RECOMMENDED ACTION AND JUSTIFICATION:
Adopt resolution adopting a Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act, approving Zoning Amendment No. 2005-252 with the recommended findings, and approving Major Subdivision No. 2005-253 with the recommended findings, conditions, and mitigation measures.

Waive first reading and introduce ordinance approving amendment to Mariposa County zoning map with the recommended findings, pursuant to Zoning Amendment No. 2005-252.

Action is based upon the Planning Commission’s recommendation.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
None

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Property will remain in Mountain Home zoning and Residential land use classification; subdivision of the property according to this design will not occur.
TO: KRS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING - Adopt a Resolution Adopting a Mitigated Negative Declaration and Approving Zoning Amendment Application No. 2005-252 together with Major Subdivision Application No. 2005-253; Waive the First Reading and Introduce an Ordinance Approving Amendment to Mariposa County Zoning Map Pursuant to Zoning Amendment Application No. 2005-253; Bret and Teri Willis, Applicants (Project Site is Located at 5725 Colorado Road in Midpines, APN 008-350-066 and APN 008-240-065)

RESOLUTION 07-60

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on February 20, 2007

ACTION AND VOTE:

10:00 a.m. Kris Schenk, Planning Director
PUBLIC HEARING - Adopt a Resolution Adopting a Mitigated Negative Declaration and Approving Zoning Amendment Application No. 2005-252 together with Major Subdivision Application No. 2005-253; Waive the First Reading and Introduce an Ordinance Approving Amendment to Mariposa County Zoning Map Pursuant to Zoning Amendment Application No. 2005-253; Bret and Teri Willis, Applicants (Project Site is Located at 5725 Colorado Road in Midpines, APN 008-350-066 and APN 008-240-065)
BOARD ACTION: Megan Tennermann, Associate Planner, presented the staff report. She advised of the following corrections to the written staff report: 1) the easterly parcel currently has a separate “prescriptive” easement versus a “private” easement; 2) “only the southerly” property is included in the Open Watershed Overlay versus the “entire” property; 3) Condition of approval No. 5 has been modified: the Public Works Department requested that the applicant provide preliminary engineered plans “for a short portion of the road” prior to the commencement of any road improvements required for this project... Megan Tennermann responded to questions from the Board relative to the corrections and whether they affect the formal resolution and the exhibits; and she advised of wording changes to condition of approval No. 5 for the recordation language. Supervisor Bibby asked whether the changes were acceptable to County Counsel. Thomas P. Guarino, County Counsel, responded that he was seeing the changes for the first time with the Board, and he deferred to the Planning Director as to whether there are any material changes to the work that has been done. Kris Schenk advised that there were no substantive changes. Supervisor Aborn asked what precludes further subdivision of the parcels, and he stated he feels that development fees need to be examined for maintenance of the road system. Kris Schenk advised that no further subdivision could occur pursuant to the agreements to be recorded, and that the development impact fee program would help with road improvements in the future. Megan Tennermann advised of the improvements to Colorado Road that the applicant proposes to do. Staff responded to additional questions from the Board as to whether this project complies with the new General Plan; relative to the unique grading oversight with some of the
parcels because of the watershed issues with Saxon Creek; relative to the setback requirements for improvements with the ponds; relative to the dead end road issue and mitigation with the 20-acre minimum parcel size; relative to access to the parcels; clarification that with this project the zoning is being changed from Mountain Home to Transitional; and relative to the status of implementation of the hillside and ridge top development standards and the modification of condition of approval No. 5 to accommodate this requirement. Chair Bibby reviewed the project processing steps for the recommended actions, if the Board takes action today.

The public portion of the hearing was opened.

Applicant’s presentation:
Dick Seaman, Freeman and Seaman Land Surveyor – agent for the applicant, advised that Russ Marks of his firm and Bret Willis, applicant, were present. He advised that he did not keep up with all of the changes as staff referred to the circle page numbers in the package and his package was not numbered. He advised that the road that the applicant is proposing to construct will dead end at some point less than one-half mile from Colorado Road. He commented on the easement issues and the status of the easements. He referred to condition of approval No. 11 and the twelve percent grade issue and advised that they are proposing to build the road at ten percent grade. If they do have to exceed the ten percent, it will be less than twelve percent and Public Works could ask for that portion to be paved. He referred to condition of approval No. 27 and the discussion at the Planning Commission level concerning other projects being allowed to have setbacks versus easements from ponds for improvements. He noted that if the pond goes away, the easement would still exist; however, a setback would no longer exist in such a situation. He suggested that a drainage easement be required for Saxon Creek and that a setback be required for the two ponds. He referred to condition of approval No. 29 and discussions on previous projects relative to the removal of trees and alternative ideas for protection versus replacement. He requested that option 2 include language to give the applicant the option of another acceptable method, agreeable with the Planning Director and based on the recommendation of a biologist, for replacing oak trees. He advised that they plan to improve the site distance at the intersection of Colorado and Whitlock Roads. They are in favor of the impact fees. He commented on the condition of Colorado Road and future plans by Public Works to improve this road. He stated he does not feel that five-acre minimum is suitable for this area and that a 20-acre minimum parcel size is. He referred to condition of approval No. 32 and asked for clarification of the process in the new General Plan for a proposed connection to a shared well. Supervisor Pickard advised of the Board’s discussion during the General Plan process on this matter. This type of connection needs the pre-approval of the Health Department.

Chair Bibby asked that staff provide input on the comments received relative to the setbacks for the ponds and the preservation of the oak trees and alternatives. Megan Tennermann advised that staff could support changing the conditions to require a setback versus an easement for the ponds. She advised that the Planning Commission has accepted alternative mitigation in the past and staff could support approval of the applicant being able to propose an alternative to replacing oak trees as long as the method is approved by a biologist or botanist.

Dick Seaman responded to questions from the Board relative to the existing easement through the parcel and access to the proposed parcels and whether the easement would remain with this project. Staff responded to a question from the Board relative to the existing easement and advised that it is a non-recorded access to the parcel. Dick Seaman advised that they will provide a legal access with recordation of the map and the width of the easement requirement is 40-feet. He clarified that the easement is being provided and that they are not actually building the road.

10:50 a.m. Recess for staff to prepare a written list of the changes to the conditions of approval for this project.

11:10 a.m. Megan Tennermann reviewed the recommended changes to the conditions of approval for this project:
- Condition No. 5 – change “has required” to “may require” for engineered road improvement plans;
- Condition No. 27 – remove all references to the easements for the ponds, as well as the recorded declaration. Add a new condition for setbacks from the ponds, as well as recordation language; and
- Condition No. 29 – include language in Option 2 to allow the applicant to propose an alternative to replacing the oak trees.

Kris Schenk clarified that these are not significant changes and do not affect the environmental review that was done; and they do not need to go back to the Planning Commission. Chair Bibby asked if the applicant had any comment on the written list of the changes to the conditions, and no comment was received.

Speakers in support of the applicant:
Carol Mason stated her property is part of the proposed subdivision; and she provided input on the access to the property and the road condition. She stated she will be most impacted by the traffic to the proposed parcels as the proposed road will go past her house. She is very much in favor of 20-acre zoning for the area and is willing to put up with the traffic. She noted that this applicant impresses her as a developer and she feels he is compassionate in terms of minimizing the impacts on the environment and the community.

