

94-280

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: June 14, 1994
AGENDA ITEM NO.: 8-D

DEPARTMENT: Planning

BY: Duane Hall

PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No___)

Staff recommends the Board of Supervisors adopt a resolution (1) finding that the outdoor concerts scheduled for July 3rd, September 4th, and October 8th are activities of a temporary and non-regular basis and therefore are not subject to the regulations of the County Zoning Ordinance and Fish Camp TPA Specific Plan, (2) finding that additional concerts will be permanent and regular uses which will be subject to the Zoning Ordinance and Specific Plan and will require approval of a use permit, and (3) authorize the Planning Director to approve the public assemblage permits with the recommended conditions.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES are discussed in the attached memorandum.

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: \$		_____

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

1. Memo to Board
2. Vicinity Map
3. Public Assemblage Permit Applications
4. Informational Brochure

CLERK'S USE ONLY:
Res. No.: 94-280 Ord. No. _____
Vote - Ayes: 5 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
County of Mariposa, State of California
By: _____
Deputy

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: *ve*

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: EDWARD JOHNSON, Planning & Building Director
FROM: MARGIE WILLIAMS, Clerk of the Board 
SUBJECT: Discussion Concerning Applications For Public
Assemblage Permits For Marriott's Tenaya Lodge
"Concerts In The Pines"
Resolution Number 94-230

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on June 14, 1994

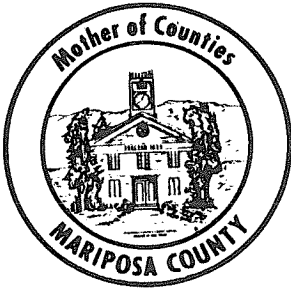
ACTION AND VOTE:

11:03 a.m. Edward Johnson, Planning and Building Director

D) Discussion and Direction to Staff on Applications
for Public Assemblage Permits for Marriott's Tenaya Lodge
"Concerts in the Pines"

BOARD ACTION: Discussion was held with Duane Hall/Associate
Planner. Input was provided by Pelk Richards/Undersheriff,
who advised of meetings with Marriott's staff relative to
law enforcement and planning issues; Judy Durr/neighbor
resident, who reviewed concerns expressed in her letter to
the Board; Paul Ratchford/Marriott's General Manager, who
responded to questions and concerns; and Robert Keller, who
provided input on the proposed concerts and referred to the
lack of a noise level determination in the Fish Camp
Specific Plan. (M)Erickson, (S)Taber, Res. 94-230 adopted:
1) finding that the outdoor concerts scheduled for July 3rd,
September 4th, and October 8th are activities of a temporary
and non-regular basis and, therefore, are not subject to the
regulations of the County Zoning Ordinance and Fish Camp TPA
Specific Plan; 2) finding that additional concerts will be
permanent and regular uses which will be subject to the
Zoning Ordinance and Specific Plan and will require approval
of a use permit, and 3) authorize the Planning Director to
approve the public assemblage permits with the recommended
conditions. Motion was amended, agreeable with maker and
second, to require noise monitoring/Ayes: Unanimous.

cc: Jim Evans, Housing & Community
Development Agency Director
Roger Matlock, Sheriff
File



Mariposa County Planning and Building Department

EDWARD J. JOHNSON
Director

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Mariposa, CA 95338
(209) 966-5151
FAX No. (209) 742-5024

MEMORANDUM

June 6, 1994

TO: Mariposa County Board of Supervisors

FROM: Duane Hall, Associate Planner *DH*

SUBJECT: Public Assemblage Permit Applications for Marriott's Tenaya Lodge "Concerts in the Pines"

Background

The Board of Supervisors on September 16, 1986 upon appeal approved Use Permit No. 204 for the Marriott's Tenaya Lodge. The use permit was approved for a 242-unit hotel in two main buildings with restaurant, lounge, and conference facilities and recreation facilities and open space as shown on the approved site plan. The buildings have been constructed, and the hotel has been in operation for approximately two (2) years. On May 16, 1994 the Planning Department received two (2) applications from Marriott's Tenaya Lodge for public assemblage permits. The applications are for two (2) outdoor jazz concerts to be held at Tenaya Lodge on July 3rd and September 4th. Pursuant to Chapter 8.28 of County Code, the applications must be approved by the Planning Director for zoning and land use compliance with county laws, in addition to approval by other County department heads. To approve the permit applications, the Planning Director must find that the outdoor jazz concerts are permitted on the property by the County Zoning Ordinance, Fish Camp TPA Specific Plan, and Use Permit No. 204 or that the concerts are exempt from zoning regulations. It is our understanding that any action by the Planning Director on the permit application will be appealed to the Board of Supervisors, and because the first concert is scheduled for July 3rd, we are expediting County review of the applications by bringing them directly to the Board of Supervisors for review and action.

Recommendation

Staff recommends the Board of Supervisors adopt a resolution (1) finding that the outdoor concerts scheduled for July 3rd, September 4th, and October 8th are activities of a temporary and non-regular basis and therefore are not subject to the regulations of the County Zoning Ordinance and Fish Camp TPA Specific Plan, (2) finding that additional concerts will be permanent and regular uses which will be subject to the Zoning Ordinance and Specific Plan and will require approval of a use permit, and (3) direct the Planning Director to approve the public assemblage permit with the recommended conditions.

