

**MARIPOSA COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 98-439**

**A RESOLUTION APPROVING GENERAL PLAN/ZONING AMENDMENT NO. 98-2,
COMMERCIAL, INDUSTRIAL, MANUFACTURING PLAN NO. 98-2,
AND VARIANCE NO. 98-4, MCGRATH LLC, APPLICANT.**

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

WHEREAS, in conjunction with the General Plan/Zoning Amendment application a Commercial, Industrial, Manufacturing Plan application and Variance application were submitted; and

WHEREAS, General Plan/Zoning Amendment application proposes to modify the specific plan land use and zoning designation on APN 008-310-001 from Mountain Preserve to Resort Commercial; and

WHEREAS, The Commercial, Industrial, Manufacturing Plan application proposes to allow for the expansion of a legal non-conforming hostel and operation of a public restaurant and the Variance application allows for construction of off-site signs adjacent to Highway 140.; and

WHEREAS, the Planning Commission has conducted 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.

NOW THEREFORE BE IT RESOLVED, the Board of Supervisors hereby adopts a Negative Declaration for the project and approves the amendment to the Mariposa County General Plan Land Use and Zoning Map as shown in Exhibit A, approves the Commercial, Industrial, Manufacturing Plan subject to the Conditions of Approval shown in Exhibit B of this resolution, and approves the Variance subject to the Conditions of Approval shown in Exhibit C of this resolution.

BE IT FINALLY RESOLVED, this action is based on the findings mandated by Section 2.504 of the Mariposa County General Plan and Sections 17.88.070 and 17.120.050 of the County Zoning Ordinance as stated and discussed in Exhibits D, E, and F.

PASSED AND ADOPTED on this 1st day of December, 1998 by the following vote:

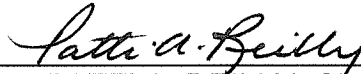
AYES: Reilly, Balmain, Stewart, Parker, Pickard

NOES: None

ABSTAINED: None

EXCUSED: None

NOT VOTING: None



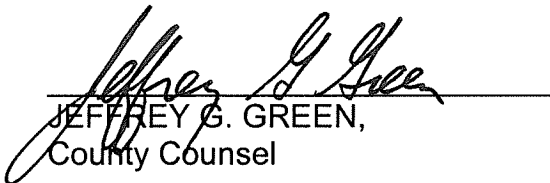
PATTI A. REILLY, Chair
Mariposa County Board of Supervisors

ATTEST:



