

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No 2011-14

A resolution recommending an environmental determination and an amendment to Title 16, Subdivisions, to add provisions for a Certificate of Correction process pursuant to Sections 66469 through 66472.1 of the California Subdivision Map Act allowing for the corrections and amendment of maps

WHEREAS, the Mariposa County Planning Commission initiated Code Amendment Application No. 2011-022 based upon the recommendation of the Planning Department staff; and

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

WHEREAS, Title 16 establishes procedures for processing the subdivision of property in the County of Mariposa; and

WHEREAS, Title 16 incorporates most of the general provisions, requirements, procedures, and specifics related to final and parcel maps, development rights, improvement security, reversions and exclusions, and enforcement and judicial review of the California Subdivision Map Act; and

WHEREAS, the current version of Title 16 does not have a "Certificate of Correction" process whereby affording an applicant a way to make minor amendments to final or parcel maps under certain defined circumstances; and

WHEREAS, a Certificate of Correction is defined by Sections 66469 through 66472.1 of the Government Code, the Subdivision Map Act; and

WHEREAS, the adopted Mariposa County General Plan Implementation Measure 5-1a(2) states that "land development regulations should respect the diversity of rural lifestyles allowing the right to use one's property;" and

WHEREAS, the Planning Commission of the County of Mariposa initiated an amendment to Title 16 to add Section 16.37 of Mariposa County Code on the 10th day of September 2010 with Resolution No. 2010-17; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 5th day of August 2011; and

WHEREAS, the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report and testimony presented by the public concerning the application.

NOW BE IT THEREFORE RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Code Amendment No. 2011-022.

BE IT THEREFORE FURTHER RESOLVED THAT the proposed amendment to Title 16 adding Chapter 16.37 of Mariposa County Code carries out Implementation Measure 5-1a(2) which states that "land development regulations should respect the diversity of rural lifestyles allowing the right to use one's property" as required by the Mariposa County General Plan.

BE IT THEREFORE FURTHER RESOLVED THAT the addition of Section 16.37 of the Mariposa County Code will read as follows (new text shown in *italicized underlined type* and deleted text shown in ~~strike-thru type~~):

CHAPTER 16.37

CORRECTION AND AMENDMENT OF MAPS

Sections:

16.37.010 Requirements.

16.37.020 Form and contents.

16.37.030 Submittal to and approval by the County Surveyor.

16.37.040 Filing with the County Recorder.

16.37.050 Fees.

16.37.010 Requirements.

After a final or parcel map is filed in the office of the County Recorder, it may be amended by a certificate of correction or an amending map for any of the following reasons:

- A. To correct an error in any course or distance shown thereon.
- B. To show any course or distance that was omitted there from.
- C. To correct an error in the description of the real property shown on the map.
- D. To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments.

E. To show the proper location of any monument which has been changed in location or character, or which was originally shown at the wrong location or incorrectly characterized.

F. To correct any other error or omission as approved by the County Surveyor, which does not affect any property right, as specified in Section 66469 of the Subdivision Map Act.

16.37.020 Form and contents.

The amending map or certificate of correction shall be prepared by a registered civil engineer or licensed land surveyor. The form and contents of the amending map shall conform to the requirements of Section 16.20.010 if a final map, or Section 16.12.090 if a parcel map. The certificate of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

16.37.030 Submittal to and approval by the County Surveyor.

The amending map or certificate of correction, complete as to final form, shall be submitted to the County Surveyor for his or her review and approval.

The County Surveyor shall examine the amending map or certificate of correction and if the only changes made are those set forth in Section 16.37.010 above, he or she shall certify to this fact on the amending map or certificate of correction.

16.37.040 Filing with the County Recorder.

The amending map or certificate of correction certified by the County Surveyor shall be filed in the office of the County Recorder in which the original map was filed. Upon such filing, the County Recorder will index the names of the fee owners and the appropriate tract designation shown on the amending map or certificate of correction in the general index and map index respectively. Thereupon, the original map shall be deemed to have been conclusively so corrected, and thereafter shall impart constructive notice of all such corrections in the same manner as though set forth upon the original map.

16.37.050 Amending of final maps.

In addition to amendments authorized by Section 16.37.010, after a final map or parcel map is filed in the office of the County Recorder, the recorded final map may be modified by a certificate of correction or an amending map if it is found that:

A. There are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary; and

B. That the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map; and

C. The County of Mariposa finds that the map as modified conforms to the provisions of Government Code § 66474 (Subdivision Map Act).

Any such modification shall be set for public hearing as provided for in Government Code § 66451.3 of the Subdivision Map Act. The legislative body shall confine the hearing to consideration of and action on the proposed modification.

16.37.060 Fees.

A fee for checking, processing and recording the amended map or certificate of correction shall be paid to the County of Mariposa in accordance with the adopted fee schedule, at the time the amended map or certificate of correction is submitted to the County Surveyor for review.

BE IT THEREFORE FURTHER RESOLVED THAT the addition of Section 16.08.022 of the Mariposa County Code defining what a Certificate of Correction is to the "Definitions" section will read as follows (new text shown in italicized underlined type and deleted text shown in ~~strike-thru type~~):

16.08.022 Certificate of Correction.

"Certificate of Correction" means a process by which a recorded final or parcel map may be amended to correct technical errors or omissions as set forth in Government Code § 66469.

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

BE IT THEREFORE FINALLY RESOLVED THAT the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

1. **Finding:** The amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

Evidence: The public will benefit by having County Code and the General Plan in alignment (consistent) with each other, and by having state law implemented by county code. The amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding:** The amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making.

Evidence: This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it, by ensuring that county code implements the general plan, and by ensuring that county code is consistent with state law.

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

Evidence: According to state law, general plans take precedence over zoning ordinances. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan. This amendment ensures county code is consistent with state law.

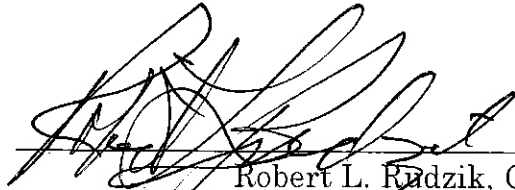
ON MOTION BY Commissioner Francisco, seconded by Commissioner Marsden, this resolution duly passed and adopted this 5th day of August, 2011 by the following vote:

AYES: ROSS, TUCKER, RUDZIK, FRANCISCO, MARSDEN

NOES: NONE


ABSENT: NONE

ABSTAIN: NONE



Robert L. Rudzik, Chairman
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Planning Commission