Speakers in opposition to the project:
David Leath stated his wife owns a lot next to proposed parcels 3 and 4. He stated their first notification of this development was on January 29, 2007. He works for a major water municipality in the Bay Area and feels he understands water issues. He understands that the major hindrance to five-acre parcel subdivisions in this area is the access. However, he feels that when there is sufficient money at stake, the area could be further developed. He does not feel that the road is in the greatest of shape and he does not feel that the $5,000 the applicant is offering will do very much for improvements. He expressed concern with the water quantity for the property and the impact on the area. He requested that the Board direct that a well draw-down test be done to determine the impacts on neighboring wells. He asked if there has been any environmental review of species in the Creek. In summary he expressed concern with the water issues and being able to re-subdivide to 5-acre parcels in the future.

Megan Tennemann advised that the Initial Study was prepared by a former planner and there were no significant impacts on the Creek. She believes that studies have done on Saxon Creek as a part of the Saxon Creek water project, but does not have that information.

Mary Foster stated she lives adjacent to parcel 10. She is not against this project, but has issues. She is concerned with the water and how it will affect their well. She agrees with well testing in the area and volunteered her well for a draw-down test. She stated that the “dirt track” mentioned earlier is the road that she uses to get to her property, and it is an easement that is recorded, so it could possibly be used as an exit road for the development. In the twelve years that she has lived there, the two ponds have never gone dry; and she stated the red-bellied salamanders live in the area and she feels that needs to be addressed.

Mary Atkinson stated she is not necessarily against this project, but has questions relating to fire control and water storage for fire prevention. She noted that in the proposed map there is a road that will be greater than 10 to 12 percent grade and she asked what the fire access will be. Megan Tennemann responded that any project that goes through development has to meet CAL FIRE standards and the requirements of the project. Mary Atkinson questioned the proposal to mitigate the site distance issue and commented on access.

General comments:
Gail Spilos stated she is a resident in the area and a real estate broker. She stated she is not against this project and applauds the down-zoning to Mountain Transitional for 20-acre minimum parcels. She stated she hopes that Public Works will mitigate the problem with the left-hand turn and thanked them for patching Colorado Road. She stated the road has been a big concern and she feels we need impact fees implemented. She stated she feels the issue of the possibility of being able to turn the property back into Mountain Home zoning needs to be addressed. Megan Tennemann advised that this whole process would be required again for a zone change.

Nancy Fagerstrom stated she is generally against the project; however, the applicant has been a gentleman with everything he has done. She noted that the building spots on the neighboring lots will look down on her residence and she moved to this area to avoid close neighbors. She advised that she has four well sites on her property and only one is producing water; and she expressed concern with the impacts resulting from future build out potential. She expressed concern with the fire issues and use of the “dirt track” for fire equipment. She is concerned with traffic impacts and she feels there needs to be more studies.

Mary Atkinson stated she does not feel that the questions that have been raised have been addressed; such as environmental concerns. Megan Tennemann noted that the Initial Study was prepared for this subdivision. Mary Atkinson asked whether there is another public input opportunity for this process; and she was advised that this is the hearing to receive public input.

David Leath stated he just wants to make sure that the research is done correctly for the project.
Mary Foster stated she would like to know how the salamanders were addressed in the Initial Study.
Supervisor Bibby asked if any comments were received from Fish and Game. Megan Tennemann stated she did not see anything for this project. She advised that the setback areas from the ponds and streams would protect the salamanders. Mary Foster asked what would happen if the ponds go dry or are made to go dry and what the mitigation would be.

Rebuttal by the applicant:
Dick Seaman stated he does not feel that the process for further subdividing would be practical; and he advised they are trying to make it so that this can not happen and they are trying to do a good thing for the area. He advised that part of the road is a “dirt track” and part is a road. They are trying to help the people in the area by offering the easement. He noted that CAL FIRE controls the water storage for fire protection.
and that this road will help with access. He advised that the applicant is a logger and brushed the property to reduce the fire hazard. He further advised that a biologist and botanist study was done for the brushing project and nothing was found for endangered species. He advised that one pond is dry now, and with the easement a property owner could not breach a pond. He agrees that $5,000 may not be the proper amount of money and that there needs to be impact fees. They are taking an unsafe situation and making it better with the intersection improvements, and he feels that they are taking on a fair share of work.

Staff responded to questions from the Board relative to the protection of the Creek; and concerning Fish and Game’s review. Megan Tennermann reviewed the recommended action, and she advised that the second reading of the Ordinance would be a routine item for the March 6th agenda and not a continued public hearing. Supervisor Pickard commended staff and the Planning Commission for work on this project, and noted that this is the first project following the adoption of the General Plan Update. (M)Pickard, (S)Turpin, Res. 07-60 was adopted adopting a Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA), approving Zoning Amendment No. 2005-252 with the recommended finding, and approving Major Subdivision No. 2005-253 with the recommended findings, conditions, and mitigation measures; including the changes to conditions of approval numbers 5, 27, and 29 as recommended by staff. Ayes: Unanimous. (M)Pickard, (S)Aborn, the first reading was waived and an Ordinance introduced approving amendment to the Mariposa County Zoning Map with the recommended findings, pursuant to Zoning Amendment No. 2005-252. The Clerk of the Board read the title of the Ordinance into the record. Supervisor Aborn stated he feels we need to look at what can be done to provide protection to prevent future changes in zoning for this property. Supervisor Turpin noted that the situation with the condition of the County roads is not the fault of Public Works, and he advised that this is a countywide problem. Ayes: Unanimous. The hearing was closed.

Cc: File
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS

Resolution  
No. 07-60  

WHEREAS an application for GPZA No. 2005-252 and Subdivision No. 2005-253 was received on December 8, 2005 from Bret and Teri Willis for a property located at 5725 Colorado Road, also known as Assessor Parcel Numbers 008-350-065 and 008-240-038; and

WHEREAS the application proposes to change the General Plan land use and zoning designation of 2 parcels consisting of 230.47 acres from the Mountain Home designation (5 acre minimum) to the Mountain Transition designation (20 acre minimum), and a subdivision of the property resulting in 10 parcels. Site address is 5725 Colorado Road, APNs 008-350-065 and 008-240-038; and

WHEREAS California Government Code Section 66426(b) allows a subdivision of five or more parcels to file a parcel map to complete the project, provided that “each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway”; and

WHEREAS this land division proposes ten parcels which are all greater than 20 acres in size and an onsite easement road that provides access to all parcels from Colorado Road, a County-maintained road; and

WHEREAS staff processed this project as a minor land division in accordance with Government Code Section 66426(b); and

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

WHEREAS a duly noticed public hearing was scheduled for the 8th of September, 2006; 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 and Initial Study were prepared pursuant to the California Government Code, Mariposa County Code, 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, Initial Study, testimony presented by the public concerning the application, and the comments of the applicant. The Planning Commission continued the project to the September 22, 2006 meeting to allow staff
to gather additional information concerning possible project related impacts to Colorado Road and Whitlock Road; and

WHEREAS the Planning Commission did conduct the continued public hearing on September 22, 2006 and considered testimony from the Public Works Director regarding impacts to the Colorado Road and Whitlock Road. The Public Works Director presented accident history, sight distance, and maintenance information to the commission. Additionally, the applicants proposed additional improvements to the intersection of Colorado Road and Whitlock Road to lessen any project related impacts; and