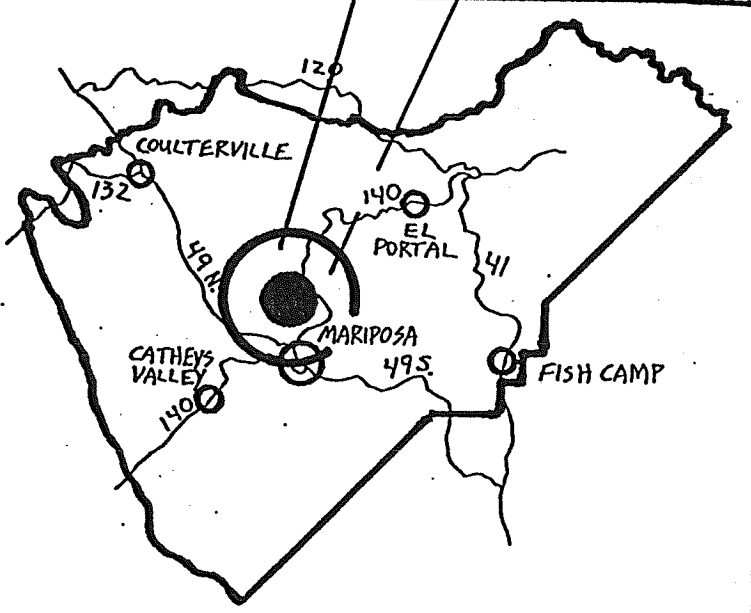
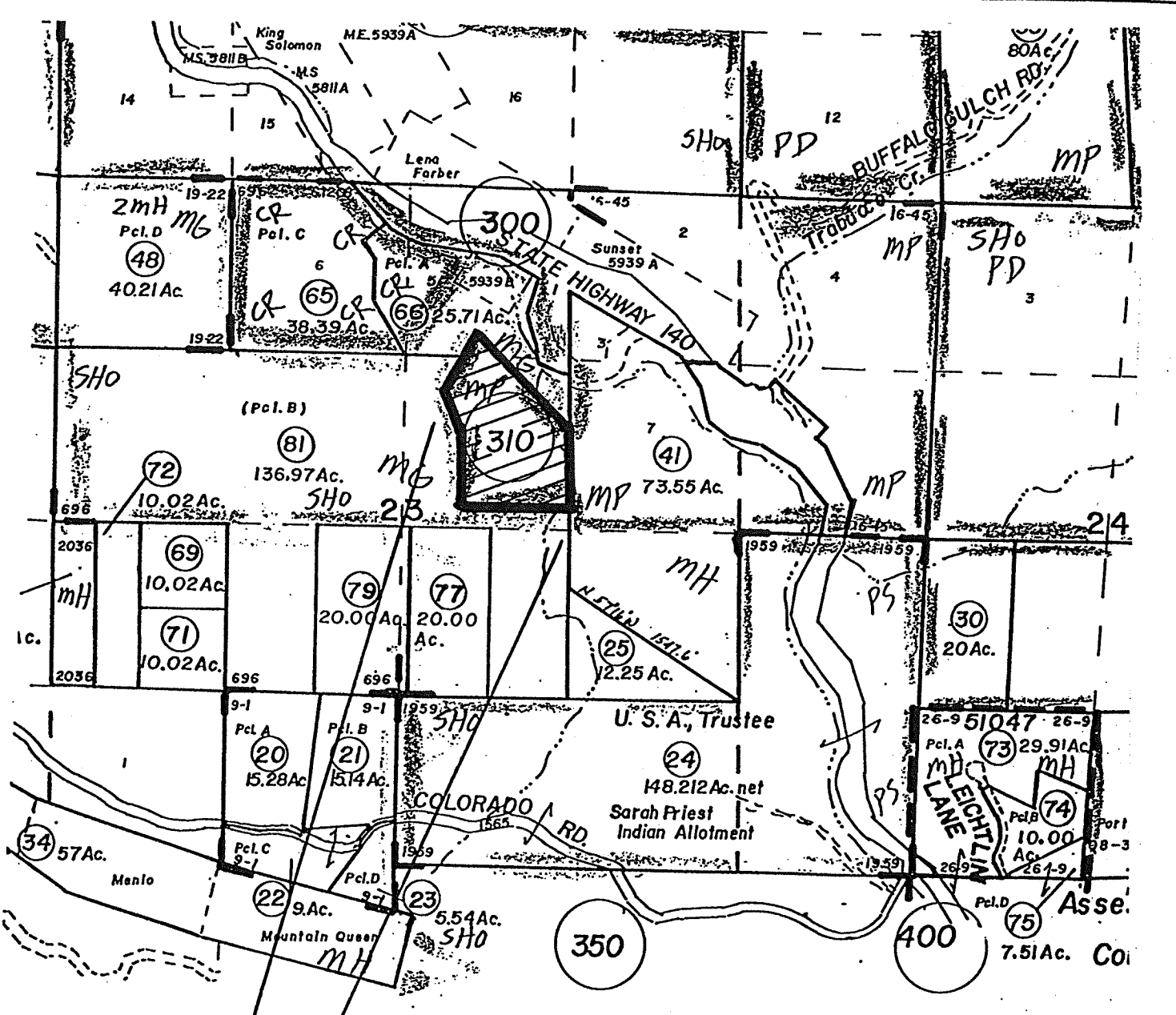
MARGIE WILLIAMS,
Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN,
County Counsel

