

DEPARTMENT: Planning

By: Skip Strathearn Phone: 966-0305
Planner III

RECOMMENDED ACTION AND JUSTIFICATION: Policy Item: Yes ___ No X

- Adopt a Negative Declaration;
- Adopt a resolution amending the General Plan classification of APN 014-430-026 from Mountain Home to Neighborhood Commercial pursuant to General Plan/Zoning Amendment 2001-7 as amended on February 27, 2002, and approving a determination that a banquet/catering use is an accessory use to a primary restaurant use with the recommended findings; and
- Adopt an ordinance amending the zoning designation of the same parcel pursuant to GP/ZA 2001-7 from the Mountain Home zone to the Neighborhood Commercial Zone-2.

BACKGROUND AND HISTORY OF BOARD ACTIONS: None

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- ALTERNATIVES:
- 1) Deny the amendment.
 - 2) Determine that a banquet/catering use is not an accessory use to a restaurant.

NEGATIVE ACTION: If GP/ZA 2001-7 is not approved the parcel would remain in the Mountain Home land use classification and zone. A restaurant nor any other CN-2 use could be placed on the property. If the accessory use determination is not approved, banquet/catering uses would not be allowed in the CN-2 zone.

COSTS: (X) Not Applicable

A. Budgeted Current FY	\$
B. Total anticipated Costs	\$
C. Required additional funding	\$
D. Internal transfers	\$

SPECIAL INSTRUCTIONS
List the attachments and number the pages consecutively:

Memorandum to Board with Attachments

Attachment 1	Planning Commission Resolution
Attachment 2	Proposed Negative Declaration
Attachment 3	Proposed De Minimis Finding
Attachment 4	Memo to Commission (March 15, 2002)
Attachment 5	Minutes and Staff Report to Commission (March 1, 2002)
Attachment 6	Minutes and Staff Report to Commission (February 1, 2002)
Attachment 7	Draft Board Resolution
Attachment 8	Draft Board Ordinance

COSTS: () 4/5th Vote Required

A. Unanticipated revenues	\$
B. Reserve for Contingencies	\$
C. Source Description	\$

Balance in Reserve Contingencies, If Approved:
\$ _____

CLERK'S USE ONLY

Res. No.: 02-98 Ord. No.: 972
 Vote - Ayes: 3 Noes: _____
 Absent: Ricky Pickard Abstained: _____
 Approved Denied
 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

By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

_____ Recommended
 _____ Not Recommended
 _____ For Policy Determination
 _____ Submitted for Comment
 _____ Returned for Further Action

Comment: _____

A.O. Initials: 

**MARIPOSA COUNTY BOARD OF SUPERVISORS
ORDINANCE NO. 972
(Not to be Codified)**

AN ORDINANCE AMENDING THE MARIPOSA COUNTY ZONING MAP

WHEREAS, an application to amend the Mariposa County Zoning Map has been submitted to the County; and

WHEREAS, General Plan/Zoning Amendment 2001-7, as amended on February 27, 2002, proposes to modify the zoning designation for APN 014-430-026 from Mountain Home to Neighborhood Commercial Zone-2; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the project in accordance with State Law and County Code, and recommends approval of the project to the Board of Supervisors; and

WHEREAS, the Board of Supervisors has held a duly noticed public hearing on the matter in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on the amendment in accordance with the California Environmental Quality Act and a Negative Declaration has been adopted for the project.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors hereby modifies the Mariposa County Zoning Map pursuant to General Plan/Zoning Amendment 2001-7, as amended, for the property described as Parcel C as shown on the parcel map recorded on January 4, 1979 in Book 15 of Parcel Maps at Page 35, Mariposa County Records (APN 014-430-026), with a provision that any non-residential Neighborhood Commercial Zone-2 use that can be placed on the parcel take primary access from Woodland Drive and have a Woodland Drive address.

BE IT FINALLY ORDAINED, this action is based on the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as stated and discussed in Exhibit A.

