STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS

Resolution  
No 2012-90  

A resolution approving Zoning Amendment No. 2010-162

WHEREAS an application for Zoning Amendment No. 2010-162 was received on November 15, 2010 from Jerry Cox for a property located at 6071 CYA Road in the Mariposa area, also known as Assessor Parcel Numbers 008-140-021, -022, and -023; and

WHEREAS the application proposes to change the zoning designation of the subject parcel from Mountain Preserve (MP) to Agriculture Exclusive (AE); 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 February 24th, 2011; 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 based on the fact that the property is currently in a Land Conservation Act Contract, and based on the required commercial agricultural use of the property, the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors approve Zoning Amendment No. 2010-162; and

WHEREAS a duly noticed Planning Commission public hearing for the project was scheduled for the 6th day of May 2011; and

WHEREAS a Staff Report to the Planning Commission was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; 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, and the comments of the applicant’s agent; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 2011-007 recommending that the project be found to be exempt from environmental review pursuant to CEQA and approval of the project with findings; and
WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 18th day of October 2011; 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 packet to the Board of Supervisors 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, the proposed Notice of Exemption, and testimony presented by the public concerning the application; and

WHEREAS the Board of Supervisors requested further information and on the 18th day of October 2011 continued the public hearing to the 22nd day of November 2011; and

WHEREAS on the 22nd day of November 2011 the Board of Supervisors further continued the public hearing to the 24th day of January 2012; and

WHEREAS on the 24th day of January 2011 the Board of Supervisors further continued the public hearing to the 21st day of February 2012; and

WHEREAS the Board of Supervisors did hold a public hearing on the 21st day of February 2011 and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application; and the testimony presented by the applicant.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Zoning Amendment No. 2010-162.

BE IT THEREFORE FURTHER RESOLVED THAT the project approval is based upon findings set forth in Exhibit 1.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to the zoning of the parcels described in Exhibit 2 and as shown in Exhibit 3 will modify the zoning designation from Mountain Preserve (MP) to Agriculture Exclusive (AE).

BE IT THEREFORE FINALLY RESOLVED THAT the effective date of this resolution shall be the effective date of the ordinance adopted in conjunction with this action.
ON MOTION BY Supervisor Turpin, seconded by Supervisor Allen, this resolution is duly passed and adopted this 21st day of February 2012 by the following vote:

AYES: STETSON, TURPIN, BIBBY, CANN, ALLEN

NOES: NONE

EXCUSED: NONE

ABSTAIN: NONE

Janet Bibby, Chairman
Mariposa County Board of Supervisors

Attest:

Margie Williams, Clerk of the Board
Mariposa County Board of Supervisors

Approved as to Legal Form:

Steven W. Dahlem
County Counsel
EXHIBIT 1 – FINDINGS OF APPROVAL

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

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

EVIDENCE:

a. Through the Land Conservation Act (Williamson Act), the State of California encourages commercial agricultural to occupy lands suited to such enterprises in order to maintain and enhance this type of economic resource of the state.

b. Commercial agricultural uses are common in Mariposa County and permitted to occur on most land use designations.

c. The Agricultural Exclusive zoning district includes provisions that require discretionary review for certain uses that by their nature may require measures to reduce impacts to less than significant.

2. FINDING: 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.

EVIDENCE:

a. The zoning designation of Agricultural Exclusive is required for property enrolled in a rolling 20-year contract with the County for agricultural uses. This improves the plan by providing long-term guidance on the use of the property in a manner consistent with the desired land use of the area.
b. The requested zoning designation will also provide guidance with respect to day-to-day decision-making.

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

**EVIDENCE:**

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

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

**EVIDENCE:**

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the county. This project is the result of the execution of a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. The use of the property must be for commercial agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

5. **FINDING**: 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
EVIDENCE: The parcels include a 160 acre parcel, a 120 acre parcel, and a 157.26 acre parcel. One of the parcels does not meet the minimum 160 acre or legal quarter section parcel size required by the Agriculture Exclusive zone. All three parcels are currently in the Mountain Preserve zone which has a minimum parcel size of 160 acres or legal quarter section, therefore the parcel is already existing non-conforming in terms of parcel size. The parcel will continue to be existing, non-conforming in terms of parcel size. The parcels have access to CYA Road. The Agricultural Exclusive zoning district is considered to be consistent with the Agriculture/Working Landscape land use classification, per Section 5.3.04.C of the County of Mariposa General Plan.

b. the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).

