RECOMMENDED ACTION AND JUSTIFICATION: Approval of the proposed amendment to Section 3.15.B of the Mariposa Town Planning Area specific plan and Section 17.334.020 of the Zoning Ordinance. The Planning Commission recommended approval of this amendment to the specific plan and zoning ordinance following a public hearing, review of the staff report, and testimony by the public concerning the application.

The Board action would be to adopt a resolution approving the project and adopting a Notice of Exemption on the environmental determination, waive the first reading, and introduce an ordinance amending the Mariposa Town Planning Area specific plan and Zoning Ordinance text for Zoning Amendment 2009-101

BACKGROUND AND CONTEXT OF BOARD ACTIONS: On October 9, 2009, the Mariposa County Planning Commission recommended approval of these changes in code and of the environmental determination. The next step in the process is for the Board of Supervisors to hear and decide on the proposed amendment.

On September 25, 2009, a similar amendment went into effect covering bed and breakfast inns county-wide except facilities covered by the following: Fish Camp Specific Plan, Wawona Specific Plan, and Mariposa Specific Plan. The specific plans for the Fish Camp and Wawona communities will need to be amended separately in order to allow up to 5 bedrooms in a bed and breakfast. The current amendment is addressing the Mariposa Town Planning Area’s specific plan and portions of zoning code for the area covered by the Mariposa Specific Plan.

The Board of Supervisors will take final action on the amendment by way of both a resolution and an ordinance. If the Board takes action to approve the project at this hearing, there is both a first reading and a second reading of the ordinance. The second reading of the ordinance approving the amendments to the zoning ordinance will occur two weeks following. The ordinance is effective thirty (30) days after the second reading. Once the zoning amendment becomes effective, the process is final.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: The Board of Supervisors can amend the text as proposed by the Planning Commission, add additional text to the amendment, or refer the matter back to the Planning Department or the Planning Commission for further review and recommendations. If the Board denies the amendment, bed and breakfast inns would continue to operate as they are currently permitted by zoning.

Financial Impact? | Yes (X) No
Current FY Cost: $

Budgeted In Current FY? (X) Yes ( ) No
( ) Partially Funded

Amount in Budget: $

Additional Funding Needed: $

Source:

Internal Transfer

Unanticipated Revenue
Transfer Between Funds
Contingency

( ) General ( ) Other

4/5's vote
4/5's vote
4/5's vote

List Attachments, number pages consecutively
Exhibit A – Staff Report to Board of Supervisors
Exhibit B – Excerpts from Planning Commission meeting minutes
Exhibit C – Planning Commission Resolution 2009-024
Exhibit D – Draft Resolution
Exhibit E – Draft Ordinance
Exhibit F – Notice of Exemption

CLERK’S USE ONLY:

Res. No.: f 49
Vote – Ayes: 5
Noes:

Absent:

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
County of Mariposa, State of California

By: ______________________________________
Deputy

Requested Action Recommended
No Opinion
Comments:

☑

CAO: 1/9/03

Revised Dec. 2002
Specific Plan/Zoning Amendment No. 2009-101

Amendment to the Mariposa Town Planning Area specific plan and the Mariposa County Zoning Ordinance to implement the Mariposa County General Plan's definition for bed and breakfast inns within the Mariposa Town Planning Area.

A bed and breakfast is rental units which is a permitted use in existing single family residences. The proposed Zoning Ordinance amendment would change the definition of bed and breakfast establishments to allow up to five (5) bedrooms to be occupied by transients. The current limit is three (3) bedrooms in a bed and breakfast.

The amendment would also add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department.

The proposed amendment is to Section 3.15.B of the Mariposa Town Planning Area specific plan, and Section 17.334.020 of the Zoning Ordinance.

No changes are proposed to the process for establishing a bed and breakfast inn, including the application requirements or the required inspections. Additionally, no changes are proposed to the number of allowed bedrooms in a transient rental facility, which will remain at three (3) bedrooms.