RESOLUTION EXHIBIT A



LOCATION MAP
 GP / ZA #98-2
 VARIANCE #98-4
 CIM PLAN #98-2
 APPLICANT: CAROLINE McGRATH, LLC
 APN: 008-310-001
 MIDPINES AREA

(50)

RESOLUTION EXHIBIT B

Conditions of Approval For CIM Plan

1. The Commercial, Industrial, Manufacturing Plan is approved for the development and operation of 12 overnight lodging buildings (newly constructed lodging buildings may contain 1 or 2 bathrooms), 2 employee cabins, 5 tent sites, a recreational multi-purpose building, and a 100 person capacity restaurant/lodge building (open to the public). Maximum occupancy of the lodging buildings shall be 100 people and maximum occupancy of the tent sites shall be 20 people. Building size shall be as shown on the approved plans. Expansions of up to 10% of square footage may be approved by the Planning Director, no expansion in the number of lodging units or occupancy is permitted through this 10% expansion. The project shall be developed in accordance with the approved plans; any deviation from the approved plans shall be reviewed and approved by the Planning Director, in accordance with the conditions of approval, prior to any modification being made.
2. Prior to issuance of a Certificate of Occupancy to any new structure on the project site:
 - The access driveway from Highway 140 to the lower parking area shall be improved to a minimum of a 20' wide and graveled surface; and
 - The access driveway from the lower parking area to the lodge building shall be modified to include a minimum of one minimum of 20' wide turnout with a gravel surface. The turnout shall be located and constructed to County Fire specifications. An on-site meeting shall be held between County Fire and the applicant to determine the appropriate location for the turnout prior to construction.
3. Prior to issuance of a Building Permit to construct any on-site structure, a detailed parking plan shall be submitted to the Planning Director for review and approval. The plan shall provide for a minimum of 50 parking spaces (9' x 19' each) and for adequate backing and turning areas. Prior to issuance of a Certificate of Occupancy to any new structure on the project site a minimum of 50 delineated parking spaces (9' by 19') shall be available, the method of delineation shall be approved by the Planning Director. All driveways and parking areas shall be maintained in their required form at all times
4. Prior to issuance of a Building Permit to construct any on-site structure, engineered plans to widen the existing bridge to 20' and to increase its capacity to 32 tons shall be submitted to the Planning and Building Departments for review and approval. A Building Permit for the bridge shall be obtained from the Building Department prior to construction. Prior to issuance of a Certificate of Occupancy to any new structure on the project site the bridge shall be improved in accordance with the approved plans.
5. Prior to issuance of a Building Permit to construct any on-site structure an encroachment permit shall be obtained from Caltrans for the widening of the Highway encroachment and for the restriping of the highway to provide a left turn pocket. Prior to issuance of a Certificate of Occupancy to any new structure the existing 3-lane highway shall be restriped to provide for a left turn pocket and all encroachment permit requirements from Caltrans shall be satisfied.

