

ORDINANCE NO. 388

BEFORE THE BOARD OF SUPERVISORS

OF MARIPOSA COUNTY

The Board of Supervisors of the County of Mariposa do ordain as follows:

ARTICLE I

Where this ordinance conflicts with any other ordinance or regulations dealing with the same or similar matter, the provisions of this ordinance shall govern.

ARTICLE II

Applications:

Section 1: Scope of matters to be heard by Planning Commission.

The Planning Commission shall hear and decide:

- (1) Each application for land use permit or variance permit.
- (2) An appeal from an order, requirement, permit, decision or determination made by the county staff in the administration and enforcement of the zoning regulations.
- (3) Each application for a tentative map and parcel map waiver.
- (4) Environmental Impact Reports, pursuant to California Environmental Quality Act of 1970, Public Resources Code Section 21000-21174, as amended by Chapter 1154 of the Statutes of 1972.
- (5) Any other matter that may be designated by resolution.

Section 2: Application fees.

The fees for zoning applications, permits, appeals, and

1 environmental impact reports, and all other matters covered
2 by this ordinance shall be set by resolution.

3 Section 3: Refunds

4 If the applicant withdraws the application before the County
5 on any matter set forth pursuant to this ordinance, the
6 Planning Commission shall make no refund.

7 Section 4: Referral to Planning Commission.

8 When a person applies to the county for a rezoning, land
9 use permit, variance or other matter which relates to the
10 administration of zoning or land use regulations, the
11 applications shall be referred to the planning commission.
12 The procedure is provided in this article.

13 Section 5: Receipt of applications and setting for
14 hearing.

15 The secretary of the planning commission shall endorse the
16 date of its receipt on the application and set the matter
17 for hearing before the planning commission.

18 Section 6: Posting of public notice.

19 In addition to notice required by any other provision of law,
20 the Planning Commission shall have a copy of the notice of
21 the time and place of the hearing posted in not less than
22 3 places at least 10 days before the date set for the hearing.
23 The posting shall be on each public road within 300 feet of
24 the exterior boundaries of the affected land in conspicuous
25 places at a distance of not less than 200 feet apart.

26 Section 7: Posted notice may be dispensed with in
27 certain cases.

28 If the Planning Commission finds that the matter to be heard

1 is of county-wide interest and applicability and is not
2 limited to specific property, it may order that the addition-
3 al posting of the notice as prescribed in Section 6 need
4 not be done.

5 Section 8: Form of notice to be posted.

6 The notice of the hearing which shall be in a newspaper of
7 general circulation within the county. The notice of the
8 hearing which is posted shall contain:

- 9 (1) the time and place of hearing;
10 (2) a brief description of the land which is the
11 subject of the matter to be heard;
12 (3) the purpose of the hearing and the use of the
13 land which is sought; and
14 (4) any other information which the Planning Commission
15 considers necessary or desirable in the public
16 interest.

17 ARTICLE 3.

18 Conduct of Public Hearings, Burden of Proof, Findings and Decision:

19 Section 10: Conduct of hearing and burden of proof
20 of making showing.

21 The Planning Commission shall hear all persons interested in
22 the matter. The applicant or petitioner has the burden and
23 shall offer competent evidence in support of his application
24 or petition.

25 Section 11: General standards in considering application.

26 In considering an application, petition or matter, the
27 Planning Commission shall consider:

- 28 (1) the health, safety and welfare of the residents
of the county;

- 1 (2) the orderly development of the property in the
- 2 County;
- 3 (3) the preservation of property values;
- 4 (4) the protection of the tax base;
- 5 (5) the effect on the neighborhood;
- 6 (6) the likelihood of a nuisance being created;
- 7 (7) the effect on the general plan of the county;
- 8 (8) special conditions or exceptional characteristics
- 9 of the property and its location or surroundings;
- 10 and,
- 11 (9) any other matters relevant to the inquiry.

12 Section 12: Specific findings by commission which are

13 necessary to granting a variance.