County of Mariposa

A. Adopt a Resolution with the recommended findings:
   - Directing staff to file a Notice of Exemption for the project; and
   - Approving Specific Plan/Zoning Amendment No. 2009-101; and
   - Amending Section 3.15.B of the Mariposa Town Planning Area specific plan text pursuant to Specific Plan / Zoning Amendment No. 2009-101

B. Waive first reading and introduce an Ordinance with findings amending Section 17.334.020 of the Zoning Ordinance pursuant to Specific Plan / Zoning Amendment No. 2009-101.
Project Description and Discussion

This specific plan/zoning amendment will increase the number of bedrooms that can be rented in bed and breakfast establishments in the Mariposa Town Planning Area from the existing three allowed bedrooms to five bedrooms. It will do this by aligning the provisions for bed and breakfast establishments in the Mariposa Town Planning Area specific plan and in County Code with those in the 2006 Mariposa County General Plan.

Existing Section 3.15.B of the Mariposa Town Planning Area specific plan and existing County Code Section 17.334.020 define a bed and breakfast establishment as "...a single family structure which is occupied by a non-transient."

In addition, existing Section 3.15.B.1 of the Mariposa Town Planning Area specific plan and existing Section 17.334.020.A do not allow more than three (3) bedrooms to be occupied by transients.

In contrast, the General Plan defines a bed and breakfast inn as "...a single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department." (page A-6 of 2006 Mariposa County General Plan).

On August 25, 2009 the Board of Supervisors approved a similar change in County Code covering all of Mariposa County except areas governed by a specific area plan or separate language in the zoning ordinance (Wawona, Fish Camp, and Mariposa Town Planning Areas). That change became effective September 25, 2009. The Area Plans for Wawona and Fish Camp will need to be amended individually in order to allow five rooms in a bed and breakfast inn. The present specific plan / zoning amendment is for the Mariposa Town Planning Area only.

The proposed amendment to Section 3.15.B of the Mariposa Town Planning Area specific plan and Section 17.334.020 of Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru-type):

Bed and breakfast and transient rental establishments shall be considered a permitted use within all single family residential structures. Bed and breakfast establishments are defined as a single family residential structure which is occupied by a non-transient, in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential transient establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be
considered a single family dwelling for the purpose of this chapter. Both bed-and-breakfast and residential transient rentals shall meet the following requirements: The following requirements shall apply:

The proposed amendment to Section 3.15.B.1 of the Mariposa Town Planning Area specific plan and Section 17.334.020.A of Mariposa County Code will be as follows:

No more than three (3) bedrooms are available for occupancy by transients. For residential transient rentals, No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

Agency Comments:

Requests for comments were sent to the following agencies: Mariposa County Public Works Department, Mariposa County Health Department, Mariposa County Fire Department, Mariposa Public Utilities District, and California Department of Forestry and Fire Protection (Cal Fire). Responses were received from the following agencies: Mariposa County Public Works and Cal Fire.

Public Works: Public Works has no objections to the amendment.

Cal Fire: Cal Fire had no comments.

Public Comments:

Prior to the Planning Commission’s public hearing, a 1/8th page notice was published in the Mariposa Gazette on September 18, 2009. A 1/8th page notice is required in lieu of direct mailed notice when there are more than 1,000 persons affected by a project. Notices were also posted in 4 community locations throughout the Mariposa Town Planning Area and on the County’s website.

As a result of the noticing, staff has not received any comments from a member of the public. Staff has, however, received several positive comments at the planning counter and during casual interactions elsewhere (such as at the grocery store). If any comments are received prior to the public hearing, copies will be provided to the commission at the hearing.

