more than forty-five (45) days. The Planning Commission considered comments received during the comment period prior to action on the Negative Declaration and General Plan Amendment. There is no substantial evidence in light of the entire record before the Planning Commission that the General Plan Amendment will have a significant effect on the environment.

2. **The amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.**

   The General Plan Amendment is in the general public interest because the Wawona Specific Plan Update was prepared by and revised over time to meet the needs of the Wawona community. The General Plan Amendment is in the general public interest as it will result in the establishment of administrative and land use policies and regulations that will maintain the Wawona Community. The Specific Plan reflects community values through the advisory role of the Wawona Town Planning Advisory Committee. There is no evidence that the project will have any significant adverse affect on the general public health, safety, peace, and welfare.

3. **The processing of this application conforms to the requirements of state law and county policy.**

   The processing of this project application has been in accordance with all requirements pursuant to state law and county policy.

4. **The amendment is consistent with the goals, policies, and implementation measures of the Mariposa County General Plan as follows.**

   The General Plan Amendment is consistent with Implementation Measure 5-1a(1), which requires the preparation and adoption of area plans to define rural character for the Wawona Town Planning Area. Implementation Measure 5-1a(3) states that, “Land development regulations shall define thresholds within which uses are complementary to the concept of rural character as defined by the General Plan and in regulations associated with the Area Plans.” The Wawona Specific Plan Update identifies regulations for residential, commercial, open space, and public facilities and services.

   In accordance with Implementation Measure 5-4c(2), the Wawona Specific Plan Update provides commercial standards that protect visual character related to structure design, landscaping, and scenic environment, landform grading, site development, and lighting.
Policy 5-11a states that, “No implementation of the General Plan shall be enacted to force amortization, closure, and relocation of any legally existing nonconformity except signs and/or billboards and as otherwise provided in adopted planning areas.” The Specific Plan Update eliminates the 50-year elimination provision (amortization) of nonconforming uses in the 1987 Specific Plan and will make the Specific Plan consistent with the Mariposa County General Plan.

5. 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.

The proposed amendment to the Wawona Town Planning Area Land Use Map will enhance and support the long-term use of the residential and environmentally sensitive lands in the Wawona Town Planning Area. The addition and application of the Mountain Residential No. 2 Land Use District will provide for periodic assessment of actions that may further protect the community’s private inholdings within the Wawona Town Planning Area. The application of the Flood Plain Overlay, in place of the Floodplain Land Use District, is appropriate and will provide a process to determine the accurate location of the 100 year floodplain on properties, without the unnecessary processing of Zoning and General Plan Amendments.
BOARD OF SUPERVISORS PUBLIC HEARING

Tuesday, January 17, 2012 – 2:00 PM

Wawona Town Planning Area Specific Plan Update

Board public hearing to consider the recommendations of the Planning Commission for the Wawona Town Planning Area Specific Plan Update. The Specific Plan contains a land use diagram, and goals and policies for land use and development in the community area. The plan also includes site use regulations and standards for future codification. Specific plans are adopted to implement the county General Plan. At the hearing, a review of the recommendations will be made. Public input will be taken. Deliberation may occur, and the Board of Supervisors may adopt a resolution adopting a negative declaration and taking final action on the plan. Planner - Larry Enrico

LOCAL AGENCY FORMATION COMMISSION

The next LAFCo meeting is scheduled for Tuesday, January 24, 2012, at 2:00 p.m. in the Board of Supervisors Chambers, Government Center. An agenda for the LAFCo meeting will be available approximately one week prior to the meeting date.

PLANNING ADVISORY COMMITTEE MEETINGS

[All meetings listed are regular meetings, unless otherwise noted.]

- Historic Sites & Records Preservation Commission
  Monday, January 9, 2012; 10:00 a.m., Gov't Center, Lower Floor Conference Rm 5100 Bullion St., Mariposa, CA

- El Portal Town Planning Advisory Committee
  Tuesday, January 10, 2012; 7:00 p.m., El Portal Library, El Portal, CA

- Fish Camp Town Planning Advisory Council
  Saturday, January 14, 2012, 10:00 a.m., Tenaya Lodge, Fish Camp, CA

- Midpines Community Planning Advisory Committee
  Tuesday, January 17, 2012, 7:00 p.m., Midpines Community Center, Midpines, CA

IMPORTANT INFORMATION ABOUT PUBLIC HEARINGS: All interested persons are invited to attend public hearings & provide input on projects. Written comments may be made & submitted any time during the public review period up to & including the public portion of the public hearing time. Letters or written comments submitted after the public input time of the public hearing will become part of the file documents, but will not become part of the record unless the public input time is reopened. If you challenge the planning related actions described in this notice in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Agency at, or prior to, the public hearing. Unless otherwise noted, public hearings are conducted in the Mariposa County Government Center, Board Chambers, 5100 Bullion Street, Mariposa CA. If special arrangements are needed for your participation in a meeting, or if you are hearing or visually impaired, please call us 48 hours before a meeting to make arrangements to accommodate you. Copies of all public documents are available for review during office hours.

