
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2005-12

**A resolution recommending denial of General Plan/Zoning
Amendment No. 2004-178 and Land Division Application No.
2004-179, Stuart Berg and Jeff Finsand, applicants. Assessor
Parcel Number 012-160-009**

WHEREAS an application for general plan/zoning amendment and land division was received on the 7th day of September 2004 from Stuart Berg and Jeff Finsand for a property located at an unassigned address off of a privately maintained access from Highway 140, approximately ½ mile south of Highway 140, also known as Assessor Parcel Number 012-160-009; and

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

WHEREAS a meeting of the Agricultural Advisory Committee was scheduled for and conducted on the 12th day of October, 2004; and

WHEREAS the Agricultural Advisory Committee voted unanimously to recommend denial of the applications; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for the 18th day of March 2005; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, 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, testimony presented by the public concerning the application, the comments of the applicant, and the recommendation of the Agricultural Advisory Committee; and

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors deny General Plan/Zoning Amendment No. 2004-178 and Land Division Application No. 2004-179, Stuart Berg and Jeff Finsand, applicants.

BE IT THEREFORE FURTHER RESOLVED THAT the recommendations for project denial are based upon the findings set forth in Exhibit 1.

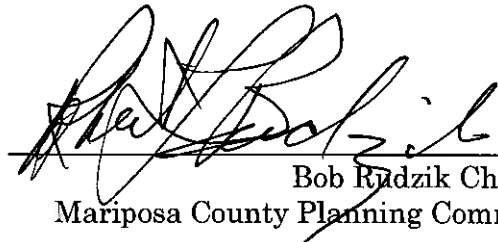
ON MOTION BY Commissioner Crain, seconded by Commissioner Skyrud, this resolution is duly passed and adopted this 18th day of March, 2005 by the following vote:

AYES: Ludington, Ross, Skyrud, Rudzik, and Crain

NOES: None

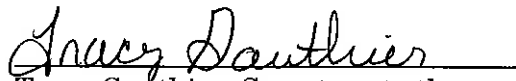
EXCUSED: None

ABSTAIN: None



Bob Rudzik Chairman
Mariposa County Planning Commission

Attest:



Tracy Gauthier, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1

FINDINGS for DENIAL of GENERAL PLAN/ZONING AMENDMENT No. 2004-178

Pursuant to Mariposa County General Plan Section 2.504, Mariposa County General Plan Section 6.502, and the Mariposa County Zoning Ordinance, Section 17.128.050, General Plan/Zoning Amendment Application No. 2004-178 is denied based upon the following findings:

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

The General Plan/Zoning Amendment is not in the general public interest as it will result in the conversion of agricultural and open space lands. The site is not in an area identified for future residential growth, pursuant to the Mariposa County General Plan land use map. Consequently, the site is not a needed development area for meeting the County Regional Housing Needs Allocation (REHNA), pursuant to the Mariposa County General Plan Housing Element. The project may have a negative impact on surrounding agricultural uses by enabling increased residential development.

2. *The amendment is not 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.*

The project does not improve the Mariposa County General Plan with respect to providing a long or short term guide or basis for decision-making. The site does not have adequate access or utilities to support residential growth. The site is not in an area of residential development.

3. *The processing of this application conforms to the requirements of state law and county policy.*

The processing of this project application has been in accordance with all requirements pursuant to state law and county policy.

4. *The amendment is inconsistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan.*

The amendment is inconsistent with policies and goals of the Mariposa County General Plan Conservation and the Open Space Elements.

The Conservation Element is established to provide a program for the conservation and development of natural resources in Mariposa County. This project does not further this identified program. Goals of the Conservation Element include

preservation and protection of lands which are classified for agricultural production to the extent that agricultural development of such lands is economically viable and is to the long-range economic benefit of the community as a whole. Information has been provided by the Natural Resource Conservation Service (NRCS) to substantiate that soils on-site are sufficient for agricultural production. Information has been provided by the Mariposa County Farm Bureau to substantiate that the project site characteristics are good for cattle grazing. Agricultural lands in the County are a non-renewable resource, as once lands are converted to residential development, even large lot residential development, the lands will never again be used for commercial agricultural purposes. This project does not preserve or protect agriculturally designated lands.

The Open Space Element is established to enhance the natural open space resources of Mariposa County to include preservation of natural resources for the benefit of present and future residents of the county. Goals of the Open Space Element include preservation of natural wildlife, wildlife habitat and water resources through land use policies. Agricultural activities and low density residential uses are identified as compatible open space uses. This project does not further these open space goals or the purpose of the Open Space Element.