Prior to the Board’s public hearing, a 1/8th page notice was published in the Mariposa Gazette on December 31, 2009. A 1/8th page notice is required in lieu of direct mailed notice when there are more than 1,000 persons affected by a project. Notices were also posted in 4 community locations in the Mariposa Town Planning Areas and on the County’s website.
Staff has not received any comments from a member of the public as a result of this noticing. If any comments are received prior to the public hearing, copies will be provided to the Board at the hearing.

Options:

The Board of Supervisors may approve, conditionally approve, or deny Specific Plan / Zoning Amendment 2009-101. In addition, the Board can amend the environmental determination.

Environmental Review:

Staff recommends that the Board of Supervisors find the project is exempt from environmental review pursuant to a General Rule Exemption of the California Environmental Quality Act. Staff believes it can be found with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Process:

On October 9, 2009, the Mariposa County Planning Commission recommended approval of these changes in the specific plan and county code, and of the environmental determination. The next step in the process is for the Board of Supervisors to hear and decide on the proposed amendments.

The Board of Supervisors will take final action on the specific plan amendment by way of a resolution, and the zoning amendment by way of both a resolution and an ordinance. If the Board takes action to approve the project at this hearing, there is both a first reading and a second reading of the ordinance. The second reading of the ordinance approving the amendments to County Code will occur two weeks following. The ordinance is effective thirty (30) days after the second reading. Once the specific plan / code amendment becomes effective, the process is final.

Any current bed and breakfast inn operator who wants to expand their business will need to apply to the Planning Department to amend their current TOT permit. Inspections will be necessary to ensure the expanded facility complies with current standards.
Recommended Findings for Approval of Specific Plan/Zoning Amendment 2009-101

1. **Finding:** 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.

   **Evidence:** The public will benefit by having the Mariposa Town Planning Area specific plan and County Code in alignment with the General Plan. This amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding:** The 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:** This amendment will improve the Mariposa County General Plan by ensuring that county policy and code do not conflict with it.

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

   **Evidence:** According to state law, General Plans take precedence over zoning ordinances. The legal authority for the County to approve bed and breakfast inns will be clearly established upon adoption of this specific plan and code amendment. This amendment conforms to the requirements of state law and county policy by aligning a specific plan and zoning ordinance with the general plan.

4. **Finding:** That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan.

   **Evidence:** Since adoption of the 2006 Mariposa County General Plan there has been a discrepancy between the General Plan, the Mariposa Town Planning Area specific plan, and the County’s Zoning Code as to the definition and requirements for a bed and breakfast inn. This amendment will make these consistent with one another with respect to bed and breakfast establishments.
Recommended Findings for Categorical Exemption

Specific Plan/Zoning Amendment No. 2009-101 is exempt from environmental review pursuant to the General Rule Exemption, Section 15061, of CEQA Guidelines. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project will amend the Mariposa Town Planning Area specific plan and County Code to be in alignment with the General Plan with regards to the definition of bed and breakfast inns and how many bedrooms are allowed for transients.

Also, there are existing development standards in County Code and inspection requirements to address the potential impacts of the additional rooms and food service requirement allowed by this amendment. These existing Code provisions will ensure no impacts will result from the project.

Fish and Game Fees

Because the project is exempt from environmental review, the Department of Fish and Game Fees for the filing of a Negative Declaration do not apply to the project. The County may elect to file a Notice of Exemption.
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA ~ PLANNING COMMISSION

Resolution No 2009-024  
A resolution recommending an environmental determination and an amendment to Section 3 of the Mariposa Town Planning Area specific plan and Title 17, Zoning, to amend the definition of bed and breakfast establishments and allow up to five (5) bedrooms to be occupied by transients by incorporating Mariposa County General Plan's definition of a bed and breakfast inn.

