

Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2008-038

**A resolution conditionally approving Land Division Application
No. 2008-008; Barry McDonald, applicant. Assessors Parcel
Number 015-280-016.**

WHEREAS an application for land division was received on January 25, 2008 and complete fees were received on February 1, 2008 from Barry McDonald for a property located at 5105 Chowchilla Mountain Road, approximately half a mile easterly of the intersection of Highway 49 South and Chowchilla Mountain Road, also known as Assessor Parcel Number 015-280-016; and

WHEREAS the project was deemed incomplete as of February 26, 2008 pursuant to Government Code Section 65943 and a letter requesting additional information was sent out; and

WHEREAS all of the additional information requested of the applicant was received August 5, 2008 and the project was deemed complete as of September 5, 2008 pursuant to Government Code Section 65943; and

WHEREAS the project proposes the division of an 11.15 acre parcel into two parcels; Parcel A of 6.12 acres and Parcel B of 5.03 acres; 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 21st day of November 2008; and

WHEREAS the noticed public hearing for the 21st day of November 2008 was cancelled; and

WHEREAS the public hearing was duly re-noticed and re-scheduled for the 5th day of December 2008; 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.

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby adopt a Negative Declaration.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application No. 2008-008.

BE IT FINALLY RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms and conditions set forth in Exhibit 2.

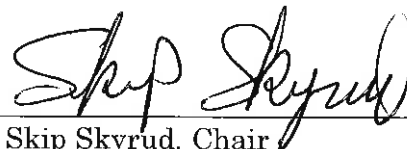
ON MOTION BY Commissioner Rudzik, seconded by Commissioner Francisco, this resolution is duly passed and adopted this 5th day of December 2008 by the following vote:

AYES: Rudzik, Francisco, Ross, Skyrud, DeSantis

NOES: None

EXCUSED: None

ABSTAIN: None



Skip Skyrud, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Land Division Application No. 2008-008

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 two parcels of greater than five acres each, 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, wells, and access roads are met. The proposed project is located within the Mountain Home zone and the Residential Land Use Classification. The subdivision density is designed in accordance with the Mountain Home zone and Residential classification.

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, it would have a less than significant effect on the environment. This project is limited in its scope, and will result in one additional parcel being created. One of the proposed parcels is already developed with residential improvements. There is access to the project site already, and no improvements will be required to comply with access requirements for the subdivision. The land is currently and will continue to be used primarily for residential purposes. The only drainage on-site traverses Parcel B, and based on the relatively small nature of the drainage, the fact that no riparian habitat was observed by staff or by the biological consultant, and the topography associated with the drainage, no potentially significant impacts to the drainage could be found. The project is subject to the California Department of Fish and Game filing fees for a negative declaration as required by California Fish and Game Code §711.4(d)(4) and a County Clerk fee.

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 a sewage disposal system on the

undeveloped parcel. The project will be required to comply with requirements to show proof of water for the undeveloped parcel. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. All future residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection.

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

EVIDENCE: This project was submitted on January 25, 2008. On August 5, 2008, this application was deemed complete for processing pursuant to Government Code Section 65943. Consequently, this project has been processed in accordance with the 2006 Mariposa County General Plan. The land division is the initial step in the process to help accomplish the General Plan's Housing Element overall goal to "...provide an adequate supply of sound, affordable housing units in a safe and satisfying environment for the present and future residents of the County..." The land division satisfies the following Housing Element Policy: "to ensure that there are adequate sites and facilities available to support future housing needs." There is no specific plan governing this property.

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

EVIDENCE: The minimum parcel size, minimum density, and building intensity proposed by the project is consistent with standards contained in the Residential Land use of the General Plan and the Mountain Home zone of the Zoning Ordinance. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The project site is not in an area governed by any special, specific, community or area Plan at this time.

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. The project will cause no permanent conflict with public access rights. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

EXHIBIT 2
CONDITIONS OF APPROVAL
FOR
Land Division Application No. 2008-008

Project Name: Land Division for Barry McDonald

File Number: Land Division Application (LDA) No. 2008-008

Project Approval Date: December 5, 2008

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented.

Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures		
	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT		
1. A variable width dedication of a minimum of five (5) feet from the edge of the right of way for Chowchilla Mountain Road shall be offered to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state on the parcel map that the dedication is for "public road and public utility purposes." 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.) §16.12.150, County Subdivision Ordinance; Road Standard Cross-sections and Section II.A.3, Road Improvement and Circulation Policy.	Public Works	
2. 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	Public Works	

<p>issuance of any encroachment permit for the required improvements a consultation meeting with the Public Works Department, Cal Fire (CDF), the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted on-site. 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 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 on-site inspection of road improvements.</p> <p>Public Works Recommendation</p>		
<p>3. A declaration shall be recorded with the parcel map, referenced on the parcel map and made appurtenant to Parcel B. The declaration shall state the following:</p> <p style="padding-left: 40px;">“Approved access for residential development of Parcel B, as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records is from Chowchilla Mountain Road.”</p> <p>The County Engineer will confirm that this condition has been met prior to map recordation.</p> <p>Planning Department Recommendation</p>	Public Works	
<p>4. A Verification of Taxes Paid Form, acquired no sooner than 30 days prior to the recordation of the parcel map, shall be submitted to the County Surveyor.</p> <p>§16.12.395, Mariposa County Subdivision Code</p>	Public Works	
<p>CONDITION OF APPROVAL / MARIPOSA PLANNING</p>		
<p>5. Project approval is valid for a period of three years from</p>	Mariposa	