6. Throughout the life of the project a secondary vehicular access shall be accessible and passable at all times.
7. Prior to issuance of a Building Permit to construct any on-site structure the applicant shall provide documentation to the satisfaction of the County Fire Chief that 27,500 gallons of water is available for fire suppression purposes on the project site. Prior to issuance of a Certificate of Occupancy to any new structure the County Fire Chief shall approve the connections to the fire suppression water supply to insure the ability of Fire Department equipment to connect and utilize the water.
8. All new commercial construction on the project site shall be sprinkled.
9. The project shall meet all standards of PRC 4290 and any requirements of County Fire regarding commercial structures. All flammable vegetation shall be removed from each building site a minimum distance of 30 feet. Addressing shall be provided per PRC 4291 and the Uniform Fire Code. Fire extinguishers shall be provided per the standards of the Uniform Fire Code. Weed abatement along driveways and brush clearance around structures shall be completed annually to CDF standards.
10. All construction, including buildings, driveways, parking areas, water and sewer lines, etc. shall be located a minimum of 50' from all south property lines.
11. Prior to issuance of a Building Permit for any on-site structure, the wastewater disposal system shall be designed in accordance with the County Health Department's and/or Regional Water Quality Control Board specifications and requirements. Prior to issuance of a Certificate of Occupancy for any on-site structure, the wastewater disposal system shall be installed and approved by the County Health Department and/or Regional Water Quality Control Board.
12. Prior to issuance of a Certificate of Occupancy to any on-site structure, the applicant shall apply for and receive a domestic water supply permit from the State Department of Health Services/Drinking Water Field Operations Branch. Verification of the domestic water supply permit shall be submitted to the Planning Director.
13. The applicant shall provide adequate facilities for solid waste disposal.
14. All new utilities shall be located underground. All propane storage tanks and garbage areas shall be screened from view from Highway 140 and adjoining properties.
15. All on-site external lighting fixtures shall be of a hooded type, shall produce the minimum amount of light necessary to complete its intended function, and shall direct light only onto the project site. The applicant shall submit an outdoor lighting plan to the Planning Director for review and approval prior to issuance of a Building or Grading Permit.

16. Should the Zoning Ordinance regulations related to CIM Plans be amended or deleted, any amendments to this CIM Plan shall be processed in accordance with the new Zoning Ordinance requirements.
17. All new construction shall be sided, roofed, and painted to be compatible with the existing structures on the property.
18. The project shall be completed within 6 years of the date of approval.
19. Prior to issuance of a Building Permit all fees associated with the processing of this application shall be paid.
20. The applicant shall control the access of hostel guests to adjacent parcels.

RESOLUTION EXHIBIT C
CONDITIONS OF APPROVAL FOR VARIANCE

1. The variance is approved for the construction of signage in accordance with Section 17.65.010.E.4 located on either APN 008-170-065 or 008-170-066. Prior to erection of a sign on either APN 008-170-065 or 008-170-066 a letter of authorization shall be submitted to the Planning Department from the owner of APN 008-170-065 or 008-170-066 authorizing the owner of APN 008-310-001 to erect the sign.

2. Prior to installation of any signage a sign plan shall be submitted to the Planning Department for review and approval. The sign plan shall contain the location, size, highlighting, building materials, and facial copy of all signs which are existing or are to be located on or off-site.

RESOLUTION EXHIBIT D

1. *“That such an amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare”*

The project will provide additional lodging opportunities for the touring public. The subject property is located within a short distance of Highway 140, which constitutes the main tourist route within Mariposa County. Current and proposed access to the property is easily obtained from Highway 140. The property is bounded by the approved Whispering Pines Hotel Complex and Whispering Pines Apartments to the north and by Muir Lodge to the south. This property is located within an area which serves as a tourist serving commercial pocket within Mariposa County. Additionally the property has historically been utilized to serve the touring public since approximately the 1920's.

The property is well buffered from properties to the north, west, and south by a ridge which generally surrounds the property on these three sides and by Bear Creek which runs along the east side of the property. The subject property is more than eight times the required size for properties within the resort commercial designation. Additionally the project will be provided with adequate water, wastewater, garbage, and parking facilities to insure that it will not negatively impact the area.

2. *“That such an 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”*

The project enhances the existing situation that this section of Highway 140 is an area serving the touring public and provides a restaurant for tourists and locals within the Midpines area. The project provides a clear plan for future development on the project site rather than relying on the non-conforming use provisions of the Zoning Ordinance to govern operation and expansion. Additionally the project involves a rezoning of a successful legal non-conforming hostel and restaurant business into the Resort Commercial designation to allow for the business to grow and prosper. This rezoning will allow for the development of new rental buildings which are consistent with the scale and theme of the existing on-site development. The amendment will insure that on-site development is in accordance with commercial development standards.

3. *“That such an amendment conforms to the requirements of state law and county policy”*

The amendment was processed in accordance with state law and County Code with regards to notice, hearing, and findings.