PASSED AND ADOPTED on this 2nd day of April, 2002 by the following vote:

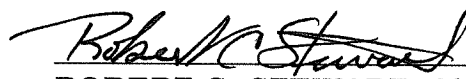
AYES: Balmain, Stewart, Parker

NOES: None

ABSTAINED: None

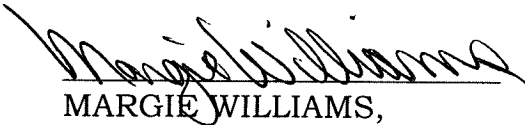
EXCUSED: Reilly, Pickard

NOT VOTING: None



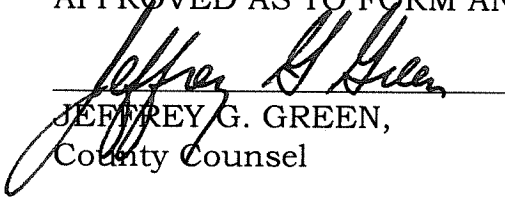
ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS,
Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN,
County Counsel

EXHIBIT A

FINDINGS FOR GENERAL PLAN/ZONING AMENDMENT 2001-7

1. The change in the zoning of this property to allow Neighborhood Commercial Zone-2 (CN-2) uses will not have a significant adverse effect on the general public health, safety, peace and welfare of present and future residents of the area. The immediate vicinity of the project has been developed with some of the more intensive uses allowed in the Neighborhood Commercial Zone-2 such as a restaurant, grocery store and gas station. Due to its proximity to the this commercial core, it can be found that rezoning the property to allow CN-2 uses will not be detrimental to the general health, safety, peace and welfare of the present or future residents of the area with the implementation of all standards relating to building, health and fire code and zoning issues. Any of the CN-2 uses that could be placed on the amended parcel would be required to comply with all applicable standards.

The implementation of septic disposal regulations at the permit stage will ensure that the public health as it relates to the issue will be preserved when commercial uses are placed on the parcel.

The project will not have an adverse impact on wildlife resources.

2. The amendment allows a new general plan and zoning designation on the subject property that satisfies General Plan Land Use Element Goal (I), which states that a goal of this element is to *“establish clear policies that will encourage the private sector economy.”* The property to be amended is located between Resort Commercial and Neighborhood Commercial Zone-2 zoned property. The area has developed with commercial uses and provides several neighborhood retail and service uses serving the daily needs of the residential community. Any of the uses that could be located on the parcel when in the CN-2 zone can currently be placed on the CN-2 property to the south of the subject property across Woodland Drive. This amendment would not allow for the introduction of uses into the area which cannot be placed there currently. The project implements the intent of the Neighborhood Commercial land use classification as identified in the General Plan by providing services to the immediate neighborhood. The site is served by two-lane paved public access roads and is located in immediate proximity to the state highway, which also satisfies the General Plan’s intent of the Neighborhood Commercial land use classification as identified in Section 3.516.A. of the General Plan. For these reasons 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. It is logical from a planning perspective that this parcel be amended to allow commercial uses given its proximity to the Woodland

commercial core and its identification as a potential Rural Economic area in the General Plan update.

3. The amendment was processed in accordance with state law and county code with respect to notice, hearings and findings.
4. In addition to the Land Use Element cited in Finding No. 2, the amendment is consistent with Land Use Element Goal (D) which outlines a goal to “*establish site standards and adopt procedures that provide for commercial and industrial development based upon suitability of access, terrain conditions, utility availability, and compatibility with adjoining uses.*” A general plan amendment procedure is appropriately applied in this case because of this parcel’s ability to support Neighborhood Commercial Zone-2 uses. The site has suitable access, flat developable terrain, available utilities.

Neighborhood Commercial uses are to be located in areas accessed by two-lane paved public access roads. They are to be easily accessible to and are to serve the daily needs of a residential community. The proposed amendment is consistent with this criteria. The proposed amendment is consistent with guiding policies, goals, policies, and standards of the Mariposa County General Plan.