WHEREAS the Planning Commission of the County of Mariposa did recommend that the Board of Supervisors adopt a Mitigated Negative Declaration pursuant to CEQA review and approve GPZA No. 2005-252 and Land Division Application No. 2005-253 at the public hearing of September 22, 2006; and

WHEREAS the Planning Commission recommended approval of the General Plan Zoning Amendment based upon the findings set forth in Exhibit 1 and recommended approval of the Land Division Application based upon the findings set forth in Exhibit 1 with the terms, conditions and mitigation measures set forth in Exhibit 2, both Exhibit 1 and Exhibit 2 being attached to Planning Commission Resolution No. 2006-48; and

WHEREAS Planning Commission Resolution No. 2006-48 was passed on September 22, 2006 by unanimous vote of the four Planning Commissioners present at that hearing; and

WHEREAS the Board of Supervisors adopted the Mariposa County General Plan Update on December 18, 2006; and

WHEREAS based on the Land Use Element and Land Use Diagram of the General Plan, the applicants only need to amend the zoning designation on their property, which is included in the Residential land use classification of the General Plan Update; and

WHEREAS staff evaluated this proposal to determine that it was consistent with the General Plan Update; and

WHEREAS staff determined that the proposed Zoning Amendment is consistent with the new County General Plan and land uses in the area, and that the proposed land division with the proposed project description, conditions with amendments, and mitigation measures is consistent with the new County General Plan; and

WHEREAS after the Planning Commission public hearing, staff evaluated the County and State processing requirements for subdivisions; and

WHEREAS staff determined that although Government Code 66426(b) allows this project to be processed as a minor subdivision, Mariposa County Subdivision Code Section 16.16.010.B regulating tentative maps for major subdivisions requires that the County Engineer may only accept a parcel map for a subdivision if a tentative map has previously been processed and approved for the proposed subdivision; and

WHEREAS based on this interpretation of the County Subdivision Code, staff determined that the project should be processed as a major subdivision and standard major subdivision conditions should be added to the recommended conditions of approval; and
WHEREAS Exhibit 2 of this resolution sets forth all of staff's recommended conditions for project approval, including the standard conditions for a major subdivision; and

WHEREAS a duly noticed public hearing was scheduled before the Board of Supervisors for the 20th day of February, 2007, to begin at 10:00 a.m. or as soon thereafter as possible; 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 Initial Study, the Memorandum to the Board, the minutes of the Planning Commission hearings on September 8 and 22, the written comments of concerned citizens, Planning Commission Resolution No. 2006-48, and the testimony of the applicant and members of the public.

NOW THEREFORE BE IT RESOLVED THAT the Board of Supervisors of Mariposa County does hereby approve the amendment to the Mariposa County Zoning Map known as Zoning Amendment No. 2005-252 to change the designation of this property from Mountain Home to Mountain Transition; and

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors does hereby approve Major Subdivision No. 2005-253 to divide the two legal parcels of this property into ten parcels; and

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors does hereby adopt a Mitigated Negative Declaration for the project; and

BE IT FURTHER RESOLVED THAT the action to approve Zoning Amendment No. 2005-252 is based on the findings set forth in Exhibit 1 of this resolution, and that the action to approve Major Subdivision Application No. 2005-253 is based on the findings set forth in Exhibit 1 of this resolution together with the terms, conditions, and mitigation measures set forth in Exhibit 2 of this resolution; and

BE IT THEREFORE FINALLY RESOLVED THAT this resolution shall be effective on the effective date of the ordinance required to amend the Mariposa County Zoning Map.

ON MOTION BY Supervisor Pickard, seconded by Supervisor Turpin, this resolution is passed this 20th day of February, 2007.

AYES: Aborn, Turpin, Bibby, Fritz, and Pickard

NOES: None

EXCUSED: None

ABSTAIN: None

[Signature]

JANET BIBBY, Chair
Mariposa County Board of Supervisors
Attest:

MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:

THOMAS P. GUARINO
County Counsel
EXHIBIT 1
RECOMMENDED PROJECT FINDINGS
FOR
ZA No. 2005-252 and Subdivision No. 2005-253

In keeping with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for Zoning Amendment Application No. 2005-252:

Findings for Approval of Zoning Amendment No. 2005-252

1. FINDING: This 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: "This amendment is in the general public interest". This project will increase the minimum parcel size from 5 acres to 20 acres which will provide additional open space. There will be reduced potential impacts on the Saxon Creek watershed and the environment in general as the parcels will be larger. "This amendment ... will not have a significant adverse affect on the general public, safety, peace, and welfare". The project has adequate access from a proposed easement road to a county maintained road. The project abides by CDF dead end road length limits with the propose zoning designation of Mountain Transition. CDF would not support a future GPZA for any of the parcels in the subdivision to change back to Mountain Home as the increased density on the easement road would put people and property at risk in case of a wild fire emergency. Adequate provisions for water and septic will be provided on the project site to ensure that the area will not be negatively impacted.

2. FINDING: This 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 help preserve the "rural mountain lifestyle" that the General Plan attempts to promote. The Mountain Transition Zoning designation is appropriate for the subject parcels due to limited development potential associated with steep slopes and access difficulties. The project will improve the Mariposa County General Plan because the subject parcels are more suited for the Mountain Transition zone as described in Section 17.24 of the Mariposa County Zoning Code than their current zoning of Mountain Home.

3. FINDING: This amendment conforms to the requirements of State law and County policy.

EVIDENCE: State law governing the adoption of general plans requires that the adopted plan include provisions for amendments. Those provisions are included in the adopted Mariposa County General Plan and in the Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.
4. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** This amendment is consistent with the policies, goals and standards in that it applies an appropriate zoning to the property, thereby allowing development of suitable home sites that would not otherwise be available. By increasing the minimum parcel size the amendment is effectively increasing the amount of open space and decreasing the potential impact on the environment. Implementation of this amendment and subdivision will create parcels which will provide the citizens of Mariposa County with clean, safe, and economical building sites. Mountain transition zoning, rather than Mountain Home zoning, will result in larger parcels which will help preserve, protect, and promote sensible development of the county's natural resources.

5. **FINDING:** 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; also, the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

**EVIDENCE:** The proposed zoning designation is residential, in keeping with the General Plan land use designation and the zoning categories on all the surrounding parcels. The requested Mountain Transition zoning requires a minimum parcel size of twenty acres; this property is physically suited to development at that density. Low-density zoning such as Mountain Transition is logical for this property, as portions of the property are steep and the bulk of the property acreage is located away from Colorado Road. Access, utilities and infrastructure are present for the existing configuration, and will be expanded as a condition of approval for any development proposal, including the land division proposed in conjunction with this zoning amendment.

**Findings for Approval of Major Subdivision Application No. 2005-253**

1. **FINDING:** The site is physically suitable for the type and density of development.

**EVIDENCE:** Based on site inspection and the proposed division of the existing parcel into 10 parcels that are all above 20 acres, the site is physically suited for low-density homes and appurtenant improvements such as septic systems provided that the conditions of approval regarding the septic systems and approved locations are met. The subdivision density is designed in accordance with the Proposed Mountain Transition zone. The site is currently in the Residential General Plan Land Use Classification and will remain in this classification after the zoning is changed.

2. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**EVIDENCE:** The Initial Study prepared for the project found that based on the approved project description and the proposed mitigation measures, it would have a less than significant effect on the environment. According to the Department of Fish and Game's Natural Diversity Data Base and Areas of Special Biological Importance Map for Mariposa County and based on the biological survey prepared for this project, there are no special,
rare, or endangered animal or plant species, or wildlife resources located on the project site or in the surrounding area that would be affected by approval of this project. The land is currently and will continue to be used primarily for residential purposes. The project may have an adverse impact on wildlife resources and potential habitat areas, and is therefore subject to the California Department of Fish and Game filing fees of ($1,800) for a mitigated negative declaration as required by SB 1535 and a County Clerk fee of ($50).

3. FINDING: The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.

EVIDENCE: This land division and its subsequent use for low-density residential purposes are not likely to cause serious health problems. Future residential uses will be required to comply with all Building Code regulations and Health Department standards for the proper installation of wells and sewage disposal systems. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. The Mariposa County General Plan requires that all land divisions provide evidence that water is present on the project site; this evidence may be in one of several forms as specified in Section 5.3.02.E(4) of the Mariposa County General Plan; the evidence must be approved by the Health Department prior to recordation of a final or parcel map for the project.

4. FINDING: The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.

EVIDENCE: The land division is the initial step in the process to help accomplish the General Plan’s Housing Element overall goal to “Provide opportunities for an adequate supply of sound, affordable housing units for ownership and for rent in a safe and satisfying environment for the present and future residents of the County.” The land division satisfies the following Housing Element Objectives, including: “Provide Adequate Sites and Services”. There is no specific plan governing this property.

Based upon input from the Mariposa County Public Works Department, Colorado Road and Whitlock Road in the vicinity of the project site are maintained and have adequate capacity for the potential traffic volume generated by the total number of existing lots and those which are proposed by the project.

5. FINDING: The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

EVIDENCE: The parcels are acceptably designed. There are portions of Parcels 8, 9, and 10 that do not conform to the Planning Commission 4:1 length to width ratio. However, due to the large size of the parcels there is a significant amount of usable area for home sites and other residential uses.

6. FINDING: The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

EVIDENCE: The project will not conflict with any public easement.
EXHIBIT 2
RECOMMENDED CONDITIONS OF APPROVAL
FOR
GPZA No. 2005-252 and Subdivision No. 2005-253

Project Name: Bret and Teri Willis
Project Recommendation Date: September 22, 2006

The Planning Commission recommends that the Board of Supervisors approve the following conditions of approval and mitigation measures for this project in order to ensure compliance with county codes and policies, and to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist indicates that the conditions and mitigation measures have been complied with and implemented, and fulfills the County of Mariposa’s Mitigation Monitoring requirements with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6)

Sign-Off Checklist for Conditions of Approval

Approved Project Description: Zoning Amendment changing the zoning designation of 2 parcels from Mountain Home (5 acre minimum) to Mountain Transition (20 acre minimum). The subject parcels are APN 008-350-066 (150 acres) and APN 008-240-038 (80.47 acres), now known as APN 008-240-064 and 065 but still one legal parcel. Major Subdivision resulting in 10 parcels: Parcel 1 is 20.3 acres, Parcel 2 is 20.5 acres, Parcel 3 is 20.5 acres, Parcel 4 is 20.3 acres, Parcel 5 is 20.3 acres, Parcel 6 is 21 acres, Parcel 7 is 21.1 acres, Parcel 8 is 25 acres, Parcel 9 is 25.2 acres, and Parcel 10 is 35.2 acres.

The applicants additionally propose to:

1: Cut back the bank and remove a tree within the Whitlock Road right-of-way on the west side of the intersection of Colorado Road and Whitlock Road. These improvements will improve sight distance for the intersection.

2: Create a 40 foot non-exclusive easement for the sole benefit of the parcels created by Parcel Map Book 8, Page 35. The easement shall be located on Parcels 8, 9, and 10 from the cul-de-sac, along the driveway easement on Parcels 8 and 9 (described in Condition of Approval No. 3 for this project), through Parcel 10 north along the 10-20 foot dirt road to the northern parcel boundary of Parcel 9.

3: Applicants propose to donate $5,000 to fund improvements and maintenance of Colorado Road. The Public Works department will hold the money in an earmarked fund for Colorado Road.

These proposals will be completed prior to the recordation of the Final Map.
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<tr>
<th>CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT</th>
<th>MONITORING DEPARTMENT</th>
<th>VERIFIED IMPLEMENTED</th>
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<tbody>
<tr>
<td>1. The onsite easement from Colorado Road to the common property corner of Parcels 6, 7, 8, 9, and 10 shall be made 60 foot wide and non-exclusive. A cul-de-sac easement with a radius of 60 feet shall be provided to encompass the required cul-de-sac improvements at the terminus of the easement road. Additional easement width may be required to encompass the required road improvements such as turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy. All cut and fill areas, required for the construction of the proposed access road shall be included within the access and utility easement pursuant to the County Improvement Standards, which may necessitate a variable width easement greater than 60 feet in width. The location, width, and description of the easements shall be approved by the County Engineer. The easements shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state on the final map that the dedications are for &quot;public road and utility purposes.&quot; (Section 16.12.160.B, County Subdivision Ordinance: Road Standard Cross-sections, Road Improvement and Circulation Policy). The Planning Commission recommends that the Board of Supervisors recommend that the Public Works Director accept the offer of dedication for public access and utilities, but reject the offer for public maintenance for the on-site access roads.</td>
<td>Public Works</td>
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<td>2. A dedication of a minimum of thirty (30) feet from the centerline of Colorado Road that is adjacent to the subject property shall be offered to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state on the Final Map that the dedication is for &quot;public road and public utility purposes.&quot; The location and width of the offer of dedication shall be approved by the County Engineer. The offer of dedication shall include all dedication required to encompass the existing slopes. [COUNTY SUBDIVISION ORDINANCE SECTION 16.12.150, ROAD IMPROVEMENT AND CIRCULATION POLICY SECTION II.A.3] The Planning Commission recommends that the Public Works Director accept the offer of dedication for public access, maintenance, and utilities for Colorado Road.</td>
<td>Public Works</td>
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<td>3. The driveway easement along the common boundary of Parcels 8 and 9 from the cul-de-sac across Saxon Creek to the existing dirt track and west along the dirt track to the western boundary of Parcel 10 shall be made a minimum of 40 feet wide and non-exclusive. The easement shall be designated for access for the use and benefit of Parcels 8, 9, 10, and offsite parcels that currently use the dirt track as access. Additional easement width may be required</td>
<td>Public Works</td>
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to encompass the required road improvements, including turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy. All cut and fill areas, required for the construction of the proposed access road shall be included within the access and utility easement pursuant to the County Improvement Standards, which may necessitate a variable width easement greater than 40 feet in width. The location, width, and description of the easements shall be approved by the County Engineer. Provisions for a public utility easement along the access easement shall be made; the public utility easement shall be offered for dedication to the County of Mariposa and shall specifically state on the final map that the dedication is for public utility purposes only. Prior to map recordation, the location and width of the easements shall be approved by the County Engineer (Section 16.12.160.B, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy).