4. *“That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan”*

The development of tourist serving facilities and the preservation of open space provided by this development are consistent with the Goals, Policies, and Standards of the County general plan. Section 3.200.4 provides for “The strengthening of the economic and

employment opportunities of Mariposa County through encouragement of appropriate commercial” development. Section 3.300.D establishes the 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”.

5. *“The subject parcel is physically suitable (including, but not limited to access, provision or 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 development area of the project site has been disturbed by previous development on the property, which has historically been used as a camp, church camp, and recovery center. As such the project results in little new disturbance on the project site. The site is served by power and phone and can be adequately served by primary and emergency access routes. The subject property is well buffered by a ridge from properties to the north, south, and west and by Bear Creek to the east. A large amount of existing mature vegetation also serves to buffer the use from Highway 140 and adjoining properties. The subject property is located in an area which has historically been used for transient usage (church camp) since the early twentieth century. Additionally properties to the north and south have existing or previously approved resort commercial projects located on them.

6. *“The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public”*

The project enhances the existing situation that this section of Highway 140 is an area serving the touring public and provides a restaurant for tourists and locals within the Midpines area. The project will allow for an existing business to grow and provide the touring public the opportunity for alternative lodging opportunities within a hostel. Additionally the project will provide a public restaurant facility in the Midpines area. The project will generate both seasonal and permanent jobs within Mariposa County.

RESOLUTION EXHIBIT E

1. *“That the site is physically suited for the proposed development”*

The development area of the project site has been disturbed by previous development on the property. As such the project results in little new disturbance on the project site. The site is served by power and phone and can be adequately served by primary and emergency access routes. The subject property is well buffered by a ridge from properties to the north, south, and west. Property to the east is separated by Bear Creek. The subject property is located in an area which has historically been used for transient usage (church camp) since the early twentieth century. Additionally properties to the north and south have existing or previously approved resort commercial projects located on them.

2. *“That adequate provisions have been made for sewage disposal and handling of solid waste”*

The enforcement of County Health Department standards and the proposed conditions of approval will insure that sewage and solid waste disposal are handled adequately.

3. *“That the proposed development will have adequate potable water for public use and fire protection”*

The enforcement of State public drinking water standards and County standards will insure that adequate water is available for drinking purposes. The conditions of approval which require additional on-site storage of water for fire purposes will insure that adequate fire protection water is available.

4. *“That the project complies with all standard and special setback requirements and appropriate buffers have been provided for adjacent land uses”*

County Code requires a minimum 50' setback from all property lines adjoining property within a residential zone. The subject property is well buffered from adjacent uses by the ridge which surrounds the parcel to the north, south, and west and by Bear Creek which borders the property to the east.

5. *“That appropriate access is available or is proposed to the development”*

Access to the site comes via an easement from Highway 140. The conditions of approval will insure that a turn lane is added to Highway 140 and that adequate improvements are made to the access driveway to ensure adequate daily and emergency access.

6. *“That the project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or determined that the significant effects are unavoidable and acceptable due to overriding concerns”*

As discussed in the attached Initial Study the project will not have a significant effect on the environment upon imposition of the proposed mitigation measures. The project will

not have an adverse impact on wildlife or plant resources and is not subject to the Department of Fish and Game filing fee for the Negative Declaration (AB 3158).

7. *“That the proposed use is consistent with the policies and standards of the general plan and any applicable specific plan”*

The development of tourist serving facilities and the preservation of open space provided by this development are consistent with the Goals, Policies, and Standards of the County general plan. Section 3.200.4 provides for “The strengthening of the economic and employment opportunities of Mariposa County through encouragement of appropriate commercial” development. Section 3.300.D establishes the 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”.

8. *“A different time limit is necessary and not detrimental to the public health, safety, and welfare” (17.08.170)*

The proposed 6 year time limit will allow the applicant adequate time to finance and construct the improvements. This time will not result in the generation of any negative impact to public health, safety, or welfare.