14 A variance (which is a modification of the requirement of

15 zoning regulations as to lot area, lot coverage, width,

16 depth, side yard, rear yard, setback, parking space,

17 height of building, or other regulation affecting the size,

18 shape, or design of a lot or the placement of buildings on

19 it) may not be granted unless the planning commission finds

20 that;

- 21 (1) because of special circumstances concerning the
- 22 subject property including its size, shape, topo-
- 23 graphy, location, and surroundings, the strict
- 24 application of the zoning regulations will
- 25 deprive the property of privileges enjoyed by
- 26 other properties in the vicinity and under the
- 27 same land use classification; and,
- 28 (2) the variance, if granted, is not the grant of a

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special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which the subject property is located.

Section 13: Commission may grant variance subject to conditions.

If the Planning Commission grants a variance, it may impose any conditions it considers necessary to (1) assure that the authorized adjustment will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and zone in which the subject property is located and (2) secure substantially the purpose of county regulations and give effect to the general plan.

Section 14: Specific findings by commission which are necessary to granting land use permit.

The Planning Commission may not grant a land use permit unless it finds that each of the following general conditions exist:

- (1) the establishment and maintenance of the use applied for conform with the general plan with regard to traffic circulation, population density and distribution and other aspects of the general plan considered by the planning commission to be pertinent;
- (2) adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;
- (3) the proposed use will not under the circumstances

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of the particular case constitute a nuisance or
be detrimental to the health, safety, peace,
comfort, and general welfare of persons residing
in the neighborhood; and,

(4) the proposed use is not detrimental or injurious
to property and improvements in the neighborhood
and is appropriate to the location, the lot and
the neighborhood.

Section 15: Commission may grant land use permit
subject to conditions.

If the Planning Commission grants a land use permit, it may
impose any conditions which it considers necessary to secure
the purpose of county regulations and give effect to the
general plan.

Section 16: Time and manner of Planning Commission
decision:

After hearing the evidence and considering the application,
the Planning Commission shall make its findings and have
them entered in the minutes of the commission and shall file
them with the planning department. In its findings the
commission shall report the facts found and its conclusion
whether a permit, application or appeal is granted, granted
with conditions or denied. The Planning Commission shall
make it's findings at the next regular meeting after it
orders the matters submitted to it for decision.

Section 17: When decision is final.

The decision of the Planning Commission is final ten (10)
days after the date of the findings.

1 Section 18: Time limit on reapplication for same
2 matter;

3 If the county denies an application or request, the applicant
4 or his successor in interest may not file a new application
5 or request for substantially the same thing for a period of
6 six (6) months from the date the county takes action.

7 ARTICLE 4.

8 Expiration and Revocation of Land Use Permits

9 Section 21: Expiration of permits:

10 A land use permit which is not used within the time specified
11 in the permit, or if no time is specified within 1 year after
12 the permit is granted, is void.

13 A land use permit is void 1 year after the use for which it
14 is issued is discontinued.

15 Section 22: Grounds for revocation of land use permit:

16 The Planning Commission may revoke a land use permit for one
17 of the following grounds:

- 18 (1) violation of any zoning regulation of the county;
19 (2) violation of a condition of the permit after
20 notice of the violation;
21 (3) causing or allowing a nuisance in connection with
22 the premises; or
23 (4) conviction of a violation of state law in connection
24 with the operation of the permitted use.

25 Section 23: Procedure for revocation.

26 If the Planning Commission finds that there is probable
27 cause for revoking a land use permit, the Planning Commission
28 shall direct the planning department to give notice of a

1 hearing to the permittee and the public in the same manner
2 as notice of a hearing for an application for a land use
3 permit. The Planning Commission shall hold a hearing on the
4 question of revoking the permit and if it finds that grounds
5 for revocation exists, it shall revoke the permit. Any
6 person may appeal from an order granting or denying revoca-
7 tion.