<p>December 5, 2008. This approval shall expire on December 5, 2011.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	<p>Planning</p>	
<p>6. Prior to filing of the parcel 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 (\$1,876.75 as of 1/1/08) and the County Clerk fee (\$50.00 as of 1/1/08) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, December 12, 2008), because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Friday, December 12, 2008 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).</p> <p>The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$1,926.75 (effective 1/1/08), and that it be in the form of a cashiers 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 to file this fee and other required documents with the County Clerk.</p> <p>Note, the filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.</p> <p>§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code</p>	<p>Mariposa Planning</p>	
<p>7. The Property Owner (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</p>	<p>Mariposa Planning</p>	

<p>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.</p> <p>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.</p> <p>§16.36.030, Mariposa County Subdivision Ordinance</p>		
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CONDITIONS OF APPROVAL/ MARIPOSA COUNTY HEALTH DEPARTMENT

<p>8. Percolation tests and soils analysis tests shall be performed on Parcel B in accordance with Health Department rules and regulations and Health Department Policy 03-01. A report meeting the requirements of Health Department Rules and Regulations shall be submitted to the Mariposa County Health Department and be approved by the County Environmental Health Specialist prior to recordation of the parcel map. A letter from the County Environmental Health Specialist shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcel. If the Health Department approves the use of Standard Septic Systems then a statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>"Approved percolation tests and soils analysis tests have been performed on Parcel B as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, 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 tests, additional percolation tests and design recommendations may be required."</p> <p>If the Health Department approves the report based on the use of</p>	<p>Environmental Health</p>	
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special design or engineered septic systems then a statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

“Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on Parcel B as shown on the Parcel Map for _____, filed in Book ____ at Page _____, Mariposa County Records, based upon limiting soil conditions; however, the test results meet the Health Department Land Division policy requirements for use of engineered, alternative design on-site sewage disposal systems. The State of California is in the process of developing Statewide on-site sewage disposal regulations that could affect the future installation of engineered, alternative design on-site sewage disposal systems; therefore, buyers are encouraged to check with the Mariposa County Health Department regarding State or local regulation changes that could affect the installation of an on-site sewage disposal system on this parcel.

Additionally, a notice shall be filed concurrently with the parcel map and referenced on the parcel map which states:

“The property described as Parcel B as shown on the Parcel Map for _____, filed in Book ____ at Page _____, Mariposa County Records, is required to be served by an alternative design on-site sewage disposal system which is to be installed in the exact area tested and approved by the Health Department unless the Health Department approves an alternate location as described below. Construction plans for the alternative design on-site sewage disposal system must be submitted to and approved by the Mariposa County Health Department prior to the issuance of a development permit for any construction activities other than a private well. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Health Department. The alternative design on-site sewage disposal system is to be maintained in accordance with Mariposa County Health Department Policy 03-01 which states, “A maintenance entity shall be required prior to approval and installation of a special design sewage disposal system on a land division. In lieu of a public entity, an operation and maintenance protocol may be submitted for approval by the manufacturer of a specific technology.” Said maintenance entity shall be created to provide maintenance on the engineered sewage disposal systems prior to issuance of a development permit for residential

<p>construction activities other than a private well.</p> <p>In the event that additional soils testing is conducted demonstrating that an alternative design on-site sewage disposal system is not necessary, the Mariposa County Health Department may allow the use of a conventional on-site sewage disposal system in the newly tested area. Any newly tested area requiring the use of an engineered alternative design on-site sewage disposal system must meet the same minimum soils requirements of Health Department policy 03-01 as a newly created parcel.”</p> <p>(Section 16.12.330, County Subdivision Ordinance; Health Department Recommendation)</p>		
<p>9. Prior to recordation of the parcel map, the applicant shall prove to the satisfaction of the Health Department that Parcel B has a supply of potable water meeting requirements for quantity and quality. Proof is as follows:</p> <ul style="list-style-type: none"> a. an approved connection from an approved public water provider; or b. a proposed connection to a shared well which has been pre-approved 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 and wells drilled and tested prior to sale to demonstrate the quantities described in “Section d.” above. <p>The applicant shall record a disclosure statement concurrently with the map and referenced on the map stating the following:</p>	<p>Environmental Health</p>	

<p>“Water supplies for residential lands are derived from private wells on Parcel A and Parcel B as shown on the Parcel Map for _____, filed in Book ____ of Parcel Maps at Page _____, Mariposa County Records. 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.”</p> <p>(Mariposa County General Plan, Section 5.3.02.E(4))</p>		
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RECOMMENDATION ON OFFERS OF DEDICATION

<p>Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public access, maintenance, and utilities for Chowchilla Mountain Road..</p> <p>Mariposa Planning Recommendation</p>	<p>Public Works</p>	
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Agency Contact List

AGENCY	CONTACT	PHONE NUMBER EMAIL	SITE ADDRESS	MAILING ADDRESS
Mariposa Planning	Alvaro Arias	209-742-1218 aarias@mariposacounty.org	5100 Bullion Street Mariposa CA 95338	P.O. Box 2039 Mariposa CA 95338
Public Works	Jerry Freeman	209-966-5356	4639 Ben Hur Road Mariposa CA 95338	Same as site
Health Department	Dave Conway	209-966-2220	5100 Bullion Street Mariposa CA 95338	P.O. Box 5 Mariposa CA 95338
Regional Water Quality Control	JoAnne Kipps	559-445-5035	1685 E Street Fresno CA 93706	Same as site

Board				
Mariposa County Resource Conservation District	Dawn Afman	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Sarah Wise	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35 Mariposa CA 95338
County Fire	Jim Middleton	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal. Fire	Matt Watson	209-966-3622	5366 Highway 49 North Mariposa CA 95338	Same as site

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

 Environmental Coordinator

 Date

Explanation of Headings:

Monitoring Dept: Department or Agency responsible for monitoring a particular mitigation measure.

Verified Implemented: When a mitigation measure has been implemented, this column will be initialed and dated.