

DEPARTMENT: Planning

BY: Sarah Williams

PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes \_\_\_ No XX)

Resolution determining that there has not been compliance in good faith with terms and conditions of Development Agreement No. 83-1 and directing staff to modify the agreement to incorporate Planning Commission's recommended changes.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Development Agreement No. 83-1 was approved by the Board of Supervisors on 9/20/83.

Annual Reviews of Development Agreement No. 83-1 were conducted in March of 1986, May of 1987, and December of 1988. At the last annual review, the Board declared that they did not desire to notice formal default of Development Agreement No. 83-1 at that time.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- 1) Accept Planning Commission's Recommendation to Modify Terms and Conditions of Agreement.
- 2) Terminate Development Agreement No. 83-1
- 3) Maintain Development Agreement No. 83-1.

NEGATIVE ACTION would result in the maintenance of all terms and conditions of the development agreement. All future development on the affected parcels would be conducted in accordance with the specific terms and conditions of the agreement.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ \_\_\_\_\_

B. Total anticipated costs \$ \_\_\_\_\_

C. Required additional funding \$ \_\_\_\_\_

D. Internal transfers \$ \_\_\_\_\_

SOURCE: ( ) 4/5ths Vote Required

A. Unanticipated revenues \$ \_\_\_\_\_

B. Reserve for contingencies \$ \_\_\_\_\_

C. Source description: \_\_\_\_\_

Balance in Reserve for Contingencies, if approved: \$ \_\_\_\_\_

CLERK'S USE ONLY: 95-89 Ord. No. \_\_\_\_\_

Res. No.: \_\_\_\_\_ Noes: \_\_\_\_\_

Vote - Ayes: \_\_\_\_\_ Absent: \_\_\_\_\_

( ) Approved ( ) Denied

(X) 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  
County of Mariposa, State of California

By: \_\_\_\_\_  
Deputy

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

Memo to Board including Attachments

1. Draft Planning Commission Resolution No. 95-5
2. Staff's 2/7/95 Memorandum to Planning Commission
3. Vicinity Map
4. Development Agreement No. 83-1

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

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: \_\_\_\_\_

A.O. Initials: WP

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

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TO: ED JOHNSON, Planning and Building Director  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: PUBLIC HEARING to Consider Annual Review  
of the Development Agreement for the  
Storey Hill Project, Dev. Agreement No. 83-1,  
Lloyd and Shirley Fischer, et al.,  
Resolution Number 95-89

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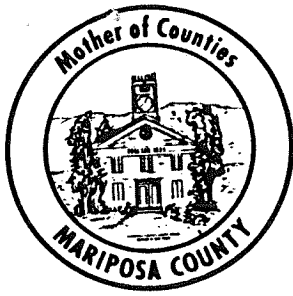
THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on March 7, 1995

ACTION AND VOTE:

**11:05 a.m.** Ed Johnson, Planning and Building Director;  
PUBLIC HEARING to Consider Planning Commission's  
Recommendations on Annual Review of Development Agreement  
for Storey Hill Project, Development Agreement Number 83-1,  
Lloyd and Shirley Fischer, et al. (Yosemite Motels),  
Property Owners; APN 13-030-012/003  
**BOARD ACTION:** Sarah Williams/Senior Planner presented staff  
report, including recommendations by the Planning Commission  
and staff, and advised of additional information received  
from the applicant relative to a possible exchange of  
property with a neighboring parcel. Staff responded to  
questions as to the history of the parcel covered by the  
Development Agreement; proposed extension of the Agreement  
and its conditions; and permitted uses. Public portion of  
the hearing was opened. Input was provided by: Barry  
Brouillette/representing Yosemite Motels, commented on their  
negotiations to exchange property to create a more uniform  
landscape topography, and their efforts to create a very  
nice project. There being no further public input, public  
portion was closed. Board commenced with deliberations.  
Staff summarized the recommendations. (M)Balmain,  
(S)Reilly, Res. 95-89 adopted determining there has not been  
compliance with terms and conditions of the Development  
Agreement; and direction was given to staff to modify the  
agreement to incorporate the recommended changes/Ayes:  
Reilly, Balmain, Stewart, Parker; Noes: Taber. Hearing was  
continued to April 11, 1995 at 10:00 a.m. for staff to bring  
back the modified agreement.