RESOLUTION EXHIBIT F

1. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the conditions applicable to the property involved, or to the intended use of the property, that do not generally apply to the property or class of use in the same zone or vicinity.*

Prior to its conversion to use as a hostel in 1997 the subject property has historically been used as a group camp, church camp, and recovery center. Recently the property has been used for transient occupancy purposes. This property is located a short distance from Highway 140 and does not contain any highway frontage. Additionally the property is well shielded from Highway 140 by existing vegetation and topography. Generally resort commercial projects contain highway or major roadway frontage and therefore have adequate areas to advertise the business on the property. This particular site meets the principal criteria for being an appropriate location for resort uses, including the historic and current usage. It's distance from the highway adds, in fact, to its desirability as resort commercial zoning. However, these site location advantages cause a disadvantage in regard to visible signage. Because the property has no adequate area to advertise its business on-site it can be found that there are exceptional circumstances applicable to the operation of a commercial business on the property.

2. *The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the property is located.*

The location of the signage adjacent to the highway, but off of the subject property will not negatively impact public welfare or property and will comply with the standards of the Scenic Highway Overlay.

3. *The granting of such variance will not adversely affect the comprehensive General Plan.*

The provision of signage for the business will provide tourists with adequate information, will help the business to be successful, and will encourage additional commercial opportunities within Mariposa County.

4. *There are special circumstances applicable to the property in which the strict application of zoning ordinance regulations will deprive the property of privileges enjoyed by other property in the vicinity and under the identical zone.*

The strict application of the zoning ordinance will in essence prohibit this business from the ability to have any effective signage. Signage adjacent to a major roadway is a privilege enjoyed by all other Resort Commercial properties in Mariposa County.

5. *The granting of such variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.*

The strict application of the zoning ordinance will in essence prohibit this business from the ability to have any effective signage. Signage adjacent to a major roadway is a privilege enjoyed by all other Resort Commercial properties in Mariposa County.

6. *The Planning Director shall impose any conditions necessary to guarantee compliance with these findings.*

The signage quantity and type will be limited to that which is permitted for other resort commercial properties within the Scenic Highway Overlay.

DEPARTMENT: Planning

By: Jay Pawlek

Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes ___ No XXX)

Staff recommends that the Board of Supervisors:

- Waive the first reading and introduce an Ordinance amending the zoning designation on APN 008-310-001 from Mountain Preserve to Resort Commercial;
- Schedule the second reading of the ordinance for December 1, 1998 and take the following actions on December 1, 1998:
- Adopt a Negative Declaration with Mitigation Measures on the project;
- Adopt a Resolution approving the General Plan/Zoning amendment, approving the Commercial, Industrial, Manufacturing Plan with conditions, approving the Variance with conditions, and amending the General Plan designation affecting the project site from Mountain Preserve to Resort Commercial to be effective the same date as the effective date of the ordinance; and
- Waive the second reading and adopt an Ordinance amending the zoning on APN 008-310-001 from Mountain Preserve to Resort Commercial.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None related to this paid application. However, this project site was included in the Commercial Sites Open Window Program. The Commercial Open Window rezoning applications are on hold pending completion of the Industrial Sites Open Window Program. The applicants elected to pay application processing fees to process this project outside of the open window program.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Negative action would result in the project remaining within the Mountain Preserve General plan and zoning designation and no approval of the applicants expansion plans or signage plans.

COSTS: () Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated Costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

COSTS: () 4/5th Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve Contingencies, If Approved: \$ _____

SPECIAL INSTRUCTIONS:

List the attachments and number the pages consecutively:

Memorandum to the Board with exhibits

A. Planning Commission Staff Report and Initial Study

B. Planning Commission Minutes October 16, 1998

C. Draft Board Resolution

D. Draft Board Ordinance

CLERK'S USE ONLY

Res. No.: _____ Ord. No.: _____

Vote - Ayes: _____ Noes: _____

Absent: _____ 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: *Jh*