8 ARTICLE 5.

9 Duties

10 Section 31: The duties of the Planning Commission shall
11 include but are not limited to the following:

- 12 (a) It shall develop and maintain a general plan.
13 (b) It shall develop such specific plans as may be
14 necessary or desirable.
15 (c) It shall periodically review the capital improve-
16 ment program of the county.
17 (d) It shall review and study land use problems
18 which may arise and recommend to the legislative
19 body recommendations for the solution of said
20 problems.
21 (e) It shall perform such other functions as the
22 legislative body may provide.

23 ARTICLE 6.

24 Non-Conforming Uses.

25 Section 50: Historical Sites

26 Nothing in this Article shall apply to a designated historical
27 site or building. Historical sites and buildings within
28 Mariposa County shall be inventoried by the Historical

1 Preservation Advisory Committee and designated by the Board
2 of Supervisors.

3 Section 51: Existing uses which do not conform

4 The use of land or the use of a building, structure or
5 improvement upon land which does not conform to the land use
6 regulations of the county may continue as provided in this
7 article so long as the use does not violate any other
8 ordinance, law or regulation.

9 The word "land, building, structure, or improvement" as
10 used in this section refers only to that portion which is
11 actually used for the use which does not comply with the land
12 use regulations of the county. The term does not include
13 an improvement or a use which violated any land use regu-
14 lation of the county at the time the improvement or use
15 began. Likewise the term does not include an improvement
16 which is not a part of a use legal at the time it began
17 shall be disregarded and the application of this article to
18 non-conforming uses.

19 Section 52: Duration of nonconforming use.

20 The exception granted to nonconforming uses remains in
21 effect for the following lengths of time, unless the time
22 is otherwise extended or revoked:

23 (1) If the property is not improved with a building or
24 structure and it is required that a conditional
25 use permit is required under Ordinance No. 345,
26 then the expiration time shall be that of the
27 use permit.

28 (2) In other cases = 25 years, and for an additional

1 period of time so that the total life of the
2 improvement from the date of construction is:

- 3 (a) For an apartment, flat, duplex and other
4 multiple family dwelling = 30 years;
5 (b) Other dwelling, including single family
6 residence = 35 years;
7 (c) Stores, warehouses, factories = 25 years.

8 Section 53: Revocation of nonconforming use.

9 The planning commission may revoke the nonconforming use
10 which is granted by section 51 if it finds that:

- 11 (1) The improvement which exists on the property is
12 such that to require the property to be used
13 only for uses permitted in the applicable land
14 use district would not impair the constitutional
15 rights of any person;
16 (2) The nature of the improvements are such that the
17 improvements can be altered so as to permit the
18 use of the property in conformity with the
19 uses permitted in the land use district in which
20 the property is located without impairing the con-
21 stitutional rights of any person;
22 (3) The use for which the exception is granted by
23 section 51 has ceased or has been suspended for
24 a consecutive period of 90 days, or more.

25 Section 54: Alterations.

26 A building or structure which is a nonconforming use may be
27 altered if the alteration is not to an extent exceeding in
28 aggregate cost 25% of the value of the building or structure.

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Section 55: Restoration.

A nonconforming building or structure may be rebuilt and continued in use if it is damaged by fire, collapse, explosion, or act of God, occurring the effective date of this ordinance, if the expense of the work does not exceed 40% of the value of the building or structure at the time the work is done.

Section 56: General regulations governing nonconforming uses.

The following regulations apply to each nonconforming use:

- (1) no physical change in the use is permitted other than ordinary maintenance and repair;
- (2) no increase or enlargement of the area, space, or volume occupied and used is permitted;
- (3) if the nonconforming use is replaced by a conforming use, the nonconforming use is automatically terminated.

Section 57: Certificate of nonconforming use.

The Planning Commission shall compile a list of all nonconforming uses which exist within the county and shall issue a "certificate of nonconforming use" to the owner of property upon which a nonconforming use exists. No use of land, building or structure may be made other than that specified in the certificate of nonconforming use unless the use conforms with the land use district in which the property is located.

The Planning Commission shall file a copy of each certificate of nonconforming use in the office of the building department. No building permit may be issued to an applicant

1 for property for which a certificate of nonconforming use
2 exists.