WHEREAS, the Mariposa Town Plan is adopted by resolution; and

WHEREAS, Section 3 of the Town Plan establishes Land Use Development Standards and Regulations; and

WHEREAS, Section 3.15.B of the Mariposa Town Planning Area specific plan establishes provisions for bed and breakfast inns and transient rentals; and

WHEREAS, Section 3.15.B of the Mariposa Town Planning Area specific plan defines bed and breakfast establishments as a single family residential structure which is occupied by a non-transient; and

WHEREAS, Section 3.15.B.1 of the Mariposa Town Planning Area specific plan limits the number of bedrooms available for occupancy by transients in a bed and breakfast to three; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Chapter 17.334 establishes Supplementary Standards for the Mariposa Town Planning Area; and

WHEREAS, Section 17.334.020 establishes provisions for Bed and breakfast and residential transient rentals; and

WHEREAS, Section 17.334.020 defines Bed and breakfast establishments as a single family residential structure which is occupied by a non-transient; and

WHEREAS, Section 17.334.020.A limits the number of bedrooms available for occupancy by transients in a bed and breakfast to three; and

WHEREAS, the adopted Mariposa County General Plan defines a Bed and Breakfast inn as a "...single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department."

NOW BE IT THEREFORE RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption for the project pursuant to
Peneschi concluded it is staff's recommendation that the Planning Commission recommend that the Board of Supervisors adopt a Resolution with the recommended findings and direct staff to file a Notice of Exemption for the project and approve Specific Plan/Zoning Amendment No. 2009-101 and adopt an ordinance with findings amending the Mariposa County Code pursuant to Specific Plan/Zoning Amendment No. 2009-101.

Clarifications: None
Public Portion of the Hearing: Opened
Public Portion of the Hearing: Closed
Deliberation:

Francisco asked Peneschi if any changes were made from the original Resolution of Intention that was previously approved.

Peneschi said that there were no changes from the Resolution of Intention.

On motion Commissioner Francisco, seconded by Commissioner Tucker, the Planning Commission adopted a Resolution with the recommended findings and direct staff to file a Notice of Exemption for the project and approve Specific Plan/Zoning Amendment No. 2009-101.

The motion was amended by Commissioner Francisco, seconded by Commissioner Tucker, to add that the Planning Commission recommends that the Board of Supervisors approve Specific Plan/Zoning Amendment No. 2009-101.

Motion carried by the following vote:
AYES: 4 (Marsden, Francisco, Rudzik, Tucker)
NOES: 0
EXCUSED: 1 (Ross)

Break: 10:02 am
Reconvened: 10:16

3. INFORMATIONAL ITEM:

3 A. Sarah Williams announced the items on the next agenda for:

Planning Commission:
* Thursday, Oct 22, policy amendments to Williamson Act at 6:00pm
* Friday, October 23, Nominal meeting
* Friday, November 6 meeting: *Use Permit Determination for All Creatures Veterinary Hospital
  * Major Subdivision in Lake Don Pedro Area
  * Lot Line Adjustment – non-conforming parcels
  * Conditional Use Permit for Church and Day Care

Board of Supervisors:
* Tuesday, October 13, Appeal for Miller and Clifton/fractionalized parcels
BE IT FURTHER RESOLVED THAT the amendment to Section 17.334.020 of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):

17.334.020 Bed and breakfast and residential transient rentals.

Bed and breakfast and transient rental establishments shall be considered a permitted use within all single family residential structures. Bed and breakfast establishments are defined as a single family residential structure which is occupied by a non-transient, in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential transient establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. Both bed and breakfast and residential transient rentals shall meet the following requirements: The following requirements shall apply:

BE IT FURTHER RESOLVED THAT the amendment to Section 17.334.020.A of the Mariposa County Code will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):

A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

BE IT FINALLY RESOLVED THAT all other text in this Section of County Code shall remain unchanged.