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.
MARIPOSA COUNTY
NEGATIVE DECLARATION

(Pursuant to California Administrative Code, Section 15070)

APPLICANT/PROJECT: County of Mariposa; General Plan/Zoning Amendment 2011-001; Wawona Town Planning Area Specific Plan Update

PROJECT DESCRIPTION: General Plan/Zoning Amendment: The 2006 Mariposa County General Plan identifies 17 planning areas, including the Wawona Town Planning Area. The General Plan states that “area plans may be adopted for purposes of maintaining rural character, identifying and preserving public lands, protecting agriculture lands, or addressing localized issues in greater detail than is possible in the countywide General Plan” (p. 5-28).

The Wawona Specific Plan Update is an integrated, consistent, and compatible statement of policies for the County of Mariposa following direction established by the Board of Supervisors and the Wawona community. Every project is subject to review against the measures in the Specific Plan.

The Specific Plan Update includes Guiding Principles that are specific to the Wawona Town Plan and consistent with the Guiding Principles found in Chapter 3 of the Mariposa County General Plan. The Guiding Principles are:

- Manage private development within the Wawona Town Planning Area for purposes of orderly community growth.
- Classify land area for compatible commercial and residential development.
- Preserve and protect the historical sites and historical structures.
- Establish and manage a safe and efficient circulation system.
- Protect, conserve, and enhance the ecology of the Wawona Basin and South Fork Merced River watershed.
- Ensure the delivery of adequate and cost-effective public facilities and services.
- Protect, conserve, and enhance the Wawona Basin character for residents and visitors.
- Maintain the mountain, small community atmosphere of Wawona.

No significant effect is based on the following findings:

1. Adoption and implementation of the Wawona Specific Plan Update does not have the potential to degrade the quality of the environment, substantially reduce habitat, cause fish or wildlife populations to drop below self-sustaining levels, threaten plant or animal communities, or impact rare or endangered species, or impact historical resources. The
project does not have impacts beyond those that were analyzed in the 2006 Mariposa County General Plan EIR and the EIR certified for the 1987 Specific Plan Land Use Element.

2. The EIR for the 1987 Specific Plan recognized that the development regulations within the 1987 Specific Plan were self-mitigating with respect to growth inducing and physical impacts to the environment. The Wawona Specific Plan Update continues those regulations by limiting building intensity, maintaining minimum parcel sizes for subdivision of 1-1/2 acres, and prohibiting the construction of second homes on all parcels. A minor change to lot coverage, by structures, on parcels one acre or larger, is less than significant or will have no impact as concluded in various checklist sections within the analysis of this project.

3. Adoption of the Wawona Specific Plan Update will not result in an increase in the development potential of properties in the Wawona TPA. The Wawona Specific Plan Update is a status-quo plan with respect to development potential within the Wawona TPA compared to the current standards and regulations contained within the 1987 Specific Plan Land Use Element and Policies. With the minor exception of an increase in building lot coverage from 4,000 to 5,000 square feet for parcels greater than one (1) acre in size, there are no changes to the land use regulations regarding minimum parcel size for subdivision, and the Wawona Specific Plan Update continues to prohibit second homes within the TPA. The Wawona Specific Plan Update does increase the maximum lot coverage in the MR1 and MR2 zone districts, on parcels of one-acre or larger, from 4,000 square feet to 5,000 square feet. This represents a 2.3% increase in the allowable coverage of a one-acre parcel (this percentage decreases as the parcel size increases) and is not a significant change in the standards. Therefore, the Wawona Specific Plan Update does not modify standards and regulation that result in any growth inducing impacts.

The Wawona Specific Plan Update has been prepared to reflect changes in County, State, and National Park Services policies and regulations that have occurred in the 24 years since the 1987 Specific Plan was adopted. Given the time period, the County determined that it was appropriate to re-examine the 1987 Specific Plan to incorporate these changes. The Wawona Specific Plan Update has also been prepared to incorporate the necessary components of a specific plan as required by Government Code Sections 65450–65457, Specific Plan Statutes, which are not referenced in the 1987 Specific Plan.

Adoption of the Wawona Specific Plan Update’s policies fulfill the overriding principle of protecting the residential, resort, and recreational character of the Wawona Town Planning Area, and serve to reduce the potential for significant environmental impacts from those presented in the General Plan EIR, depending upon the specifics of proposed future development. The impacts in the Wawona Town Planning Area would therefore be less than those identified in the General Plan EIR, and would not create significant new impacts and, therefore, do not contribute to cumulative countywide or regional impacts.

Adoption and implementation of the Wawona Specific Plan Update does not have the potential to cause substantial adverse effects on human beings, either directly or indirectly.
No significant effect is based on review procedures of the following County Departments or Divisions:

- Building Division
- Planning Commission
- County Health Department
- Public Works Department

Other: Mariposa County Fire Department, California Department of Fish and Game, the American Indian Council of Mariposa County (Southern Sierra Miwuk Nation), additional tribes on the Native American contact list for Mariposa County maintained by the California Native American Heritage Commission, CalFire, Mariposa County Sheriff. Applicable state and federal agencies including Yosemite National Park, will be provided the opportunity to comment on the Initial Study/proposed Negative Declaration.

The Initial Study was prepared by Larry Enrico, Senior Planner with the Mariposa County Planning Department and is on file at Mariposa County Planning Department, 5100 Bullion Street, Mariposa, California 95338.

Kris Schenk, Director
Mariposa County Planning Department

Date