DEPARTMENT: Planning

BY: Kris Schenk
PHONE: 742-1216

RECOMMENDED ACTION AND JUSTIFICATION: Approval of the proposed amendment to Sections 3.26.B.8 and 3.27.A.10 of the Mariposa Town Planning Area Town Plan (formerly referred to as the Specific Plan); and approval of the proposed amendment to Sections 17.336.060.B.8 and 17.337.070.A.10 of Title 17, Zoning Ordinance. Following a public hearing, review of the staff report and the initial study, testimony by the public concerning the application, and comments from the applicant, the Planning Commission has recommended approval of the amendment to the Town Plan and Zoning with amendments.

BACKGROUND AND CONTEXT OF BOARD ACTIONS: In June of 1990, the Board of Supervisors established the “Design Review Overlay Zone” in the Mariposa Town Planning Area Specific Plan (now referred to as a Town Plan under the recent General Plan Update), and amended Title 17 to include this overlay zone. In January of 1992, the Board of Supervisors adopted Ordinance 822 that established the “Mariposa Town Planning Area Zoning Regulations and Districts”. Included in this ordinance was Section 3.26.B.8 of the Town Plan, and Section 17.336.B.8 of Title 17, Zoning Ordinance, that specifically states “8. Drive-thru facilities shall be prohibited”. The applicant is proposing to amend the text of these sections to prohibit drive-thrus unless certain conditions are met. The applicant is also proposing to amend Section 3.27.A.10 of the Town Plan, and Section 17.337.A.10 to prohibit drive-thrus in the Historic District Overlay.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: The Board of Supervisors can amend the text as proposed by the Planning Commission, add additional text to the amendment, or refer the matter back to the Planning Department or the Planning Commission for further review and recommendations. If the Board denies the amendment, the current prohibition on drive-thrus will remain in effect for the Mariposa Town Planning Area Town Plan and zoning.

Financial Impact? ( ) Yes (X) No
Budgeted In Current FY? ( ) Yes (X) No ( ) Partially Funded
Amount in Budget: $ ___________________________
Additional Funding Needed: $ ___________________________
Source: ___________________________

Internal Transfer ___________________________
Unanticipated Revenue ___________________________
Transfer Between Funds ___________________________
Contingency ___________________________
( ) General ( ) Other ___________________________

List Attachments, number pages consecutively
Exhibit A – Staff Report to Planning Commission
Exhibit B – Planning Commission Resolution 2007-04
Exhibit C – Planning Commission Meeting Minutes
Exhibit D – Revised Initial Study
Exhibit E – Public Comments received
Exhibit F – Draft Resolution
Exhibit G – Draft Ordinance

CLERK’S USE ONLY:
Res. No. 2007-05
Vote – Ayes: 5 Noes: _____
Absent: _____
( ) Approved
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: ___________________________
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: Deputy

COUNTY ADMINISTRATIVE OFFICER:
( ) Requested Action Recommended
( ) No Opinion
Comments: ___________________________
CAO: ___________________________

Revised Dec. 2002
MINUTE ORDER

TO: KRIS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: A) PUBLIC HEARING to Consider Specific Plan/Zoning Amendment 2006-295; Adopt a Resolution Approving the Project; Adopting a Negative Declaration; Waive the First Reading and Introduce an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Mariposa Town Planning Area Town Plan and Zoning Ordinance Regarding Drive-Thru’s and Affects all General Commercial Zoned Properties in the Mariposa Town Planning Area; Halferty Development Co. LLC, Project Proponent

RESOLUTION 07-100

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on March 20, 2007

ACTION AND VOTE:

Kris Schenk, Planning Director;

A) PUBLIC HEARING to Consider Specific Plan/Zoning Amendment 2006-295; Adopt a Resolution Approving the Project; Adopting a Negative Declaration; Waive the First Reading and Introduce an Ordinance Amending Zoning Ordinance Text. The Project Proposes to Amend the Mariposa Town Planning Area Town Plan and Zoning Ordinance Regarding Drive-Thru’s and Affects all General Commercial Zoned Properties in the Mariposa Town Planning Area; Halferty Development Co. LLC, Project Proponent

BOARD ACTION: Larry Enrico, Senior Planner, presented the staff report. Staff responded to questions from the Board relative to the effective date of the Ordinance; and as to why the traffic study and air pollution study were omitted from the Planning Commission’s recommendation to the Board.

The public portion of the hearing was opened and input was provided by the following:

Jim Halferty, Halferty Development Company – a developer for Rite Aid, noted that he is not here to discuss Rite Aid. He is here for the amendment to the Town Plan to allow drive-thru’s and to answer any questions. He thanked staff for their hard work and for their presentation on this matter, and the community for working with them. He responded to questions from the Board as to whether there are any designs for Rite Aid in California that do not have drive-thru’s and whether they have run across other areas with “no drive-thru” policies. He advised that the drive-thru is mandatory by their corporate office and they have worked with other “no drive-thru” policies to resolve the issue.

There was no other input. The public portion was closed and the Board commenced with deliberations. Larry Enrico reviewed the recommended actions.
(M)Fritz, (S)Pickard, Res. 07-100 was adopted adopting a Negative Declaration, with the recommended findings, and approving the amendments to the Mariposa Town Plan and the Mariposa County Zoning Ordinance, Title 17/Ayes: Unanimous.

(M)Fritz, (S)Aborn, the first reading was waived and an Ordinance introduced approving the amendment to the Mariposa County Zoning Ordinance, Title 17, pursuant to Specific Plan/Zoning Amendment 2006-295 regarding drive-thru’s. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Unanimous. The hearing was closed.