5. The subject parcel is relatively flat with areas for the development of Neighborhood Commercial uses. Electrical power and phone service is available in the area and on the property. Property to the north of the subject parcel is zoned Resort Commercial and property to the south is zoned Neighborhood Commercial Zone-2. The parcel is located in the immediate vicinity of the intersection of a state highway and county road. The subject parcel is generally physically suitable for the requested land use designation and the anticipated Neighborhood Commercial land use development. The implementation of all building and safety code and public health regulations will ensure that the parcel is adequate to support commercial development.
6. The subject parcel currently separates Resort Commercial and Neighborhood Commercial Zone-2 property. It is currently zoned Mountain Home, a five-acre minimum parcel size residential zone. Rezoning the parcel to CN-2 promotes infill zoning and promotes consistent commercial land uses in an area which has seen Resort Commercial and Neighborhood Commercial development. The rezoning of this parcel will allow establishment of businesses and services which will serve the immediate residential area and touring public. For these reasons, the proposed amendment is logical and desirable on the subject parcel. The amendment would not lead to the introduction of uses into the area which could not be placed in the immediate area under the current General Plan designation.

Making a determination as to whether a general plan/zoning amendment will be detrimental to property values in the area is difficult. It would be less difficult if the proposed amendment would allow for uses that would be in direct conflict with existing uses in the vicinity, such as an intensive commercial use in a strictly residential area. This is not the case with this proposal. There are some residential uses in the general area, primarily to the north and across Highway 49S to the west, but the area has seen significant commercial development. There is a motel use (Little Valley Inn) located to the north and a grocery store, gas station and restaurant complex located directly to the south. It can be assumed that county decision makers viewed this area as a commercial core due to the actions taken to allow the existing uses. These decision makers obviously determined that the commercial uses currently allowed in the area were not detrimental to property values in the area. The amendment would not allow the introduction of uses that currently could not be placed in the area under the adjacent existing CN-2 zoning. Therefore, based upon these factors, it cannot be found that the CN-2 uses that would allowed on the parcel under this rezoning proposal would be detrimental to property values in the area.

ACKNOWLEDGMENT
RE NEWSPAPER PUBLICATION

[Instructions: Please have a representative with the MARIPOSA GAZETTE complete the following acknowledgment of receipt regarding legal publications. Please forward the billing request to the Mariposa County Board of Supervisors, Post Office Box 784, Mariposa, California 95338. Should you have any questions, please contact our office (attention: Margie) at (209) 966-3222. Thank you.]

I, _____ hereby acknowledge
(Print Name)
receipt of the following document for legal publication in the April 11, 2002, issue of the "Mariposa Gazette", on this 5th day of April, 2001.

Ordinance 972
Mountain Home to Neighborhood Commercial Zone



By: (Representative)

RECEIVED
APR 04 2002
MARIPOSA GAZETTE



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

ROBERT C. STEWART, CHAIRMAN
PATTI A. REILLY, VICE-CHAIRMAN
DOUG BALMAIN
GARRY R. PARKER
BOB PICKARD

DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ERIC TOLL, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: Public Hearing: Amending the General Plan Classification APN 014-430-026
Resolution No. 02-98
Ordinance No. 972

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on April 2, 2002

ACTION AND VOTE:

10:37 a.m. Eric Toll, Planning Director;

PUBLIC HEARING: (1) Adopt a Negative Declaration; (2) Adopt a Resolution Amending the General Plan Classification of APN 014-430-026; (3) Adopt an Ordinance Amending the Zoning Designation of the Same Parcel Pursuant to GP/ZA 2001-7 from Mountain Home Zone to the Neighborhood Commercial Zone-2; Menzing, Applicant

BOARD ACTION: Skip Strathearn, Planner, presented the staff report, and he responded to questions from the Board relative to the proposed use of the parcel as a restaurant and the Planning Commission's recommendations for conditions/findings for the banquet use.

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

- Roger Stephens, Roger Stephens Engineering, on behalf of the applicant, stated they are happy with the staff recommendation. He stated they should be able to move forward with their project and to use Woodland Drive as their access, if possible.

- Robert Barber, owner of Little Valley Inn, referred to his concerns that he previously presented to Planning on this matter. He recommended that a development agreement be required with Woodland Drive to be used as the address and access for the project due to safety concerns with the narrowness of Brooks Road and the one-lane bridge. He asked if other restaurant requests like this one would fall under a similar use determination. He stated he is not opposed to this project, but he would like to see the concerns addressed.