EVIDENCE: The property is required to maintain commercial agricultural uses on the property for a minimum period of 20-years, which is extended automatically each year until the property owner notifies the county and state of his/her intent to terminate the contract after 20-years. The proposed zoning designation is logical, based upon existing “development” on-site, infrastructure investments made on-site (bison grazing) and past use of the site.

FINDING: The site plan submitted by the applicant shows a “guest cabin” located on APN 008-140-021. Chapter 17.40 states that guest ranches and/or transient occupancy uses are a Conditional use and therefore require a Conditional Use Permit. Chapter 17.40 also makes provisions for agricultural homestays, through an administrative use permit, if all the special and performance standards in Section 17.40.010.A.1 can be met. There is no Administrative Use Permit for an agricultural homestay, Conditional Use Permit for a guest ranch or approved transient occupancy use on this parcel. The Rules of Procedure Implementing the Land Conservation Act of 1965 allow recreation that does not displace agricultural production use that does not include permanent structures. The rules allow one-family dwellings located on the land and occupied by persons directly engaged in the commercial agricultural operation (including both lessors and lessees). Approval of a zoning amendment does not approve a “guest cabin” or any uses or structures not in compliance with County Code or existing Land Conservation Act contract policies.
EXHIBIT 2 – Parcel Descriptions

Parcel No. 1 (APN 008-140-021): The Northwest ¼ of Section 36, T4S, R17E, M.D.B. & M., as originally described in a grant from the State of California to John L. McLean, dated September 22, 1900.

Parcel No. 2 (APN 008-140-022): The North ½ of the Southeast ¼ and the South ½ of the Northeast ¼ of Section 26, T4S, R17E, M.D.B. & M. As described in a deed from J.W. Lawson to Sarah A. Standlee and Millie Sawyers recorded in Volume 21 of deeds at Page 83, Mariposa County Records.

Parcel No. 3 (APN 008-140-023): The Southwest ¼ of the Northwest ¼ of the West ½ of Section 25, T4S, R17E, M.D.B. & M. As described in a deed from John McLean to Alice C. McLean recorded in Volume 32 of deeds, page 205, Mariposa County Records.
EXHIBIT 3- Map

PROJECT VICINITY MAP

PROJECT LOCATION

ASSessor PARCEL MAP

ROADS

PROJECT TYPE: Zoning Amendment No. 2010-162
APPLICANT: Jerry Cox
APN'S: 008-140-021, 008-140-022, & 008-140-023
SITE ADDRESS: 5873, 6071, & 6133 CYA Road

MAP CREATED ON: NOVEMBER 17, 2010
DATA SOURCE: PARCEL MAP FROM MARIPOSA COUNTY ASSESSOR'S MAP.
AUGUST 2010 UPDATE

MAP CREATED BY: EE MERIAM, GIS TECHNICIAN
MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2009 5100 BULLION STREET
MARIPOSA, CALIFORNIA 95338-2009
209.565.5151 FAX 209.742.2014
MARIPOSAPLANNING@MARIPOSACOUNTY.ORG
HTTP://WWW.MARIPOSACOUNTY.ORG/PLANNING

MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE DATA OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JANET BIBBY, CHAIR
LYLE TURPIN, VICE-CHAIR
LEE STETSON
KEVIN CANN
JIM ALLEN

DISTRICT III
DISTRICT II
DISTRICT I
DISTRICT IV
DISTRICT V

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Continued Public Hearing to Consider Zoning Amendment No. 2010-162,
Which Proposes to Amend the Zoning Map by Rezoning Three Parcels
Totaling 437 Acres Currently in the Mountain Preserve Zone (160-Acre
Minimum) to the Agriculture Exclusive Zone (160-Acre Minimum); Jerry
Cox (Bison Creek Ranch), Project Applicant. the Property is Located at
6071 CYA Road/APNs 008-140-021, 008-140-022, and 008-140-023.
(Continued from January 24, 2012)

RES. 12\% - 90

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on February 21, 2012

ACTION AND VOTE:

1. Planning RES.2012-90
Continued Public Hearing to Consider Zoning Amendment No. 2010-162,
Which Proposes to Amend the Zoning Map by Rezoning Three Parcels
Totaling 437 Acres Currently in the Mountain Preserve Zone (160-Acre
Minimum) to the Agriculture Exclusive Zone (160-Acre Minimum); Jerry
Cox (Bison Creek Ranch), Project Applicant. the Property is Located at
6071 CYA Road/APNs 008-140-021, 008-140-022, and 008-140-023.
(Continued from January 24, 2012)
Staff report was given by Alvaro Arias/Associate Planner; and he advised that
the public hearing was continued to today for staff to review possible violations.
He advised that the applicant has made progress on the violations, and the
remaining violations have to do with Building Department issues. He further
advised that a letter was distributed prior to the hearing relative to the status of
the violations. Discussion was held on whether or not to continue the hearing
for the violations to be corrected. Steve Dahlem/County Counsel, responded to
a question from the Board as to whether to separate the violations from the
rezoning request, and he recommended that the hearing be opened on all of the
issues. He suggested that if staff has any additional information for the hearing that it be presented at this time. Supervisor Bibby asked whether the applicant received the four page letter that was distributed prior to the meeting. Sarah Williams/Deputy Planning Director, advised that the only information that the Board of Supervisors February 21, 2012 Page 9 Board has not received pertains to the violation issues that have been resolved with the Tax Collector, Assessor, and the Agricultural Commissioner. She further advised that nearly all of the advertising issues have been resolved, with the exception of two website references. Staff responded to questions from the Board relative to the need to address the outstanding violation issues regardless of what happens on the zoning amendment; and relative to the findings that need to be met to approve the zoning amendment and staff’s recommendation. Sarah Williams responded that the input previously received from the neighbors had to do with uses that were occurring that were not allowed under Williamson Act Contract; those issues have been addressed through this process of bringing the land into compliance with the Williamson Act and the applicants have been advised that they can not have any uses that are in conflict with the Contract. She further advised that only day recreational use is allowed and no permanent facilities are allowed. Weddings are not allowed as an agritourism use. County Counsel responded to a question from the Board and advised that it would be appropriate to close the public portion of the hearing prior to deliberations, then the Board could determine whether to continue the hearing or make a decision on the zoning amendment. Staff responded to a question from the Board and advised that all of the information on the zoning amendment was presented when the hearing was first conducted. The public portion of the hearing was opened and input was provided by the following:
George Smith stated he is Mr. Cox’s uncle and he feels that the problems with the building violations and the zoning amendment are separate issues and should not be considered together. He feels the land was incorrectly zoned with the previous owner and the Agricultural Exclusive zone is a better zone. He responded to questions from the Board relative to the unpermitted structures and of his efforts to correct the violations.
Jerry Cox, owner of Bison Creek Ranch, responded to questions from the Board relative to assurance that if the rezoning request is granted that they will comply with all requirements. He advised that some of the things were done before he purchased the property and then his mother lived on the property and made some improvements. They are working to bring everything into compliance with the Williamson Act Contract requirements and they have been conducting agricultural activities on the land for over ten years.
George Smith responded to further questions from the Board relative to the agricultural activities that are occurring; and he advised they have bison and horses, and that the land has been brushed for grazing. He further noted that the timber is gone so they do not feel that the Timber Preserve is an appropriate zone. He provided input on the history of the processing of the zoning amendment. He responded to questions from the Board relative to the use of the gazebo structure; relative to the status of Board of Supervisors February 21, 2012 Page 10
correcting the website issues; relative to their agreement with the status of the violations presented by staff; and relative to the previous building permit processes and status.
There were no speakers in support of the application, or in opposition.
General Comments:
Jerry Cox stated all of the structures are in compliance with the Williamson Act Contract, and they have done everything they could in the last month to correct the violations; and he feels the land should be rezoned.
Staff responded to questions from the Board as to whether the Williamson Act Contract should be withdrawn if the zoning change is not approved; and whether there are any Williamson Act Contract violations at this time; relative to the finding that needs to be made that everything is in compliance with all laws given the outstanding violations.
The public portion of the hearing was closed.
Clarification of process:
Staff responded to questions from the Board relative to needing to change the dates in the formal resolution and ordinance to reflect this continued hearing and action date.
Deliberation:
(M)Turpin, (S)Allen, Res. 12-90 was adopted finding that the project is exempt from environmental review and approving Zoning Amendment Application No. 2010-162 with the recommended findings; and the first reading was waived and the Ordinance introduced amending the Mariposa County Zoning Map pursuant to Zoning Amendment No. 2010-162 with the recommended findings. Chair Bibby read the title of the Ordinance into the record. Ayes: Unanimous. The hearing was closed.