ON MOTION BY Commissioner Francisco, seconded by Commissioner Tucker, this resolution duly passed and adopted this 9th day of October, 2009 by the following vote:

AYES:
Tucker, Rudzik, Francisco, Marsden

NOES:
None

ABSENT:
Ross

ABSTAIN:
None

Attest:

Robert L. Rudzik, Chairman
Mariposa County Planning Commission

Judy Mueller, Secretary to the Planning Commission
A RESOLUTION APPROVING MARIPOSA TOWN PLANNING AREA SPECIFIC PLAN AND ZONING AMENDMENT APPLICATION

WHEREAS, the Mariposa Town Plan is adopted by resolution; and

WHEREAS, Section 3 of the Town Plan establishes Land Use Development Standards and Regulations; and

WHEREAS, Section 3.15.B of the Mariposa Town Planning Area specific plan establishes provisions for bed and breakfast and transient rental establishments; and

WHEREAS, Section 3.15.B of the Mariposa Town Planning Area specific plan defines bed and breakfast establishments as a single family residential structure which is occupied by a non-transient; and

WHEREAS, Section 3.15.B.1 of the Mariposa Town Planning Area specific plan limits the number of bedrooms available for occupancy by transients in a bed and breakfast establishment to three; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Chapter 17.334 establishes Supplementary Standards for the Mariposa Town Planning Area; and

WHEREAS, Section 17.334.020 establishes provisions for bed and breakfast and residential transient rental establishments; and

WHEREAS, Section 17.334.020 defines bed and breakfast establishments as a single family residential structure which is occupied by a non-transient; and

WHEREAS, Section 17.334.020.A limits the number of bedrooms available for occupancy by transients in a bed and breakfast establishment to three; and

WHEREAS, the adopted Mariposa County General Plan defines a Bed and Breakfast establishment as a "...single family structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department."

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 9th day of October, 2009; and
WHEREAS, the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act 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 testimony presented by the public concerning the application; and

WHEREAS, the Planning Commission adopted Resolution 2009-024, recommending that the Board of Supervisors approve a Notice of Exemption, and further recommending Board of Supervisors approval of the project; and

WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 26th day of January, 2010; and

WHEREAS, a Staff Report packet for 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 packet, testimony presented by the public concerning the application, and comments and recommendations from the Planning Commission.

NOW THEREFORE BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a resolution adopting a Notice of Exemption and directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Mariposa Town Planning Area specific plan and Zoning Amendment No. 2009-101.

BE IT FURTHER RESOLVED THAT the amendment to Section 3.15.B of the Mariposa Town Planning Area specific plan will read as follows (new text shown in italicized underlined type and deleted text shown in strike-thru type):

B. Bed and Breakfast and Residential Transient Rentals

Bed and Breakfast and Transient Rental Establishments shall be considered a permitted use within all single family residential structures. Bed and Breakfast Establishments are defined as a single family residential structure which is occupied by a non-transient, in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential Transient Establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single
family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. Both bed and breakfast and residential transient rentals shall meet the following requirements: The following requirements shall apply:

BE IT FURTHER RESOLVED THAT the amendment to Section 3.15.B.1 of the Mariposa Town Planning Area specific plan will read as follows (new text shown in italicized underline type and deleted text shown in strike-thru type):

1. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

BE IT FURTHER RESOLVED THAT all other text in this Section of the Specific Plan shall remain unchanged.

BE IT FURTHER RESOLVED THAT the amendment to Section 17.334.020 of the Mariposa County Code will read as follows (new text shown in italicized underline type and deleted text shown in strike-thru type):

17.334.020 Bed and breakfast and residential transient rentals.

Bed and breakfast and transient rental establishments shall be considered a permitted use within all single family residential structures. Bed and breakfast establishments are defined as a single family residential structure which is occupied by a non-transient in which there is a full time permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential transient establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. Both bed and breakfast and residential transient rentals shall meet the following requirements: The following requirements shall apply:

BE IT FURTHER RESOLVED THAT the amendment to Section 17.334.020.A of the Mariposa County Code will read as follows (new text shown in italicized underline type and deleted text shown in strike-thru type):

A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

BE IT FURTHER RESOLVED THAT all other text in this Section of County Code shall remain unchanged.
BE IT FURTHER RESOLVED THAT the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

1. **Finding**: 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.

