

DEPARTMENT: Planning

BY: Sarah Williams, Deputy Director
PHONE: 742-1215

10-92

RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a Resolution approving an amendment to Section IV of the County Appeals Procedure, finding this action to be exempt from CEQA, and directing staff to file a Notice of Exemption.

Currently, pursuant to Section IV, the time frame within which an appeal hearing must be set is 30 to 90 days from the date the Appeal is accepted as complete for processing. This time frame is established for the protection of the permit applicant or property owner whose property, development project, or business is impacted by a discretionary action (for either a permit, project approval, or other discretionary determination) which has been appealed. The longer it takes to schedule the appeal hearing, the longer the property, development project, or business is theoretically "impacted" by the delay.

There have been occasions when it would have been beneficial (to the permit applicant or property owner) to schedule the appeal hearing outside of the 90 day timeframe. The proposed amendment is written to allow the scheduling of the appeal hearing outside of the 90 day timeframe, but only with the consent of the permit applicant or property owner who is potentially impacted by the public hearing schedule and the approval of the affected department head. Additionally, the text of the amendment is written so that there is no "appeal" right for the scheduling decisions.

There are current appeals (two) which may benefit from this amendment.

(Note: There is no need to amend the Mariposa County Appeals Information Sheet or Chapter 17.136 of County Code, Appeals to implement this change.)

BACKGROUND AND HISTORY OF BOARD ACTIONS:

- 1998: Board took action by Resolution No. 98-364 to amend the Appeals Procedure Information Sheet, to ensure it is consistent with the Appeals Procedures relative to when an appeal must be filed.
- 1997: Board took action by Resolution No. 97-3 to amend the Appeals Procedure to require that the Appeals Procedure Information Sheet be included in notices of decisions where there is a right of appeal (amendment to Section I).
- 1992: Board took action by Resolution No. 92-525 to adopt the current format of the Appeals Procedure and the Appeals Procedure Information Sheet.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve amendment. Appeal hearings would have to be scheduled within 90 days of the date the appeal is accepted as complete for filing, even if there is a benefit to the permit applicant or property owner to schedule the appeal hearing later.

Financial Impact? () Yes (X) No Current FY Cost: \$ Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded

Amount in Budget: \$ _____
Additional Funding Needed: \$ _____
Source: _____
Internal Transfer _____

Staff Report to the Board with Attachments:
A. Draft Board of Supervisors Resolution
B. Notice of Exemption
C. Mariposa County Appeals Procedure (current text)

Unanticipated Revenue _____ 4/5's vote
Transfer Between Funds _____ 4/5's vote
Contingency _____ 4/5's vote
() General () Other

D. Mariposa County Appeals Procedure Information
Sheet (current text)
E. Chapter 17.136, County Code

CLERK'S USE ONLY:

Res. No.: 10-98 Ord. No. _____
Vote - Ayes: 5 Noes: _____
Absent: _____

MW 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

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion

Comments:

CAO: *[Signature]*

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 10-92

A resolution approving an amendment to Section IV of the Mariposa County Appeals Procedure to Allow County Staff to Extend the Time Frame for Scheduling the Public Hearing on an Appeal under certain conditions

WHEREAS, the Mariposa County Appeals Procedure is adopted by Resolution; and

WHEREAS, Section IV establishes provisions for the scheduling of a public hearing for an appeal upon the acceptance of the appeal as complete for processing; and

WHEREAS, Section IV currently requires that an appeal public hearing be scheduled not less than thirty (30) days from the date the appeal is accepted for processing and no later than ninety (90) days from the date the appeal is accepted for processing; and

WHEREAS, these timeframes were established for the protection of the permit applicant or property owner whose property, development project, or business is impacted by a discretionary action (for a permit, project approval, or other discretionary determination) that has been appealed. The longer it takes to schedule the appeal hearing, the longer the property, development project, or business is theoretically "impacted" by the delay; and

WHEREAS, Section IV does not contain provisions to allow a public hearing to be scheduled later than ninety (90) days from the date the appeal was accepted as complete, even if there is a benefit to the permit applicant or property owner in doing so; and

WHEREAS, there is a benefit to the public to include provisions in Section IV of the Mariposa County Appeals Procedure, to allow a public hearing to be scheduled later than ninety (90) days from the date an appeal is accepted as complete for processing with the consent of the permit applicant or property owner impacted by the discretionary action that has been appealed.

NOW THEREFORE BE IT RESOLVED THAT the Board of Supervisors hereby amends the Section IV of the Mariposa County Appeals Procedure as shown in Exhibit I of this resolution.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors finds this action is exempt from the California Environmental Quality Act and directs staff to file a Notice of Exemption.

Board of Supervisors Resolution No. 10-92
February 23, 2010

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ON MOTION BY Supervisor Aborn, seconded by Supervisor Allen, this resolution is duly passed and adopted this 23rd day of February, 2010 by the following vote:

AYES: ABORN, TURPIN, BIBBY, CANN, ALLEN

NOES: NONE

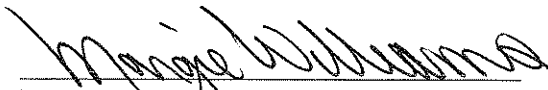
EXCUSED: NONE

ABSTAIN: NONE



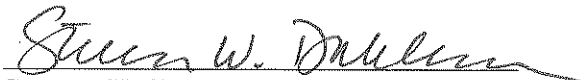
Kevin Cann, Chairman
Mariposa County Board of Supervisors

ATTEST:



Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO FORM:



Steven W. Dahlem
County Counsel

Exhibit I

Section IV of the Mariposa County Appeals Procedure is hereby modified as follows:

New text is shown in underlined italicized font

IV

HEARING DATE: NOTICE

In all cases the hearing shall be set not less than thirty (30) days from the date the APPEAL is accepted for processing.

In no event shall a hearing be set for a time later than ninety (90) days from the date the APPEAL is accepted for processing except under the following circumstances. The hearing date may be set or re-set later than ninety (90) days from the date the APPEAL is accepted for processing with the consent of the permit applicant or property owner whose property, development project, or business is impacted by the discretionary action which has been appealed. In the event the hearing date is after ninety (90) days from the date the appeal is accepted as complete, the date for submission of any amendments or supplements to materials as specified by Section II of these procedures shall adjust in a similar time period with the hearing date or reset hearing date.

Hearing dates for appeals shall be set by the Clerk of the Board, for Board hearings, or the Planning Commission Secretary, for Commission hearings, to conform to the time frames contained herein. Scheduling a hearing date later than ninety (90) days from the date the APPEAL is accepted for processing shall be approved by the county department head responsible for preparing the staff report materials for the public hearing.

There shall be no appeal rights for the scheduling decisions of an appeal public hearing.

All appeal hearings on land use matters shall be noticed in accordance with the following standards:

- A. A notice of the appeal hearing shall be published in a newspaper of general circulation within the County at least once.
- B. If the decision, finding, or determination being appealed was previously noticed in a public notice for a public review period or public hearing, a notice of the appeal hearing shall be mailed to all property owners and other parties which received the original public notice.
- C. If the decision, finding or determination being appealed was not previously noticed in a public notice and the decision, finding, or determination applies to a specific use or property, a notice of the appeal hearing shall be mailed as specified in Section 17.132.020 of County Code.
- D. All notices of the appeal hearing shall be mailed to at least twenty (20) days prior to the scheduled hearing date, and published at least ten (10) days prior to the scheduled hearing date.
- E. All mailed and published notices shall contain the information identified in Section 17.132.030 of County Code.