Cc: File
TO: KRS SCHENK, Planning
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2010-162. Action Includes Adopting a Resolution Approving Zoning Amendment No 2010-162 and Finding that this Amendment is Exempt from Environmental Review; and Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map by Rezoning Three Parcels Totaling 437 Acres Currently in the Mountain Preserve Zone (160 Acre Minimum) to the Agriculture Exclusive Zone (160 Acre Minimum); Jerry Cox (Bison Creek Ranch), Project Applicant. The Property is Located at 6071 CYA Road/APNs 008-140-021, 008-140-022, and 008-140-023 (Continued from October 18, 2011)

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on January 24, 2012

ACTION AND VOTE:

9  Planning

PUBLIC HEARING to Consider Zoning Amendment No. 2010-162. Action Includes Adopting a Resolution Approving Zoning Amendment No 2010-162 and Finding that this Amendment is Exempt from Environmental Review; and Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map by Rezoning Three Parcels Totaling 437 Acres Currently in the Mountain Preserve Zone (160 Acre Minimum) to the Agriculture Exclusive Zone (160 Acre Minimum); Jerry Cox (Bison Creek Ranch), Project Applicant. The Property is Located at 6071 CYA Road/APNs 008-140-021, 008-140-022, and 008-140-023 (Continued from October 18, 2011)

NOTE: Staff Recommends that this Hearing be Continued to a Date and Time Certain – to be Determined on January 24, 2012

BOARD ACTION: Chair Bibby advised that Board will be asked to make a decision on whether to continue or hold this hearing. Kris Schenk/Planning Director and Sarah Williams/Deputy Planning Director were present. Alvaro Arias/Associate Planner, advised that this hearing was continued from October 18, 2011, and of staff’s recommendation to continue the hearing to March to allow the property owner an opportunity to address the Notice of Intent correspondence regarding potential code violations.

Chair Bibby asked the applicant if there is any objection to continuing this hearing as recommended by staff. George Smith, stated he is Mr. Cox’s uncle and
that he has been involved with the development of the ranch. He expressed concern that their request for a Zoning Amendment has been continued since 2008, and he questioned the recommendation to continue the hearing to March. He stated he doesn’t object to a continuance as long as it does not take more than three or four weeks. He asked for clarification of the noticing requirements, and Alvaro Arias responded.

Steve Dahlem noted that from a staff perspective, that the response is due from the applicant by February 6th to the Notice of Intent and that will take some time for staff to review. Sarah Williams advised that staff is meeting with the applicant today on the Notice of Intent issues; and that this provides the applicant an opportunity to meet with the individual departments relative to the potential violations. She feels that staff could provide information on the progress of resolution of the issues in later February, and she suggested that the hearing be continued to February 21, 2012, at 2:00 p.m.

The public portion of the hearing was opened for input on the continuance of the hearing issue, and no input was received. The public portion on the continuance issue was closed. Chair Bibby asked the applicant if the February 21st day is agreeable; and Mr. Smith responded in the affirmative.

(M)Allen, (S)Cann, the public hearing to consider Zoning Amendment No. 2010-162 was continued to February 21, 2012, at 2:00 p.m. Supervisor Cann commented on the continuance; and Chair Bibby noted that if the information is not received timely from the applicant, that another continuance of the hearing may be considered. Ayes: Unanimous.

Cc:  Steven W. Dahlem, County Counsel
     File
MEMORANDUM

Date: January 13, 2012
To: Board of Supervisors
From: Alvaro Arias, Associate Planner
RE: Zoning Amendment No. 2010-162, Cox (Bison Creek Ranch)

This item was continued from the November 22, 2011 Board of Supervisors meeting to January 24, 2012, in order to allow time for staff to address issues of concern to the Board of Supervisors. Staff has begun the process of obtaining further information on the issues, but more time will be required. Staff recommends that this item be continued to a later date.

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.