- Roger Stephens offered rebuttal, and stated he does not feel that it is appropriate at this time to define where the address will be. He noted that both roads were addressed in the staff report as being adequate. He stated the applicants are in favor of using Woodland Drive if that can be done, but the design work has not been done for the project to establish the feasibility of that access.

- Robert Barber stated he feels the access issue is important, and he suggested that perhaps this project should be held pending the design of a plan.

The public portion of the hearing was closed and the Board commenced with deliberation. Skip Strathearn and Eric Toll responded to questions from the Board relative to location and access from Highway 49 South to the subject parcel and the location of the bridge; relative to parking concerns raised in the letter from the Oldales; and relative to agencies that will review the project. Jeff Green, County Counsel, responded to questions relative to the ability to require Woodland Drive access and address. Staff responded to questions relative to the current zoning of the two parcels owned by the applicant and the change in the request to rezone one of the parcels; relative to the uses that would be allowed in Neighborhood Commercial 2; whether the proposed banquet use is site specific and relative to the accessory use determination; relative to the use of a development agreement as a tool to better define the project and whether that is appropriate; where the building permit falls in this process and as to how staff carries out the intent of the proposed findings to address the concerns that have been raised; relative to ability to address the noise, parking and access concerns that were raised; clarification of the use of the new software that allows Planning staff the ability to place conditions on building permits; and relative to the re-zone and use determination process being used for this application. Further deliberation was held relative to conditions/findings and the re-zone process, and relative to continuing the hearing for further consideration. Eric Toll responded to a question from the Board as to Planning's recommended action.

(M)Parker, (S)Balmain, the following motion failed: 1) to adopt a Negative Declaration; 2) to adopt a resolution amending the General Plan classification of APN 014-430-026 from Mountain Home to Neighborhood Commercial pursuant to General Plan/Zoning Amendment No. 2001-7 as amended on February 26, 2002, and approving a determination that a banquet/catering use is an accessory use to a primary restaurant use with the recommended findings; and 3) to adopt an ordinance amending the zoning designation of the same parcel pursuant to General Plan/Zoning Amendment No. 2001-7 from the Mountain Home zone to the Neighborhood Commercial Zone – 2, as recommended; and adding a finding that access occur off of Woodland Drive, based on the weight limit of the Bridge and the narrowness of Brooks Road. Jeff Green clarified that the access is a requirement of the re-zone versus a finding – the motion was amended, agreeable with maker and second. Supervisor Reilly requested that this matter be referred back to the Planning Commission to make sure the issues were addressed. Ayes: Balmain, Parker; Noes: Reilly, Stewart; Excused: Pickard. Motion failed. Eric Toll advised that there are General Plan policy issues that he will discuss in the future with the Board. Discussion was held relative to continuing the hearing, and it was continued to 2:00 p.m.

2:05 p.m. The Board reconvened with Supervisor Reilly excused for the rest of the meeting.

Continued public hearing was held relative to General Plan/Zoning Amendment No. 2001-7/Menzing. The Board continued with the deliberation phase. Jeff Green clarified that the re-zone is the issue before the Board at this time, and not the project; and he responded to questions from the Board relative to being able to appeal decisions on building permits for the project. Skip Strathearn advised of the public attendance and input at the Planning Commission's hearing on this project, and he responded to questions as to the concerns that were expressed relative to the re-zone request. Eric Toll responded to questions from the Board relative to the project application and re-zone process, and he suggested changes to the recommended action to delete reference to specific uses.

(M)Parker, (S)Balmain: 1) a Negative Declaration was adopted; 2) Res. 02-98 was adopted amending the General Plan classification of APN 014-430-026 from Mountain Home to Neighborhood Commercial pursuant to General Plan/Zoning Amendment No. 2001-7 as amended on February 26, 2002; and 3) Ordinance No. 972 was adopted amending the zoning designation of the same parcel pursuant to General Plan/Zoning Amendment No. 2001-7 from the Mountain Home zone to the Neighborhood Commercial Zone – 2, and requiring primary access and address of any commercial use on the subject property to be from Woodland Drive only, and deleting the Planning Commission's findings relative to an accessory use/Ayes: Balmain, Stewart, Parker; Excused: Reilly, Pickard. The hearing was closed. Mr. Barber stated he is completely satisfied with the action the Board took during the public hearing.

cc: File