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Discussion

Chapter 8.28 of County Code requires a public assemblage permit from the County Sheriff for any activity involving the assemblage of more than 250 people unless the activity is an official County event or is conducted in existing facilities approved for such gatherings. Before a public assemblage permit can be issued, it must be approved by several County department heads for:

- fire protection
- sanitation facilities
- police protection, crowd control, noise and public disturbance control
- zoning and land use compliance with county laws
- parking and traffic control
- emergency medical services

Section 8.28.035 does give a department head the authority to attach conditions to the approval of the permit. The Planning Director is responsible for reviewing and approving the permit for compliance with the County Zoning Ordinance and any other applicable land use ordinance or approval. Although there are no specific regulations or guidelines for reviewing public assemblage permits for zoning compliance in the Zoning Ordinance or Chapter 8.28, the Planning Director has generally approved public assemblage permits on private property for uses which are temporary and do not occur on a regular manner.

Marriott's Tenaya Lodge proposes three (3) outdoor concerts this season on July 3rd, September 4th, and October 8th as part of their "Concerts in the Pines" series. Public assemblage permit applications have been submitted for the first two concerts only, and information on these concerts is provided in the attached applications and informational brochure. As stated in the brochure, Marriott's envisions the "Concerts in the Pines" series becoming an annual musical event. Concerts of this magnitude on a semi-regular basis have land use implications, and based on conversations with Fish Camp property owners, it is our understanding any action by the Planning Director to approve the public assemblage permit may be appealed to the Board of Supervisors. Since the first concert is scheduled for July 3rd, the Planning Director after consulting with County Counsel decided to expedite the County's review and approval of the permits by bringing the permits directly to the Board.

The permit applications have been submitted to various County departments (e.g. Fire, Sheriff, Health) for their review and approval. Chapter 8.28 also requires the Planning Director to review and approve public assemblage permits for zoning and land use compliance with county laws. In order to approve these permit applications, the Planning Director must find that the outdoor jazz concerts are permitted on the property by the County Zoning Ordinance, Fish Camp TPA Specific Plan, and Use Permit No. 204 or that concerts are exempt from zoning regulations. For the Board's information, outdoor concerts and similar events were not identified as a proposed use by the applicant in their use permit application, and consequently the County did not review or address outdoor events of this type and their potential impacts as part of the use permit review process. In addition, the Negative Declaration/Initial Study adopted for the project did not analyze noise, parking, and land use compatibility conflicts which may result from these types of events. In reviewing the permit applications for zoning and land use compliance, the Board must determine one of the following:

1. The outdoor concerts as proposed are an accessory use (i.e. appurtenant and subordinate) to the permitted use (242 room hotel, restaurants, lounge, conference facilities) and therefore are allowed by Use Permit No. 204, and

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- a. Public assemblage permits are required for each concert with 250 or more people, or
 - b. Public assemblage permits are not required since the events are conducted in existing facilities approved for such gatherings.
2. The concerts are of a temporary and non-regular basis and therefore are not subject to the regulations of the County Zoning Ordinance and Fish Camp TPA Specific Plan, and
- a. Future concerts will be of a temporary and non-regular basis which require public assemblage permits, or
 - b. This year's concerts are of a temporary and non-regular basis which require public assemblage permits, but future concerts will be permanent and regular uses subject to the County Zoning Ordinance and Fish Camp TPA Specific Plan and will require approval of a use permit.
3. The concerts are a use subject to the County Zoning Ordinance and Fish Camp TPA Specific Plan and therefore are not permitted at this time since a use permit has not been approved for the events.

It is staff's opinion the outdoor concerts are not accessory uses to the permitted hotel use. This is based on the following:

- The approved project description and site plan for the use permit do not identify outdoor concerts as a permitted use on the property, and the project was not reviewed and approved by the County for such a use.
- The concerts will accommodate a number of spectators which exceeds the capacity of the hotel and the parking necessary for the concerts will exceed the available parking for the hotel.
- The Fish Camp TPA Specific Plan allows "other uses of a resort commercial nature" as a conditional use on the property, but the approved use permit did not include outdoor concerts.

Outdoor concerts which do not cater solely to hotel guests have not previously occurred on the property, and this year's concerts are the first of their kind. Only three concerts are being held this year, and they could be considered temporary uses of a non-regular basis. However, if these concerts continue, it is staff's opinion they will become permanent and regular uses of the property and will be subject to the County Zoning Ordinance and Fish Camp TPA Specific Plan. Consequently, **staff recommends the Board determine that the outdoor concerts scheduled for July 3rd, September 4th, and October 8th are activities of a temporary and non-regular basis and therefore are not subject to the regulations of the County Zoning Ordinance and Fish Camp TPA Specific Plan, but that additional concerts will be permanent and regular uses which will be subject to the Zoning Ordinance and Specific Plan which will require approval of a use permit.**

In addition, staff recommends the Board direct the Planning Director approve the public assemblage permit for the July 3rd concert with the following conditions:

- The concert shall be conducted in accordance with the information provided in the application for public assemblage permit and shall comply with all conditions attached to the approval of the permit by County department heads.

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- A parking management plan shall be prepared by the applicant and submitted to the Planning Director for his approval. The applicant shall provide adequate parking for the concert, and the plan shall address parking control and access from parking areas to the concert area. The plan shall be approved by the Planning Director prior to the concert, and the applicant shall comply with all conditions of the parking management plan.
- The stage, seating arrangement, and electrical layout shall comply with all provisions of the Uniform Building Code and shall be inspected and approved by the Chief Building Inspector prior to the concert. The applicant shall be responsible for all inspection fees.

Staff recommends that action on the September 4th and October 8th concerts be deferred until after the July 3rd concert so the department heads may monitor and evaluate that concert and apply any appropriate conditions to those concerts, and that staff be authorized to review and approve the September and October concerts with appropriate conditions.