Cc: Thomas P. Guarino, County Counsel
File
MARIPOSA COUNTY RESOLUTION NO. 2007-100

A RESOLUTION APPROVING TOWN PLAN/ZONING AMENDMENT
APPLICATION NO. 2006-295

WHEREAS an application proposing the amendment of the Mariposa Town Planning Area Town Plan (Specific Plan) and zoning text was received on September 27, 2006; 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 before the Planning Commission for the 2nd day of February, 2007; 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 Initial Study and Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission adopted Resolution No. 2006-07, recommending that the Board of Supervisors approve a Mitigated Negative Declaration, and further recommending Board of Supervisors approval of the project with findings; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 20th day of March, 2007; and

WHEREAS a Staff Report packet for the Board of Supervisors was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report packet, testimony presented by the public and the applicant concerning the application, and comments and recommendations from the Planning Commission.
NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a resolution adopting a Negative Declaration and directing staff to file a Notice of Determination for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Town Plan/Zoning Amendment No. 2006-295.

BE IT FURTHER RESOLVED THAT the approved amendments to the text of the Mariposa Town Planning Area Town Plan and Zoning Ordinance are described in Exhibit A and Exhibit B.

BE IT FURTHER RESOLVED THAT the project approval action is based on the following findings supported by substantial evidence in the public record:

Finding No. 1: The amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare. (Section 17.128.050, Zoning Ordinance)

The amendment is in the general public interest because it provides individuals with disabilities, senior citizens, and those otherwise in need of a pharmacy dispensing prescribed pharmaceuticals with alternate access and greater convenience. The proposed amendment and any required mitigation measures would provide for the adequate review of such proposals on the project level basis so that they do not impact local traffic or congestion of local streets, and that any air pollution issues are addressed at the project level. With appropriate mitigation measures on specific projects, this amendment will not have a significant adverse affect on the general public health, safety, peace and welfare.

Finding No. 2: The amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)

The proposed amendment will amend the Mariposa Town Planning Area Specific Plan. This Specific Plan is an “area plan” identified in the Mariposa County General Plan, and adopted specific plans are recognized as documents defining land use and policies for planning areas. When adopted, area plans are separate documents, and address specific issues and opportunities for its planning area. The proposed amendment will continue to provide a long term guide for the development and for the short term day-to-day decisions making in the Mariposa Town Planning Area.

Finding No. 3: The amendment conforms to the requirements of state law and county policy. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)
State law and the Mariposa County General Plan allow for the amendment to area plans as provided by the adopted Town Plan for the Mariposa Town Planning Area. This amendment has been processed in accordance with the requirements of the Mariposa County General Plan and the Mariposa County Zoning Ordinance. This amendment has also been processed in accordance with adopted environmental review policies and laws. The public hearing has been noticed in accordance with the requirements of Section 17.132 of Title 17, Mariposa County Zoning Code.

Finding No. 4: The amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan. (Section 17.128.050, Zoning Ordinance and Section 2.504, General Plan.)

This amendment is consistent with the guiding policies, goals, policies and standards of the Mariposa County General Plan. Section 5.3.01 of the General Plan creates the land use classification “planning area.” Planning areas identify “towns” and are implemented by area plans adopted by the Board of Supervisors. “Area Plans” are mini-General Plans adopted to meet the needs of each town, community or uniquely identified special area of the County. The General Plan notes that the town of Mariposa has an adopted “town planning area specific plan” that will remain in effect and are incorporated into the General Plan. Further, the General Plan states that modifications or updates may be necessary to address new policies.

Finding No. 5: The subject parcels are 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 designated and the anticipated land use development. (Section 17.128.050, Zoning Ordinance.)

This finding is not applicable to Zoning Amendment No. 2006-295.

Finding No. 6: The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Section 17.128.050, Zoning Ordinance.)

This finding is not applicable to Zoning Amendment No. 2006-295

BE IT FINALLY RESOLVED THAT the effective date of this resolution shall be the effective date of the ordinance adopted in conjunction with this action.

ON MOTION BY Supervisor Fritz, seconded by Supervisor Pickard; this resolution is duly passed and adopted this 20th day of March, 2007 by the following vote:
AYES: ABORN, TURPIN, BIBBY, FRITZ, PICKARD
NOES: NONE
EXCUSED: NONE
ABSTAIN: NONE

ATTEST:

Janet Bibby, Chair
Mariposa County Board of Supervisors

Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Thomas P. Guarino
County Counsel
EXHIBIT A
Proposed Amendment to Title 17, Zoning

Chapter 17.336.060.B.8

"8. Drive-thru facilities shall be prohibited unless all of the following conditions are met:

a. The drive-thru facility is not a part of a commercial use that takes direct access from either State Highway 140 or 49;

b. The drive-thru facility shall be solely limited to providing prescription pharmaceutical products."

Chapter 17.336.070.A.10

"10. Drive-thru facilities shall be prohibited."
EXHIBIT B
Proposed Amendment to the Mariposa Town Planning Area Town Plan

Section 3.26.B.8

“8. Drive-thru facilities shall be prohibited unless all of the following conditions are met:

a. The drive-thru facility is not a part of a commercial use that takes direct access from either State Highway 140 or 49;

b. The drive-thru facility shall be solely limited to providing prescription pharmaceutical products.”

Section 3.27.A.10

“10. Drive-thru facilities shall be prohibited.”