3 Section 58: Changes in land use district.

4 When the county changes the boundaries of the land use
5 district or rezones an area from one land use district to
6 another, this article also applies to a nonconforming use
7 created by the change in boundaries or change in land use
8 district classification.

9 Section 59: Extensions of, or variances from,
10 nonconforming uses.

11 An extension of or variance from any of the sections of
12 this article may be granted upon a showing of exceptional
13 circumstances. In deciding whether there are exceptional
14 circumstances, the Planning Commission shall weigh the
15 following items:

- 16 (1) Extraordinary circumstances are shown as to
17 the property.
- 18 (2) The extraordinary circumstances directly relating
19 to the need for relief.
- 20 (3) An unnecessary hardship will result if an ex-
21 tension or variance is not granted.
- 22 (4) The proposed extension or variance will not
23 injure neighboring properties or use thereof,
24 not be detrimental to the public welfare.
- 25 (5) The proposed extension or variance will not be
26 tantamount to a rezoning of the property.

27 ARTICLE 7

28 Appeals

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Section 61: Appeal from decision of Planning Commission.

A person who is dissatisfied with the findings of the Planning Commission may appeal to the board by filing a notice of appeal with the county within 10 days after the findings are filed.

Section 62: Time and manner of conducting hearing to be set by board.

When the appeal is filed, the files and papers shall be transmitted to the board of supervisors. The board of supervisors shall set the matter for hearing by entering an order fixing the date of the hearing. In the order, the board of supervisors shall designate whether the hearing will be on the record alone, on the record as supplemented by new evidence, on issues designated by the board, or as a new matter. The order shall be made at the first regular meeting of the board after the appeal is filed. The hearing on appeal shall be set for a time not later than 60 days from the date the appeal is taken.

Section 63: Notice of hearing on appeal.

The Board of Supervisors shall give notice of the time and place of the hearing or appeal by mailing copies of the notice by first class mail, postage prepaid, to the applicant or petitioner, the appellant and to any interested person who has filed a written request for notice with the county.

Section 65: Hearing and decision of appeal by Board.

The Board of Supervisors shall hear the matter as designated in the order fixing the hearing. The Board of Supervisors shall make its findings and conclusions in writing within

1 10 days after it orders the matter submitted to it for
2 decision. The findings and conclusions shall be filed with
3 the County Clerk within 10 days after the decision on appeal.
4 The clerk shall certify a copy of this report to the Planning
5 Commission. In its findings the Board of Supervisors shall
6 report the facts found and its conclusions whether the
7 applications or petition should be granted, granted with
8 conditions, or denied. The decision of the board is final.

9 VALIDITY:

10 Should any section or part of a section, clause or provision
11 of this ordinance be declared by any Court to be invalid,
12 the same shall not affect the validity of the ordinance as
13 a whole or any part thereof, other than the part so declared
14 to be invalid.

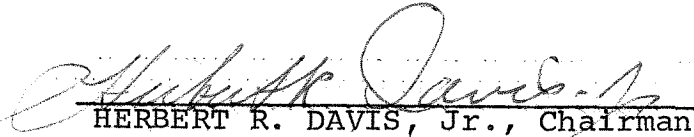
15 PASSED AND ADOPTED by the Board of Supervisors of the
16 County of Mariposa this 1st day of October, 1974;
17 by the following vote:

18 AYES: Davis, Hurlbert, Long, Richardson

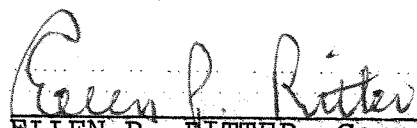
19 NOES: Moffitt

20 NOT VOTING: None

21 ABSENT: None

22 
23 HERBERT R. DAVIS, Jr., Chairman
24 Board of Supervisors of the
County of Mariposa

25 ATTEST:

26 
27 ELLEN P. RITTER, County Clerk
28 and Ex-Officio Clerk of the
Board of Supervisors