cc: File



# Mariposa County Planning and Building Department


EDWARD J. JOHNSON  
Director

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March 1, 1995

## MEMORANDUM

**TO:** Mariposa County Board of Supervisors

**FROM:** Sarah Williams, Senior Planner  
Ed Johnson, Director 

**SUBJECT:** Annual Review of Development Agreement for the Storey Hill Project,  
Development Agreement No. 83-1, Lloyd and Shirley Fischer, etal.  
(Yosemite Motels) Property Owners; APNs 13-030-012/003

## PLANNING COMMISSION ACTION

At their meeting on February 17, 1995, the Planning Commission adopted Resolution No. 95-5 determining that there has not been compliance in good faith with the terms and conditions of Development Agreement No. 83-1 and that default of the agreement has occurred. As part of their action, the Planning Commission also recommended that the Board of Supervisors modify Development Agreement No. 83-1 to incorporate specific changes. The recommended changes are based upon identified disadvantages with either terminating the development agreement entirely or maintaining all of the terms and conditions of the agreement as it currently exists.

Attachment A includes a draft of the commission's resolution, which contains recommended changes to the agreement.

## BACKGROUND INFORMATION

Staff's memorandum to the Planning Commission dated 2/7/95, included as Attachment B, contains information regarding the following:

- The purpose of this annual review,
- A brief history of the Storey Hill Project and Development Agreement No. 83-1,

## **Memo to Board, 3/1/95**

- Specific terms and conditions of Development Agreement No. 83-1,
- Default procedures established by County Code and the agreement, and
- Alternatives actions, including implications of alternatives, for both the County and the Property Owner.

### **SUMMARY OF PROCESS**

Sections 17.124.190, 17.124.200 and 17.124.210 of the Zoning Ordinance establish procedures for conduct of an annual review of a development agreement. The Planning Commission's review and action were in accordance with these adopted procedures.

The procedures require that the Board of Supervisors hold a hearing to consider the Planning Commission's action and recommendations. The board is responsible for making a "final determination on whether or not there has been compliance in good faith with the terms and conditions of the agreement. If the board finds and determines, on the basis of substantial evidence, that there has not been compliance in good faith with the terms and conditions of the review, the board may terminate the agreement or may modify the agreement and impose those conditions which it considers necessary and appropriate to protect the interests of the county."

### **ALTERNATIVE ACTIONS**

At the hearing on March 7, 1995, the Board of Supervisors may take the following actions:

#### **Accept Planning Commission's Recommendation to Modify the Terms and Conditions of Development Agreement No. 83-1**

If the Board determines that the Planning Commission's recommendations are appropriate, then the Board should take the following actions:

- determine that there has not been compliance in good faith with the terms and conditions of the development agreement
- direct staff to modify Development Agreement No. 83-1 in accordance with the provisions of Paragraph 21 of the agreement to incorporate recommended changes
- find that the changes to the development agreement are necessary and appropriate to protect the interests of the county

#### **Terminate Development Agreement No. 83-1**

If the Board determines that it is appropriate to terminate the development agreement, then the Board should take the following actions:

**Memo to Board, 3/1/95**

- determine that there has not been compliance in good faith with the terms and conditions of the development agreement
- direct staff to initiate default proceedings

**Maintain All Specific Terms and Conditions of Development Agreement No. 83-1**

If the Board determines that the Development Agreement should be maintained in its current form, then the Board should take the following action:

- determine that initiation of default proceedings is not appropriate at this time and that modification of the agreement is not necessary