   **Evidence**: The public will benefit by having County Code, Mariposa Town Planning Area specific plan, and the General Plan in alignment with each other. The amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding**: The 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**: This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it.

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

   **Evidence**: According to state law, General Plans take precedence over zoning ordinances. The legal authority for the County to approve bed and breakfast inns will be clearly established upon adoption of this amendment. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan.

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

   **Evidence**: Since adoption of the 2006 Mariposa County General Plan there has been a discrepancy between the General Plan and the County’s Zoning Ordinance as to the definition and requirements for a bed and breakfast establishment. This amendment will align the zoning code with the general plan.

BE IT 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 _________ seconded by Supervisor _________, this resolution duly passed and adopted this 26th day of January, 2010 by the following vote:

AYES:

NOES: 15
ABSENT:

ABSTAIN:

__________________________ Chair
Mariposa County Board of Supervisors

Attest:

Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

__________________________
Steven W. Dahlem
County Counsel
AN ORDINANCE AMENDING SECTION 17.334.020 OF THE MARIPOSA COUNTY CODE

WHEREAS, the Mariposa County Planning Commission initiated Specific Plan / Zoning Amendment Application No. 2009-101 based upon the recommendation of the Planning Department staff; and

WHEREAS, Application No. 2009-101 will increase the number of bedrooms that can be rented in bed and breakfast establishments in the Town of Mariposa from the existing three allowed bedrooms to five bedrooms, and add that breakfast is prepared each day in a bed and breakfast establishment in a kitchen appropriately permitted by the Health Department; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment 2009-101 on the 9th day of October, 2009, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment 2009-101 on the 26th day of January, 2010, in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on Zoning Amendment 2009-101 in accordance with the California Environmental Quality Act, a Notice of Exemption has been adopted, and a Notice of Exemption will be filed for the project.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors of the County of Mariposa does hereby amend the definition of bed and breakfast establishments in Section 17.334.020 of the Zoning Ordinance to add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department, and Section 17.334.020.A of the Zoning Ordinance to allow bed and breakfast establishments no more than five (5) bedrooms available for occupancy by transients in the Mariposa Town Planning Area. Amendments are made as follows:

Section I:

17.334.020 of the Zoning Ordinance: Bed and breakfast and transient rental establishments shall be considered a permitted use within all single family residential structures. Bed and breakfast establishments are defined as a single family residential structure which is occupied by a non-transient, in which there is a full time, permanent resident family, and a limited number of guest
bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential transient establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. Both bed and breakfast and residential transient rentals shall meet the following requirements: The following requirements shall apply:

Section II:

Section 17.334.020.A of the Zoning Ordinance: No more than three (3) bedrooms are available for occupancy by transients. for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

Section III: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this ___ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSTAINED:

EXCUSED:

NOT VOTING:

________________________________________
Chair

Mariposa County Board of Supervisors

Attest:

________________________________________
Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

________________________________________
Steven W. Dahlem
County Counsel
RECOMMENDED ACTION AND JUSTIFICATION: Approval of the proposed amendment to Section 17.334.020 of the Zoning Ordinance. The Planning Commission recommended approval of this amendment to the zoning ordinance following a public hearing, review of the staff report, and testimony by the public concerning the application.

The Board action would be to waive the second reading and adopt an ordinance amending Zoning Ordinance text for Specific Plan / Zoning Amendment 2009-101

BACKGROUND AND CONTEXT OF BOARD ACTIONS:

The Board of Supervisors will take final action on the amendment by adopting the ordinance. This second reading of the ordinance approving the amendments to the zoning ordinance is occurring two weeks following the Board’s action on January 26, 2010 to adopt a resolution and waive the first reading amending Mariposa Town Planning Area specific plan and Zoning Ordinance text for Specific Plan/Zoning Amendment 2009-101. The ordinance is effective thirty (30) days after the second reading. Once the specific plan / zoning amendment becomes effective, the process is final.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: If the Board denies the amendment, bed and breakfast inns would continue to operate as they are currently permitted by zoning, with a maximum of three bedrooms.