| 4. The driveway easement from the proposed 60 foot wide easement on Parcel 1 to Parcel 2 shall be made variable width and non-exclusive. The easement shall be designated for access for the use and benefit of Parcel 2. Prior to map recordation, the location and width of the easements shall be approved by the County Engineer (Section 16.12.160.B, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy). |
|---|---|
| Public Works |

| 5. The easement from Colorado Road to the easternmost property boundary between Parcels 5 and 6 shall be improved to a Rural Class II SRA ‘B’ standard and the easement from the eastern most boundary between Parcels 5 and 6 to the cul-de-sac shall be improved to a Rural Class I SRA “A” standard. These standards shall be met at the time of final map recordation. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer at the time of recordation of the parcel map. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for all road improvements required as a condition of approval for this project. These plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements. |
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| Public Works |

[County Subdivision Ordinance Section 16.12.170, Road Improvement and Circulation Policy Chart A and Section II.D, Public Works Recommendation]

| 6. The driveway easement along the common property line of parcels 8 and 9 from the cul-de-sac across Saxon Creek to the existing 12 foot track west to the eastern boundary of Parcel 10 shall be improved to a Rural Class I SRA “A” standard and shall meet this standard at the time of parcel map recordation. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement |
|---|---|
| Public Works |
Standards and shall be approved by the County Engineer prior to the recording of the final map. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.

(Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy)

7. Access to parcels 8, 9, and 10 shall be limited to the proposed onsite easement road. A declaration shall be recorded with the final map, referenced on the final map and made appurtenant to Parcels 8, 9, and 10. The declaration shall state the following:

“Approved access for residential development of Parcels 8, 9, and 10 as shown on the Final Map for Willis, filed on <<date>> in Book of Maps at Page ___, Mariposa County Official Records, is from the onsite easement road.”

The County Engineer will confirm that this condition has been complied with prior to map recodarion.

8. A cul-de-sac shall be constructed at the terminus of the on-site easement road at the common parcel corner of Parcels 6, 7, 8, 9, and 10. The cul-de-sac shall be constructed to meet county standards and shall meet this standard at the time of final map recording. The required cul-de-sac improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be inspected and approved by the County Engineer prior to recording of the parcel map. If construction of a cul-de-sac is impractical due to the on-site terrain as determined by the County Engineer with the concurrence of CDF, the applicant may request permission to construct a hammerhead T turnaround. Prior to recording of the final map, the County Surveyor shall confirm that this condition has been met.

[County Subdivision Ordinance Section 16.12.170, Road Improvement and Circulation Policy Chart A and Section II.A.2, County Improvement Standards, Section 11.4(9) & Section 11.4 (10)]

9. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to Colorado Road. In addition, all grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of
approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.

[Road Improvement and Circulation Policy Section II.c.5 & County Improvement Standards Section 11]

10. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permit for the required improvements, a consultation meeting with a representative of the Public Works Department, a representative of CDF, the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted onsite. This consultation meeting shall be set up by the applicant and/or agent. Any and all costs associated with the consultation shall be the responsibility of the applicant. The boundaries of the proposed easement on the westernmost 500 feet of Parcel 1 shall be flagged in the field at intervals of 50 feet. Flagging shall be placed by the project surveyor. This flagging shall be maintained until the road improvements have been completed and approved by Public Works. The County Engineer shall verify that this condition has been met prior to issuance of any road improvement or encroachment permit required for this project and prior to the scheduling of any onsite inspection of road improvements.

[County Improvement Standards, section 3 & section 11.3(c)]

11. All grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer requires that the applicant submit improvement plans for Parcels 6 and 7 prepared by a licensed civil engineer and a drainage plan for the Saxon Creek crossing prepared by a licensed engineer; the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements and prior to the pre-construction meeting with Public Works. If the applicant cannot comply with the improvement standards then a revised tentative map will be required.

County Subdivision Ordinance 16.12.180

12. Immediately upon completion of the required road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Resource Conservation District (RCD). The applicant shall also contact RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter shall be submitted to the
County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed.

[County Improvement Standards, Section 12]

13. All required signs shall be installed on metal, break-away type posts prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation.

[Road Improvement and Circulation Policy Section III.A., County Improvement Standards Section 11.5(D)]

14. Prior to recordation of the final map for this project, a STOP sign shall be placed at the intersection of the on site easement and Colorado Road. The design and placement of this STOP sign shall be approved by the County Engineer prior to installation.

[Road Improvement and Circulation Policy Section III.A., County Improvement Standards Section 11.5(D)]

15. If the onsite easement road is accepted by the County for public access but not for maintenance, a sign stating "THIS ROAD IS NOT COUNTY MAINTAINED" shall be installed at the intersection of the easement road and Colorado Road prior to map recordation. The design and specifications of the sign shall be in accordance with the County Improvement Standards and shall be approved by the County engineer prior to installation.

[Road Improvement and Circulation Policy Section III.A., County Improvement Standards Section 11.5(D)]

16. A road name sign for the on-site easement road shall be placed at the intersection of the easement road and Colorado Road prior to map recordation. The design and specifications of the sign shall be in accordance with the Mariposa County Improvement Standards and shall be approved by the County engineer prior to installation.

[County Subdivision Ordinance Section 16.12.175: County Improvement Standards Section 11.5(D)]

17. A road maintenance association shall be formed to provide for the maintenance of the road in the onsite easement. Maintenance shall include, but not be limited to, drainage and erosion control devices, fuel modification, and upkeep of road surfaces. The Road Maintenance Association provisions shall be developed by the applicant so those parcels served by the easement roads shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to recordation of the final map and shall:

a. Be in effect for the life of the parcels unless said maintenance...
is taken over by the County, a special district, or other governmental entity.

b. Provide for annual maintenance and the immediate correction of emergency and hazard situations.

c. Include 100% of the parcels in the subdivision served by the access road.

d. Provide a mechanism for the road maintenance association to collect delinquent payments or assessments for the maintenance described above by filing a lien on the delinquent properties with the power of sale.

e. Provide a mechanism for new parcels to be added to the association.

Public Works Department Recommendation: Section II.1.3, Road Improvement and Circulation Policy)

18. A final Soils Report shall be submitted to the County Planning Department as required by the Subdivision Ordinance, Title 16 of the Mariposa County Code, and applicable requirements of the Subdivision Map Act. The Soils Report shall be reviewed and approved by the County Engineer prior to final map recordation.

§16.20.220, Mariposa County Subdivision Code; California Government Code §66490

19. A declaration shall be recorded with the final map and referenced on the final map. The declaration shall state the following:

“All residential buildings, including mobile homes placed on foundations shall be constructed in compliance with the special foundation requirements stated in the Soils Investigation Report prepared for the ___ subdivision as shown on the Final Map for Willis, filed on <<date>> in Book of Maps at Page ___, Mariposa County Official Records, and on file with the County Planning Department. A building permit shall not be issued for residences placed on foundations unless the foundations meet the foundation requirements contained in the Soils Investigation prepared for the subdivision. The foundation requirements must be incorporated in the building plan and permit.”

