

DEPARTMENT: Planning

By: Jean Clark, Assistant Planner

Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes ___ No X)

- 1) Adopt a Resolution which approves an amendment to the General Plan pursuant to General Plan/Zoning Amendment No. 95-38, Mack and Pam Toney, Applicants;
- 2) Waive the second reading and approve an ordinance approving Development Agreement No. 96-1; and
- 3) Waive the second reading and approve an ordinance approving an amendment and a change in the Official County Zoning Map (changing the zoning on APN 015-060-025 from Mountain Home to Neighborhood Commercial-2).

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See memorandum included in Board packet of 7/14/98.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: 1) Revise development agreement.

NEGATIVE ACTION, or not approving the ordinance, would result in no change to the zoning designation for the parcel. The restaurant would be illegal, unless the business operator or owner moved on site. The beauty salon would be illegal, unless the business owner moved on site.

COSTS: (X) 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: _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Memorandum to Board with Attachments:

- 1. Draft Resolution
- 2. Draft Ordinances (including Development Agreement)

Balance in Reserve Contingencies, If Approved:
\$ _____

CLERK'S USE ONLY

Res. No.: 98-298 Ord. No.: 935 - Dev. Agreement

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

Approved Denied

Minute Order Attached No Action Necessary

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted for Comment

Returned for Further Action

Comment: _____

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

A.O. Initials: JC

**MARIPOSA COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 98-298**

**A RESOLUTION APPROVING
GENERAL PLAN AMENDMENT NO. 95-38**

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

WHEREAS, this application proposes to modify the land use and zoning designation on APN 015-060-025 from Mountain Home to Neighborhood Commercial; and

WHEREAS, the Board of Supervisors is responsible for reviewing the proposed amendment and the approval or denial of the proposed amendment to the General Plan; and

WHEREAS, the Planning Commission and Board of Supervisors have held duly noticed public hearings in accordance with County Code and State Law; and have considered all input, written and verbal, delivered to the Commission and Board; and

WHEREAS, the Board of Supervisors finds such amendment is consistent with the guiding policies, goals, and standards of the Mariposa County General Plan.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors has conducted an environmental review on the amendment in accordance with the California Environmental Quality Act and a Mitigated Negative Declaration has been adopted for the project; and

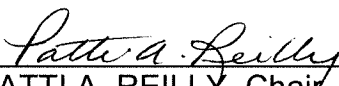
BE IT FURTHER RESOLVED, the Mariposa County Board of Supervisors hereby approves General Plan Amendment No. 95-38, delineated in Exhibit A of this resolution, attached hereto and incorporated herein by reference.

BE IT FINALLY RESOLVED, this action of the Board of Supervisors is based on the findings mandated by Section 17.128.050.C of Mariposa County Code as stated and discussed in Exhibit B.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors on this 28th day of July, 1998 by the following vote:


AYES:	REILLY, STEWART, PARKER, PICKARD
NOES:	NONE
ABSTAINED:	NONE
EXCUSED:	BALMAIN

July 28, 1998



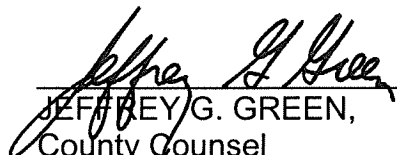
PATTI A. REILLY, Chair
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS,
Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN,
County Counsel

EXHIBIT A
LEGAL DESCRIPTION

Parcel 1 of Parcel Map Book 7, Page 19, Mariposa County Records.

EXHIBIT B FINDINGS

Finding No. 1: *The amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, peace, and welfare.*

The General Plan land use and zoning changes provide an area for neighborhood services. The services are surrounded by residential development and located one mile from Lushmeadows and Monte Vista Estates subdivisions, medium density rural residential developments. It is appropriate to have neighborhood services near medium density developments.

Although the existing restaurant use was originally established as a Home Enterprise, the Neighborhood Commercial-2 designation is more appropriate as neither the business owner nor the business operator is living on the site.

With mitigation in the form of a Development Agreement to limit changes in use and expansion potential, the rezoning will not adversely impact the adjacent properties in the Mountain Home land use classification.

A Negative Declaration has been adopted for the amendment which will state that this project will not have a significant impact upon the environment or will not have any adverse impacts on the surrounding properties and existing and future development if mitigated with a Development Agreement.

Finding No. 2: *The amendment is desirable for the purpose of improving the General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decisionmaking.*

The amendment will clear up the status of a use which was originally legally established in accordance with Zoning Ordinance Standards, but was later determined at an appeal hearing to be illegal. It will establish specific limits to allowed uses and the extent of development.

Finding No. 3: *The amendment conforms with the requirements of State law and County policy.*

The General Plan/Zoning Amendment application has been processed in accordance with the requirements of State law and

County regulations and established policy. A Mitigated Negative Declaration has been adopted for the project pursuant to the California Environmental Quality Act.

Finding No. 4: *The amendment is consistent with other guiding policies, goals, policies, and standards of the General Plan.*

The amendment has been reviewed for consistency with the policies and standards of the Mariposa County General Plan. Section 3.516(A) of the General Plan states “The CN classification is designed to provide for limited retail, office, and service uses which are primarily related to serving the daily needs of a residential community and traffic along major streets and roads. These uses should have a minimal impact on surrounding residential uses. The CN classification is appropriate in areas located within, or in the vicinity of, medium-density rural residential areas such as Lushmeadows, Ponderosa Basin, and Lake Don Pedro and accessed by two-lane paved public access roads, or in areas located adjacent to or easily accessible to a County Primary Road or State Highway.” The amendment clearly meets the intent of the CN classification as the project site is near Lushmeadows, is accessed from a main County road, has been mitigated to minimally impact surrounding residential uses, and is already developed with service type uses.

Based upon the existing uses on the parcel, the amendment will not be inconsistent with the policies and standards of the Conservation and Open Space Elements of the General Plan. The Development Agreement will significantly limit development expansions and will keep the majority of the parcel in open space. The amendment is consistent with, or will have no negative effect on the other goals, policies, and standards of the Mariposa County General Plan.

The project is found to support, accomplish or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the General Plan’s purpose. This finding is made in accordance with Section 2.600 et seq.

Finding No. 5: *(a) The amendment is for a parcel which is 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.*

Access to the parcel is by Triangle Road, a paved, County-maintained road.

The project site is served by telephone and electrical lines. Well water serves the development. Utilities and infrastructure which exist on the project site are adequate for existing development and can be expanded for potential additional development allowed for the project.

The site, proposed for Neighborhood Commercial-2 zoning, abuts parcels zoned Mountain Home. The proposed Development Agreement will limit development so that it remains compatible with the residential neighborhood while allowing the existing business a right to operate and a modest amount of expansion.

(b) The proposed zoning is logical and desirable to provide expanded employment opportunities or basic services to the immediate residential population or touring public.

The rezone to Neighborhood Commercial-2 will provide an appropriate zoning for a commercial use in a residential neighborhood. The existing restaurant and beauty shop, provide basic food and personal services to the community. These businesses also provide employment opportunities.

Finding No. 6: *The project will not have an adverse impact on wildlife resources and is not subject to the Department of Fish and Game filing fee for the Negative Declaration (AB 3158).*

According to the Department of Fish and Game's Natural Diversity Data Base and Areas of Special Biological Importance Map for Mariposa County, there are no special, rare or endangered plant or animal species located on the project site or the surrounding area. Based upon the small amount of expansion allowed and the existing development surrounding the project site, this rezoning 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).