Financial Impact? ( ) Yes ( X ) No
Current FY Cost: $ Annual Recurring Cost: 
Budgeted in Current FY? ( X ) 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 |
| Contingency | 4/5's vote |
| ( ) General ( ) Other | |

List Attachments, number pages consecutively
Exhibit A - Final Ordinance

CLERK’S USE ONLY:
Res. No.: Ord. No. 168
Vote - Ayes 5 Noes: 
Absent: 
Approved
( ) Minute Order Attached ( ) No Action Necessary
The foregoing instrument is a correct copy of the original on file in this office.
CAO:

Original Res. filed in ORD folder.
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA BOARD OF SUPERVISORS  

MARIPOSA COUNTY ORDINANCE NO. 1068  

AN ORDINANCE AMENDING SECTION 17.334.020 OF THE MARIPOSA COUNTY CODE  

WHEREAS, the Mariposa County Planning Commission initiated Specific Plan / Zoning Amendment Application No. 2009-101 based upon the recommendation of the Planning Department staff; and  

WHEREAS, Application No. 2009-101 will increase the number of bedrooms that can be rented in bed and breakfast establishments in the Town of Mariposa from the existing three allowed bedrooms to five bedrooms, and add that breakfast is prepared each day in a bed and breakfast establishment in a kitchen appropriately permitted by the Health Department; and  

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment 2009-101 on the 9TH day of October, 2009, in accordance with State Law and County Code; and  

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment 2009-101 on the 26TH day of January, 2010, in accordance with State Law and County Code; and  

WHEREAS, environmental review has been conducted on Zoning Amendment 2009-101 in accordance with the California Environmental Quality Act, a Notice of Exemption has been adopted, and a Notice of Exemption will be filed for the project.  

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors of the County of Mariposa does hereby amend the definition of bed and breakfast establishments in Section 17.334.020 of the Zoning Ordinance to add that breakfast is prepared each day in a bed and breakfast inn in a kitchen appropriately permitted by the Health Department, and Section 17.334.020.A of the Zoning Ordinance to allow bed and breakfast establishments no more than five (5) bedrooms available for occupancy by transients in the Mariposa Town Planning Area. Amendments are made as follows:  

Section I:  
17.334.020 Bed and breakfast and residential transient rentals.  
Bed and breakfast and transient rental establishments shall be considered a permitted use within all single family residential structures. Bed and breakfast establishments are defined as a single family residential structure in which there is a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential transient establishments are defined as a single family
structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. The following requirements shall apply:

A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

Section II: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this 9th day of February, 2010, by the following vote:

AYES: ABORN, TURPIN, BIBBY, CANN, ALLEN

NOES: NONE

ABSTAINED: NONE

EXCUSED: NONE

[Signature]
Kevin Cann, Chair
Mariposa County Board of Supervisors

Attest:

[Signature]
Margie Williams
Clerk of the Board of Supervisors

Approved as to Form:

[Signature]
Steven W. Dahlem
County Counsel
Tracy Gauthier

From: Dan Tucker [mariposagazette@mariposagazette.com]
Sent: Friday, February 12, 2010 9:39 AM
To: Tracy Gauthier

Subject: Re: 100209 Final BoS Ordinance 2009-101

Received, will run on 2/18/10, thanks
Dan Tucker
mariposagazette@mariposagazette.com

On Feb 12, 2010, at 9:09 AM, Tracy Gauthier wrote:

Good morning Dan,

Attached is an ordinance for publication in the next issue of the Gazette.

Please reply in receipt of this request.

If you have any questions I can be reached at 966-3222.

Thank you
Tracy Gauthier
<ORD 1068.doc>

2/12/2010