§16.20.220, Mariposa County Subdivision Code; California Government Code §66490

20. Prior to recordation of the final map, evidence that the State Department of Real Estate Public Report process has been commenced

Public Works
shall be submitted to the County Surveyor. Completion of the public report process is not necessary for map recordation, but is necessary prior to lot sale. Alternatively, the applicant shall submit evidence that the State Department of Real Estate has reviewed the project and determined that a public report is not necessary.

Planning Department Recommendation

21. A Verification of Taxes Paid Form, acquired no sooner than 30-days prior to the recordation of the final map, shall be submitted to the County Surveyor.

[County Subdivision Ordinance Section 16.12.395]

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<tr>
<th>CONDITION OF APPROVAL / MARIPOSA PLANNING</th>
<th>MONITORING DEPARTMENT</th>
<th>VERIFIED IMPLEMENTED</th>
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<tr>
<td>22. This project will be completed with the recordation of a Final Map pursuant to Section 66426 of the California Government Code.</td>
<td>Mariposa Planning</td>
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<td>Planning Recommendation</td>
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<td>23. This project has been approved by the Mariposa County Board of Supervisors on February 20, 2007. This approval shall be effective on April 5, 2007 and shall expire on April 5, 2010.</td>
<td>Mariposa Planning</td>
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<td>24. As a precautionary note the following shall be stated on the front of the Final Map and made appurtenant to all parcels.</td>
<td>Mariposa Planning</td>
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<td>&quot;A Zoning Amendment proposing to change any parcel as shown on the Final Map for Willis, filed on &lt;&lt;date&gt;&gt; in Book of Maps at Page ____., Mariposa County Official Records, to the Mountain Home Zoning Designation would violate CDF dead end road length limits if a through road is not provided.&quot;</td>
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<td>Finding 1</td>
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<td>25. The Property Owner shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall</td>
<td>Mariposa Planning</td>
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indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner’s project is subject to that other governmental entity’s approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.

[County Ordinance No. 1017]

26. The onsite easement road shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and be approved by the Board of Supervisors. The name of the road shall be shown on the Final Map.

[County Resolution No. 92-541]

27. A drainage easement shall be established and shown on the Final Map for Saxon Creek. The width of the easement for Saxon Creek shall be 50 feet from the centerline on each side of the creek to protect native plants and amphibians and allow deer movement. A statement shall be recorded in Official Records concurrently with the final map and referenced on the final map as follows and made appurtenant to Parcels 6, 7, 8, 9, and 10.

“No structure shall be constructed within the open space easement as shown on the Final Map for Willis, filed in Mariposa County Official Records Book of Maps at Page ___ on <<date>>. No portions of a sewage disposal system shall be constructed within the open space easement. No grading shall be allowed within the easement, except that which is necessary for access to building sites. A well or wells, water pipes, underground and above ground power lines, fencing, and other similar structures or improvements may also be constructed within the open space easement subject to approval by the Planning Director. No vegetation may be removed from the easement except as determined necessary for fire protection or other safety purposes as determined by the appropriate emergency services agency and the Planning Director. This easement shall be in perpetuity and shall restrict the use of the land within the easement.”

Mariposa Planning
Mitigation Measure

28. A building setback shall be established fifty (50) feet from the high water mark of the two ponds located on Parcel 10 to protect native plants and amphibians and allow deer movement. No structures, including but not limited to buildings, sheds, any portion of a septic system, or wells, shall be constructed within this setback. This setback shall be shown on the Final Map. A statement shall be recorded concurrent with the Final Map, referenced on the Final Map, and made appurtenant to Parcel 10 as follows:

“A building setback has been established fifty (50) feet from the high water line of the pond and seasonal pond on Parcel 10 of the Final Map for Willis filed on <<date>> in Book of Maps at Page ____, Mariposa County Official Records. No structures, including but not limited to buildings, sheds, any portion of a septic system, or wells, shall be constructed within this setback.”

Mitigation Measure

29. Prior to the recordation of the Final Map the applicants shall hire a Historic Resources Consultant that meets the minimum qualifications set forth by the Central California Information Center (CCIC) to conduct a cultural resource survey of the subject property. The applicant shall present the results of the survey to the Planning Director to demonstrate that this condition has been met. If the survey discovers cultural resources then an open space easement shall be designated on the parcel map for the identified resource site and a declaration shall be recorded and referenced on the parcel map. The easement shall be clearly shown on the final map and shall be established a minimum of five (5) feet from all portions of the site, although additional easement width may be required by the Planning Director. The easement, including its location and width, shall be approved by the Planning Director. A declaration shall be recorded prior to or concurrent with the recordation of the final map which states:

“Grading, driveways, roads, and structures shall be prohibited within the open space easement as shown on the Final Map for Willis, filed on <<date>> in Book of Maps at Page ____, Mariposa County Official Records. Cultural resources shall not be altered, disturbed, removed, or destroyed. If archeological materials are uncovered during future ground disturbance or construction, Mariposa County authorities and/or a qualified archeologist should be notified immediately.”

Mitigation Measure

30. The applicant has the option to:
1. Construct the road as to not remove oak trees with a diameter of 5” or greater at breast height.

OR

2. Provide the Planning Department with an oak tree preservation plan developed in accordance with all requirements established by the Planning Department. The plan shall indicate all oak trees with a diameter of 5” or greater at breast height to be removed as a result of road construction and a plan for replacing the removed oak trees and maintaining the replacement trees. The applicant may provide an alternative to tree replacement in this plan.

The applicant shall provide evidence to the Public Works Department that this condition has been met, prior to scheduling the onsite preconstruction meeting with the Public Works Department, the applicant, and the road contractor.

Planning Department Requirement

31. Prior to recordation of the Final Map, all fees associated with the County’s processing of the map and filing of associated documents shall be paid. The Department of Fish and Game filing fee ($1,800) and County Clerk fee ($50) shall be paid within five (5) working days of the approval of the application, because if the fee is not paid within 5 working days, the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code.).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of $1,850.00, and that it be in the form of a cashier’s check or money order payable to “Mariposa County.” The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning who will file this fee and other required documents with the County Clerk.

§16.12.390, Mariposa County Subdivision Code: 711.4(c) of the State Fish and Game code

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<th>CONDITION OF APPROVAL/ HEALTH DEPARTMENT</th>
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<td>32. Percolation tests and soils analysis tests shall be performed on all parcels except Parcels 2 and 10 in accordance with Health Department rules and regulations. The results of these tests shall be submitted to the Mariposa County Health Department and be approved by the County R.E.H.S. prior to recordation of the parcel map. A letter from the County R.E.H.S. shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcels. A statement shall be recorded in Official Records concurrently with the final map</td>
<td>Health Department</td>
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and referenced on the final map as follows:

"Approved percolation tests and soils analysis tests have been performed on Parcels ______________ as shown on the Final Map for Willis, recorded in Mariposa County Official Records Book of Maps at Page ___ on <<date>>, to verify the feasibility of installing an on-site septic disposal system. A map identifying the location of the approved percolation tests is on file in the County Health Department. If an on-site septic system is proposed for a portion of a parcel that has not had an approved percolation test, additional percolation tests and design recommendations may be required."

