RECOMMENDED ACTION AND JUSTIFICATION:

1. Adopt a resolution adopting a Negative Declaration and Approving Zoning Amendment #2003-251 with the recommended findings.

2. Waive the first reading and introduce an ordinance amending Mariposa County Code §17.108.130D and E to allow onsite sewage disposal systems within property setbacks when a public water system is present.

At their April 2, 2004, the Planning Commission reviewed and recommended approval of the proposal to change the setback standards for sewage disposal system when a subject property is served by a public water system as long as the septic system location is no closer than 5 feet from any property line or adjacent to a property not served by a public water system. The zoning text amendment potentially affects all properties within the County of Mariposa which are served by a public or community water system.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board considered and did not support a proposal to remove sewage disposal systems from setback standards regulation entirely.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternative actions include referring the item back to staff for minor changes to the language of the text amendment, or denying all of the amendment. Denial of the Zoning Amendment could continue to pose a hardship for those property owners who own smaller lots within subdivisions having community water systems. Denial has the potential to increase the number of Variance Applications being brought to the Board.

Financial Impact? ( ) Yes (X) No Current FY Cost: $  
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded 
Amount in Budget: $  
Additional Funding Needed: $  
Source: Internal Transfer  
Unanticipated Revenue  
Transfer Between Funds  
Contingency  
( ) General ( ) Other  
Annual Recurring Cost: $  
List Attachments, number pages consecutively

1. Memorandum to Board  
2. Proposed Amended Text  
3. Planning Commission Staff Report, Feb. 6, 2004  
4. Planning Commission Minutes, Feb. 6, 2004  
5. Correspondence from Health Dept., March 24, 2004  
6. Planning Commission Minutes, April 2, 2004  
7. Draft Board Resolution & Ordinance  
8. Negative Declaration

CLERK'S USE ONLY
Res. No. 2004-8412  Ord. No. 1911  
Vote - Ayes: ___  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  
Revised Dec. 2002

COUNTY ADMINISTRATIVE OFFICER: ___  
Requested Action Recommended  
No Opinion  
Comments: ___  
CAO: ___
WHEREAS a Zoning Ordinance Text Amendment was initiated by the Planning Commission to permit the location of septic systems within the setback areas without a variance if the subject property is served by a public water system or mutual water company, provided that the septic system is not closer than five feet to a property line; 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 at the Planning Commission was scheduled for February 6, 2004; and

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

WHEREAS a Staff Report to the Planning Commission, was prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Planning Commission public hearing was continued to March 19, 2004, at which time Environmental Health conducted a septic system educational session for the Commission; and

WHEREAS the Planning Commission public hearing was continued to April 2, 2004; and

WHEREAS the Planning Commission did hold a public hearing on the noticed dates and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments from the Health Department; and

WHEREAS the Planning Commission acted to recommend to the Board of Supervisors the adoption of a resolution adopting a Negative Declaration and approving Zoning Amendment No. 2003-251 with the recommended findings and amendments; and

WHEREAS the amendments were a modification of the text to permit the location of septic systems within the setback areas without a variance if the subject property is served
by a public water system or mutual water company, provided that the septic system
is not closer than five feet to a property line AND provided that the adjacent lot is
also served by a public water system or mutual water company; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 7th
day of September, 2004; and

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

WHEREAS a packet was prepared for the Board of Supervisors was prepared pursuant to
the California Government Code, Mariposa County Code, and local administrative
procedures and the packet included the staff report for the project; and

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

BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of
Mariposa does hereby adopt a Negative Declaration for the project pursuant to the
California Environmental Quality Act, Title 14, California Code of Regulations and
approves Zoning Amendment 2003-251 to allow for onsite sewage disposal systems
within property setbacks when a public water system is present on the subject
property and adjacent property.

BE IT FINALLY RESOLVED THAT the action to approve the project is based upon the
following findings supported by substantial evidence in the public record:

1. The proposed amendment is in the general public interest, and will not have a
   significant adverse affect on the general public health, safety, peace, and welfare. It
does not interfere with private property rights. The proposed amendment facilitates
the development of existing residential land providing flexibility in site design and
siting of individual onsite sewage disposal systems. The amendment's
implementation is of limited scope only effective in areas of the County where
locating a system in close proximity to a property line is not detrimental to the public
health.

2. The proposed 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. It allows
property owners flexibility in site design and avoids the need to require variances on
small parcels in areas served by community water systems.

3. The proposed amendment conforms to the requirements of state law and county
policy.

4. The proposed amendment is consistent with other guiding policies, goals, and
standards of the Mariposa County general plan. It minimizes disjointed and
fragmented decision-making by providing an opportunity for all property owners of
small lots served by community water systems to have full use of the property (GP 2.201B). It establishes minimum site standards within reasonable limits to provide for clean, safe, sanitary, and economical building sites. (GP 3.300E)

ON MOTION BY Supervisor Pickard, seconded by Supervisor Balmain; this resolution is duly passed and adopted this 7th day of September, 2004, by the following vote:

AYES: STETSON, BALMAIN, PARKER, PICKARD
NOES: BIBBY
ABSENT: NONE
ABSTAIN: NONE

GARRY R. PARKER, Chairman
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

THOMAS P. GUARINO, County Counsel
TO: SARAH WILLIAMS, Interim Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: WAIVE FIRST READING AND INTRODUCE ORDINANCE ADOPTING NEGATIVE DECLARATION AND APPROVING AMENDMENT TO MARIPOSA COUNTY ZONING ORDINANCE TO PERMIT ONSITE SEWAGE DISPOSAL SYSTEMS WITHIN PROPERTY SETBACK AREAS IF PUBLIC WATER SYSTEM IS PRESENT ON SUBJECT PARCEL AND ADJACENT PARCEL

Resolution No. 04-412

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on September 7, 2004

ACTION AND VOTE:

11:32 a.m. Sarah Williams, Interim Planning Director;
PUBLIC HEARING Relative to Adopting a Negative Declaration and Approving Zoning Amendment #2003-251 with the Recommended Findings and Waive the First Reading and Introduce an Ordinance Amending Mariposa County Code Section 17.108.130D and E to Allow Onsite Sewage Disposal Systems within Property Setbacks when a Public Water System is Present; County of Mariposa, Applicant
BOARD ACTION: Sarah Williams presented the staff report. Sarah and Dr. Mosher, Health Officer, responded to questions from the Board relative to the recommended findings; ensuring that there is not a future encroachment on a neighboring property; and as to what areas of the County that this would be allowed. The public portion of the hearing was opened and there was no public input. The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to additional questions from the Board as to whether this would allow greater flexibility for a property owner and the department to site a system without going through the variance process. (M)Pickard, (S)Balmain, Res. 04-412 was adopted adopting a Negative Declaration and approving Zoning Amendment No. 2003-251 with the recommended findings; and the first reading was waived and an Ordinance introduced amending Mariposa County Code Section 17.108.130D and E to allow onsite sewage disposal systems within property setbacks when a public water system is present. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Stetson, Balmain, Parker, Pickard; Noes: Bibby. The hearing was closed.

cc: Tom Guarino, County Counsel
File