5. ***The subject parcel is not 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.***

The project site as it exists today does not have suitable access for a residential land division pursuant to the State Fire Safe Standards and the Mariposa County Subdivision Ordinance and Road Improvement and Circulation Policy. The access route's encroachment onto State Highway 140 is not adequate for increased residential development. The site does not have power or telephone utilities to support increased residential development. Although the project includes a land division application, and the applicant proposes off-site road improvements as a part of the land division, there is no guarantee the land division will be completed. The off-site access road is approximately ½ mile in distance. The on-site access road is approximately ½ mile in distance. The project is not compatible with adjoining agricultural uses, as increased residential development often creates incompatibilities and nuisance complaints. Additionally, increased residential development leads to an increase in domestic animals, which are not always compatible with livestock grazing. Increased residential development may also lead to an increase in trespass on agricultural lands, as well as an increase in wildland fire hazard. Wildland fires have the potential to significantly deplete grazing opportunities for existing agricultural operations in the short term.

6. ***The proposed zoning is not logical or desirable and does not provide expanded employment opportunities, or basic services to the immediate residential population or touring public.***

The proposal will not provide expanded employment opportunities, or basic services to either the immediate residential population or touring public.

7. ***The project site and area has been a historical agricultural use area, and the site is suitable and has sufficient soil qualities for commercial agricultural production.***

The site has been in the agricultural land use and zoning designation for at least the past 25 years. The parcel is a legal quarter section in size, which is a conforming parcel in the Agricultural Exclusive land use and zoning district. The site is fenced for livestock grazing. Although the site is not currently in an agricultural use, some surrounding properties are used for agricultural purposes. According to public testimony, the parcel to the west of the project site, which has similar topographic, vegetative and soil characteristics as the project site, is used for cattle grazing. Based upon the Mariposa County Soil Survey and an on-site inspection by the Natural Resource Conservation Service (NRCS) Resource Conservationist, there is evidence that the soils on-site are sufficient for agricultural production.

The Mariposa County Area Soil Survey places both of the soils on-site in the range site called "granitic". Soil Survey excerpts from the description are: "This site typically has a cover of open grass and grass-oak. The oak and brush species generally increase as rainfall and elevation increase. If the site is producing at maximum, about 70% of the herbage is a mixture of soft chess, wild oats, filaree, and other desirable plants."

NRCS on-site inspection revealed soft chess and wild oats to be the dominant component in the grass species, indicating the site has the potential to produce at the optimum identified in the Soil Survey. Although there is a significant amount of live oak and foothill pine, with an understory of ceanothus (buckbrush), this is the expected cover when no grazing has occurred for extended period of time. Fuel management and grazing would reduce the overstory and improve the forage production.

Estimated total potential annual forage production on parcels with similar soils receiving more than 20 inches of precipitation would be 3,200 pounds per acre in favorable years, and 1,300 pounds per acre in unfavorable years. About 80% of the production can be used by livestock.

8. ***The project site has open space and resource conservation characteristics which would present problems if the site were utilized for non-agricultural uses.***

The site has open space and resource conservation characteristics. The 159-acre site is undeveloped, and drains into the LaMineta Gulch and Aqua Fria Creek. Surrounding parcels are large in size. Based upon surrounding agricultural uses, development of the site for residential purposes could present compatibility problems.

9. ***The project site is not in close proximity to an area where there are small minimum lot sizes. Conversion of the site to residential uses could result in conflicts with adjacent agricultural uses.***

The site isn't adjacent to residential development. Rather, the site is adjacent to open space and agricultural uses. Parcels on three sides of the site are in the Agricultural Exclusive land use and zoning designation. Converting the site to residential uses could result in conflicts with adjacent agricultural uses. Increased residential development leads to an increase in domestic animals, which are not always compatible with livestock grazing. Increased residential development often results in an increase in nuisance complaints against adjacent agricultural business and an increase in trespass problems for the agricultural operators.

- 10. *The project site does not exhibit specific unique characteristics which make is desirable for residential uses. The project site does not exhibit specific unique characteristics which make is undesirable for agricultural uses.***

The site is not appropriate for residential development based upon its remote location, its unimproved and lengthy access, and the fact that there are no proximate utilities to support residential development. Although the site is not currently in an agricultural use, the surrounding properties are used for agricultural purposes and the site has been used for agricultural purposes in the past. Based upon information from the NRCS and Mariposa County Soils Survey, soils on-site are suitable for agricultural production, if the site is maintained and managed for agricultural uses.

FINDINGS for DENIAL of LAND DIVISION APPLICATION No. 2004-179

Pursuant to the Mariposa County Subdivision Ordinance, Section 16.16.040.B.3, Land Division Application No. 2004-179 is denied based upon the following finding:

- 1. *The proposed map, the proposed project density, and the proposed project design are not consistent with the Mariposa County General Plan, the Mariposa County Zoning Ordinance, Title 17 and the Mariposa County Subdivision Ordinance, Title 16.***

The existing land use and zoning designations are Agricultural Exclusive (AE), which establish a minimum parcel size for new subdivisions of 160 acres or a legal quarter section of land. The project proposes creation of four parcels of 30.66 acres, 31.96 acres, 42.26 acres and 24.55 acres and a remainder of 29.97 acres. These parcels do not meet the minimum parcel size of the existing land use and zoning designations.