(Section 16.12.330, County Subdivision Ordinance; Health Department Recommendation)

33. New subdivision lots will be served by an approved potable water supply. Prior to recordation of a final map for this project, the applicant will prove to the satisfaction of the Health Department that each new parcel has a supply of potable water meeting requirements for quantity and quality. Proof is as follows:

a. an approved connection from an approved public water provider; or

b. a proposed connection to a shared well which has been preapproved by the Health Department; or

c. a well, for which appropriate permits and inspections have been approved by the Health Department, has been drilled on the subject property and developed with appropriate casings, and for which improvements may or may not include permanently installed pump equipment; or

d. a demonstration that there can be a source of water capable of producing a sustained potable water supply with storage of at least 1,000 gallons per twelve (12) hour day per dwelling unit, which will be contained within any combination of (a) a potable water storage tank, (b) a static water supply in the well; or

e. other satisfactory proof which may consist of a hydrogeological study of the area by a qualified professional and wells drilled prior to sale.

Additionally, if the property is to be served in the future by a well, there will be a requirement to record a disclosure statement concurrently with and referenced on the final map stating the following:

"Water supplies for residential lands are derived from private wells on these parcels. Mariposa County groundwater supplies are found in fractures in the bedrock. The costs associated with drilling and
developing a private well is highly variable because it is unknown how much or if any additional water can be found on these parcels. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map.”

General Plan Requirement, Section 5.3.02.E(4)

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<td>CALIFORNIA DEPARTMENT OF FOREST AND FIRE PROTECTION</td>
<td>California Department of Forestry and Fire Protection</td>
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34. Prior to Final Map recordation, the applicant shall have complied with all applicable SRA Fire Safe Regulations. A document shall be recorded and referenced on the Final Map that states:

“Future residential development on all the parcels as shown on the Final Map for Willis, recorded in Mariposa County Official Records Book of Maps at Page ___ on <<date>> shall be required to conform with all applicable SRA Fire Safe Regulations (Public Resource Code 4290 and 4291). Furthermore, the development of the parcels is subject to all applicable SRA Fire Safe Regulations and the risk of fire hazards shall be reduced through compliance with Public Resource Code 4291.”

Evidence that this condition has been satisfied shall be in the form of a letter from the California Department of Forestry (CDF) to the County Surveyor.

California Fire Safe Guide
TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING - Adopt a Resolution Adopting a Mitigated Negative Declaration and Approving Zoning Amendment Application No. 2005-252 together with Major Subdivision Application No. 2005-253; Waive the First Reading and Introduce an Ordinance Approving Amendment to Mariposa County Zoning Map Pursuant to Zoning Amendment Application No. 2005-253; Bret and Teri Willis, Applicants (Project Site is Located at 5725 Colorado Road in Midpines, APN 008-350-066 and APN 008-240-065)

RESOLUTION 07-60

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on February 20, 2007

ACTION AND VOTE:

10:00 a.m. Kris Schenk, Planning Director

PUBLIC HEARING - Adopt a Resolution Adopting a Mitigated Negative Declaration and Approving Zoning Amendment Application No. 2005-252 together with Major Subdivision Application No. 2005-253; Waive the First Reading and Introduce an Ordinance Approving Amendment to Mariposa County Zoning Map Pursuant to Zoning Amendment Application No. 2005-253; Bret and Teri Willis, Applicants (Project Site is Located at 5725 Colorado Road in Midpines, APN 008-350-066 and APN 008-240-065)

BOARDS ACTION: Megan Tennermann, Associate Planner, presented the staff report. She advised of the following corrections to the written staff report: 1) the easterly parcel currently has a separate "prescriptive" easement versus a "private" easement; 2) "only the southerly" property is included in the Open Watershed Overlay versus the "entire" property; 3) Condition of approval No. 5 has been modified; the Public Works Department requested that the applicant provide preliminary engineered plans "for a short portion of the road" prior to the commencement of any road improvements required for this project. Megan Tennermann responded to questions from the Board relative to the corrections and whether they affect the formal resolution and the exhibits; and she advised of wording changes to condition of approval No. 5 for the recordation language. Supervisor Bibby asked whether the changes were acceptable to County Counsel. Thomas P. Guarino, County Counsel, responded that he was seeing the changes for the first time with the Board, and he deferred to the Planning Director as to whether there are any material changes to the work that has been done. Kris Schenk advised that there were no substantive changes. Supervisor Aborn asked what precludes further subdivision of the parcels, and he stated he feels that development fees need to be examined for maintenance of the road system. Kris Schenk advised that no further subdivision could occur pursuant to the agreements to be recorded, and that the development impact fee program would help with road improvements in the future. Megan Tennermann advised of the improvements to Colorado Road that the applicant proposes to do. Staff responded to additional questions from the Board as to whether this project complies with the new General Plan; relative to the unique grading oversight with some of the
parcels because of the watershed issues with Saxon Creek; relative to the setback requirements for improvements with the ponds; relative to the dead end road issue and mitigation with the 20-acre minimum parcel size; relative to access to the parcels; clarification that with this project the zoning is being changed from Mountain Home to Transitional; and relative to the status of implementation of the hillside and ridge top development standards and the modification of condition of approval No. 5 to accommodate this requirement. Chair Bibby reviewed the project processing steps for the recommended actions, if the Board takes action today.

The public portion of the hearing was opened.

Applicant’s presentation:

Dick Seaman, Freeman and Seaman Land Surveyor – agent for the applicant, advised that Russ Marks of his firm and Bret Willis, applicant, were present. He advised that he did not keep up with all of the changes as staff referred to the circle page numbers in the package and his package was not numbered. He advised that the road that the applicant is proposing to construct will dead end at some point less than one-half mile from Colorado Road. He commented on the easement issues and the status of the easements. He referred to condition of approval No. 11 and the twelve percent grade issue and advised that they are proposing to build the road at ten percent grade. If they do have to exceed the ten percent, it will be less than twelve percent and Public Works could ask for that portion to be paved. He referred to condition of approval No. 27 and the discussion at the Planning Commission level concerning other projects being allowed to have setbacks versus easements from ponds for improvements. He noted that if the pond goes away, the easement would still exist; however, a setback would no longer exist in such a situation. He suggested that a drainage easement be required for Saxon Creek and that a setback be required for the two ponds. He referred to condition of approval No. 29 and discussions on previous projects relative to the removal of trees and alternative ideas for protection versus replacement. He requested that option 2 include language to give the applicant the option of an alternative method, agreeable with the Planning Director and based on the recommendation of a biologist, for replacing oak trees. He advised that they plan to improve the site distance at the intersection of Colorado and Whitlock Roads. They are in favor of the impact fees. He commented on the condition of Colorado Road and future plans by Public Works to improve this road. He stated he does not feel that five-acre minimum is suitable for this area and that a 20-acre minimum parcel size is. He referred to condition of approval No. 32 and asked for clarification of the process in the new General Plan for a proposed connection to a shared well. Supervisor Pickard advised of the Board’s discussion during the General Plan process on this matter. This type of connection needs the pre-approval of the Health Department.

Chair Bibby asked that staff provide input on the comments received relative to the setbacks for the ponds and the preservation of the oak trees and alternatives. Megan Tennermann advised that staff could support changing the conditions to require a setback versus an easement for the ponds. She advised that the Planning Commission has accepted alternative mitigation in the past and staff could support approval of the applicant being able to propose an alternative to replacing oak trees as long as the method is approved by a biologist or botanist.

