

96-87

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

AGENDA DATA: 03/05/96
AGENDA ITEM NO.: 6-A

DEPARTMENT: Public Works

By: Bruce A. Atkinson

Phone: 966-5356

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

1. Adopt the attached Resolution Conditionally Dissolving The Apple Seed Lane Maintenance Zone of Benefit, with the recommended conditions; and authorize the Chairman to sign the attached Statement of Zone Dissolutionment;
2. Adopt the attached Resolution Rescinding Assessment Fees for The Apple Seed Lane Maintenance Zone of Benefit;
3. Authorize the Chairman of the Board to sign the attached Notice of Zone Dissolutionment;
4. Authorize the filing of the Statement of Zone Dissolutionment with the State Board of Equalization; after all conditions associated with the above noted Resolution have been met;
5. Authorize the recordation of the Notice of Zone Dissolutionment, into the Official Records; and
6. Authorize the release of all unencumbered proceeds from The Apple Seed Lane Maintenance Zone of Benefit account to the Home Owners Association, once all processing charges have been billed, required fees paid, and any existing debts and/or obligations are satisfied.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See attached Staff Report.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not adopt this resolution; and maintain the existing zone of benefit in place to insure the maintenance of the Apple Seed Lane road system.

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: > _____

Balance in Reserve Contingencies, If Approved:
\$ _____

SPECIAL INSTRUCTIONS:

List the attachments and number the pages consecutively:

1. Staff Report(3 pages)
2. Resolution to Dissolve
w/Statement of Zone Dissolutionment and
(w/3 Exhibits: 9 pages)
3. Notice of Dissolutionment
(w/2 Exhibits: 5 pages)
4. Letter to Board from Applicants (2 pages)
5. Draft of "Declaration" document (7 pages)
6. Vicinity Map

CLERK'S USE ONLY

Res. No.: 96-87 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: aw

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: MIKE EDWARDS, Public Works Director

FROM: MARGIE WILLIAMS, Clerk of the Board 

SUBJECT: RESOLUTION NUMBER 96-87

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on March 5, 1996

ACTION AND VOTE:

10:42 a.m. Mike Edwards, Public Works Director;

A) PUBLIC HEARING on the Matter of Dissolving the Apple Seed Lane Maintenance Zone of Benefit

BOARD ACTION: Mike Edwards presented staff report; and requested that action on the resolution rescinding assessment fees for the Zone be delayed until all conditions are satisfied, and that staff will bring this resolution back. Mike Edwards and Bruce Atkinson/PWD-Special Projects Coordinator, responded to questions from the Board relative to impact this action will have on the Miami Mountain snowplowing service; status of the one property owner that did not participate in the request; and proposed Consolidated Declaration of Protective Conditions and Restrictions relative to maintenance responsibility. Public portion of the hearing was opened. Public input was received from the following: Richard McMechan, speaking on behalf of the homeowners, advised they support the recommendation and they are willing to accept full responsibility for the entire road system, including the portion for the thirteenth owner that did not participate in the request. Public portion of the hearing was closed and Board commenced with deliberations. (M)Taber, (S)Parker, Res. 96-87 adopted conditionally dissolving the Apple Seed Lane Maintenance Zone of Benefit, with the recommended conditions; and authorizing Chairman to sign the State of Zone Dissolutionment; directing staff to bring back the resolution rescinding assessment fees when all conditions are satisfied; authorizing Chairman to sign the Notice of Zone Dissolutionment; authorizing the filing of the documents with the State Board of Equalization as recommended; authorizing recordation of Notice of Zone Dissolutionment as recommended; and authorizing the release of all unencumbered proceeds from the Zone as recommended/Ayes: Unanimous. Hearing was closed.

cc: Ken Hawkins, Auditor
File

**A RESOLUTION CONDITIONALLY DISSOLVING THE
APPLE SEED LANE MAINTENANCE ZONE OF BENEFIT**

WHEREAS, Section II.I.3 of the Mariposa County Road Improvement and Circulation Policy provides an exemption to the requirement of a Zone of Benefit if a private maintenance association is established; and

WHEREAS, the applicants, Richard McMechan et al, has petitioned Mariposa County for the dissolutionment of the Apple Seed Lane Maintenance Zone of Benefit; and

WHEREAS, the primary applicant, Mr. Richard McMechan has provided Mariposa County with a draft document entitled "Consolidated Declaration of Protective Conditions and Ristrictions," which provides for the private maintenance of the roads within the Apple Seed Lane Maintenance Zone of Benefit; and

WHEREAS, the Board of Supervisors, through Resolution No. 96-33, filed a Resolution of Intention to dissolve the Apple Seed Lane Maintenance Zone of Benefit, as required by Government Code Section 25210.32, and set a date and time for a public hearing; and

WHEREAS, on March 5, 1996, the Board of Supervisors held a duly noticed public hearing on the question of dissolving the Apple Seed Lane Maintenance Zone of Benefit; and

WHEREAS, the Board of Supervisors, received no dissenting public input at the public hearing;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Mariposa, a political subdivision of the State of California, that the Board hereby conditionally approves the dissolutionment of the APPLE SEED LANE MAINTENANCE ZONE OF BENEFIT, as described and shown on the attached STATEMENT OF ZONE DISSOLUTIONMENT.

**A RESOLUTION CONDITIONALLY DISSOLVING THE
APPLE SEED LANE MAINTENANCE ZONE OF BENEFIT**

BE IT FURTHER RESOLVED, the Board of Supervisors finds the dissolutionment of the APPLE SEED LANE MAINTENANCE ZONE OF BENEFIT is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (c) of the CEQA Guidelines based on the following findings:

- 1) The zone of benefit to be dissolved is being replaced by a private maintenance entity, established for the maintenance of existing public facilities involving negligible use beyond that previously existing.
- 2) It is determined with certainty that there will be no possibility that the dissolutionment of this zone of benefit may have a significant adverse effect on the environment.

BE IT FURTHER RESOLVED, the Board of Supervisors finds the proposed Architectural Control Committee/Home Owners Association to be an acceptable alternative to the zone of benefit based on the following findings:

- (1) California Civil Code §845 states that *"The owner of any easement in the nature of a private right-of-way, or of any land to which any such easement is attached, shall maintain it in repair; (b) If the easement is owned by more than one person, or is attached to parcels of land under different ownership, the cost of maintaining it in repair shall be shared by each owner of the easement or the owners of the parcels of land, as the case may be, pursuant to the terms of any agreement entered into by the parties for that purpose ... ; and (c) In the absence of an agreement, the cost shall be shared proportionately to the use made of the easement by each owner; and*
- (2) The "Consolidated Declaration of Protective Conditions and Restrictions" and the referenced Architectural Control Committee/Home Owners' Association is a duly authorized substitute for the existing zone of benefit, that includes all parcels within the boundaries which are served by the improvements maintained by the existing zone of benefit.

**A RESOLUTION CONDITIONALLY DISSOLVING THE
APPLE SEED LANE MAINTENANCE ZONE OF BENEFIT**

BE IT FURTHER RESOLVED, the Board of Supervisors adopts the conditions provided in the attached Exhibit "C," and directs that they be implemented by County Staff, prior to finalizing this action.


PASSED AND ADOPTED this 5th day of March 1996 by the Mariposa County Board of Supervisors by the following vote:

AYES: Reilly, Balmain, Stewart, Parker, and Taber

NOES: None


ABSENT: None

ABSTAINED: None




DOUG BALMAIN, 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