Dick Seaman responded to questions from the Board relative to the existing easement through the parcel and access to the proposed parcels and whether the easement would remain with this project. Staff responded to a question from the Board relative to the existing easement and advised that it is a non-recorded access to the parcel. Dick Seaman advised that they will provide a legal access with recordation of the map and the width of the easement requirement is 40-feet. He clarified that the easement is being provided and that they are not actually building the road.

10:50 a.m. Recess for staff to prepare a written list of the changes to the conditions of approval for this project.

11:10 a.m. Megan Tennermann reviewed the recommended changes to the conditions of approval for this project:

- Condition No. 5 – change “has required” to “may require” for engineered road improvement plans;
- Condition No. 27 – remove all references to the easements for the ponds, as well as the recorded declaration. Add a new condition for setbacks from the ponds, as well as recordation language; and
- Condition No. 29 – include language in Option 2 to allow the applicant to propose an alternative to replacing the oak trees.

Kris Schenk clarified that these are not significant changes and do not affect the environmental review that was done; and they do not need to go back to the Planning Commission. Chair Bibby asked if the applicant had any comment on the written list of the changes to the conditions, and no comment was received.

Speakers in support of the applicant:
Carol Mason stated her property is part of the proposed subdivision; and she provided input on the access to the property and the road condition. She stated she will be most impacted by the traffic to the proposed parcels as the proposed road will go past her house. She is very much in favor of 20-acre zoning for the area and is willing to put up with the traffic. She noted that this applicant impresses her as a developer and she feels he is compassionate in terms of minimizing the impacts on the environment and the community.

Speakers in opposition to the project:

David Leath stated his wife owns a lot next to proposed parcels 3 and 4. He stated their first notification of this development was on January 29, 2007. He works for a major water municipality in the Bay Area and feels he understands water issues. He understands that the major hindrance to five-acre parcel subdivisions in this area is the access. However, he feels that when there is sufficient money at stake, the area could be further developed. He does not feel that the road is in the greatest of shape and he does not feel that the $5,000 the applicant is offering will do very much for improvements. He expressed concern with the water quantity for the property and the impact on the area. He requested that the Board direct that a well draw-down test be done to determine the impacts on neighboring wells. He asked if there has been any environmental review of species in the Creek. In summary he expressed concern with the water issues and being able to re-subdivide to 5-acre parcels in the future.

Megan Tennenmann advised that the Initial Study was prepared by a former planner and there were no significant impacts on the Creek. She believes that studies have done on Saxon Creek as a part of the Saxon Creek water project, but does not have that information.

Mary Foster stated she lives adjacent to parcel 10. She is not against this project, but has issues. She is concerned with the water and how it will affect their well. She agrees with well testing in the area and volunteered her well for a draw-down test. She stated that the “dirt track” mentioned earlier is the road that she uses to get to her property, and it is an easement that is recorded, so it could possibly be used as an exit road for the development. In the twelve years that she has lived there, the two ponds have never gone dry; and she stated the red-bellied salamanders live in the area and she feels that needs to be addressed.

Mary Atkinson stated she is not necessarily against this project, but has questions relating to fire control and water storage for fire prevention. She noted that in the proposed map there is a road that will be greater than 10 to 12 percent grade and she asked what the fire access will be. Megan Tennenmann responded that any project that goes through development has to meet CAL FIRE standards and the requirements of the project. Mary Atkinson questioned the proposal to mitigate the site distance issue and commented on access.

General comments:

Gail Spilos stated she is a resident in the area and a real estate broker. She stated she is not against this project and applauds the down-zoning to Mountain Transitional for 20-acre minimum parcels. She stated she hopes that Public Works will mitigate the problem with the left-hand turn and thanked them for patching Colorado Road. She stated the road has been a big concern and she feels we need impact fees implemented. She stated she feels the issue of the possibility of being able to turn the property back into Mountain Home zoning needs to be addressed. Megan Tennenmann advised that this whole process would be required again for a zone change.

Nancy Fagerstrom stated she is generally against the project; however, the applicant has been a gentleman with everything he has done. She noted that the building spots on the neighboring lots will look down on her residence and she moved to this area to avoid close neighbors. She advised that she has four well sites on her property and only one is producing water; and she expressed concern with the impacts resulting from future build out potential. She expressed concern with the fire issues and use of the “dirt track” for fire equipment. She is concerned with traffic impacts and she feels there needs to be more studies.

Mary Atkinson stated she does not feel that the questions that have been raised have been addressed; such as environmental concerns. Megan Tennenmann noted that the Initial Study was prepared for this subdivision. Mary Atkinson asked whether there is another public input opportunity for this process; and she was advised that this is the hearing to receive public input.

David Leath stated he just wants to make sure that the research is done correctly for the project.

Mary Foster stated she would like to know how the salamanders were addressed in the Initial Study. Supervisor Bibby asked if any comments were received from Fish and Game. Megan Tennenmann stated she did not see anything for this project. She advised that the setback areas from the ponds and streams would protect the salamanders. Mary Foster asked what would happen if the ponds go dry or are made to go dry and what the mitigation would be.

Rebuttal by the applicant:

Dick Seaman stated he does not feel that the process for further subdividing would be practical; and he advised they are trying to make it so that this can not happen and they are trying to do a good thing for the area. He advised that part of the road is a “dirt track” and part is a road. They are trying to help the people in the area by offering the easement. He noted that CAL FIRE controls the water storage for fire protection.
and that this road will help with access. He advised that the applicant is a logger and brushed the property to reduce the fire hazard. He further advised that a biologist and botanist study was done for the brushing project and nothing was found for endangered species. He advised that one pond is dry now, and with the easement a property owner could not breach a pond. He agrees that $5,000 may not be the proper amount of money and that there needs to be impact fees. They are taking an unsafe situation and making it better with the intersection improvements, and he feels that they are taking on a fair share of work.

Staff responded to questions from the Board relative to the protection of the Creek; and concerning Fish and Game’s review. Megan Tennermann reviewed the recommended action, and she advised that the second reading of the Ordinance would be a routine item for the March 6th agenda and not a continued public hearing. Supervisor Pickard commended staff and the Planning Commission for work on this project, and noted that this is the first project following the adoption of the General Plan Update. (M)Pickard, (S)Turpin, Res. 07-60 was adopted adopting a Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA), approving Zoning Amendment No. 2005-252 with the recommended finding, and approving Major Subdivision No. 2005-253 with the recommended findings, conditions, and mitigation measures; including the changes to conditions of approval numbers 5, 27, and 29 as recommended by staff. Ayes: Unanimous. (M)Pickard, (S)Aborn, the first reading was waived and an Ordinance introduced approving amendment to the Mariposa County Zoning Map with the recommended findings, pursuant to Zoning Amendment No. 2005-252. The Clerk of the Board read the title of the Ordinance into the record. Supervisor Aborn stated he feels we need to look at what can be done to provide protection to prevent future changes in zoning for this property. Supervisor Turpin noted that the situation with the condition of the County roads is not the fault of Public Works, and he advised that this is a countywide problem. Ayes: Unanimous. The hearing was closed.

Cc: File