

94-247

DEPARTMENT: Planning

BY: Duane Hall

PHONE: 966-5151

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

Resolution certifying the Final Environmental Impact Report for the Las Mariposas Planned Community Specific Plan.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board on April 26th directed the Planning Department to prepare the Final EIR for the project. On May 24th the Board acted to separate the action of certifying the Final EIR from the specific plan.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: (1) Continue matter; (2) Make minor revisions to EIR; (3) Direct staff to provide additional information.

NEGATIVE ACTION would result in EIR not being certified at this time, thereby delaying the public review and hearing process for the specific plan.

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. Draft Resolution
3. Final EIR

CLERK'S USE ONLY:

Res. No.: 94-247

Vote - Ayes: 4

Absent: _____

Approved _____ () Denied _____

Minute Order Attached () No Action Necessary

Ord. No. _____

Noes: _____

Abstained: _____

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: W

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: EDWARD JOHNSON, Planning & Building Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: PUBLIC HEARING to Consider the Certification
of the Final EIR for the Las Mariposas
Planned Community Specific Plan; the
Hix-Rubenstein Companies, Applicant
Resolution Number 94-247

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on June 21, 1994

ACTION AND VOTE:

2:04 p.m. Reconvene at **OLD MASONIC HALL (4994 6TH Street)**
Edward Johnson, Planning & Building Director;

A) PUBLIC HEARING to Consider the Certification of the
Final Environmental Impact Report (EIR) for the Las
Mariposas Planned Community Specific Plan; the Hix-
Rubenstein Companies, Applicant

BOARD ACTION: Staff report was presented by Duane
Hall/Associate Planner and Dennis Castrillo/Castrillo and
Associates - consultant for the EIR. Mr. Castrillo reviewed
the process and circulation for the draft and final EIR, and
reviewed the responses to comments on the draft EIR. It was
noted that the purpose of today's hearing was to only take
input on the consultant's responses to comments on the draft
EIR. Staff and Mr. Castrillo responded to questions from
the Board concerning "significant and unavoidable" impacts,
determination to use 5dB level for noise impacts, use of
standards that differ from the County's General Plan,
requirement for preservation plan for Live Oaks, and design
requirements for the golf course to have the fairways run
parallel to the riparian areas. Duane Hall reviewed actions
available to the Board and requirements for certifying the
final EIR. Public portion of hearing was opened. Input was
provided by: Bob Borchard/Project Manager, stated he was
available to respond to questions, along with the applicants
- Tom and Robert Hix; and thanked MERG for making their
written comments available for review prior to the hearing,
and referred to MERG's letter and issues that were raised
that are difficult to deal with in context with CEQA. Tom
Hix/The Hix-Rubenstein Companies, stated they feel they can

MINUTE ORDER
June 21, 1994
Planning & Building Dept.
Page Two

live within the EIR and consultant's suggestions and address, if given some flexibility, the oak tree and golf course issues; feels the noise issue deals mostly with the construction phase and they can stay within the suggested hours. Dick Kunstman referred to his letter: is concerned with the water impact, and suggested that the hydrologist be retained by the County and paid by the proponent for the project; feels traffic and air quality are unmitigatable impacts, information is lacking on the ozone issue, maintaining the same quality of education within the school system is not addressed satisfactorily; and expressed concern with the impact the project will have on the rural character of the County. Malcolm McGregor stated he feels that many of the comments do not resolve questions brought up by the Draft EIR - there are still "unavoidable and significant" impacts; feels public and Board response should be allowed on today's input; encouraged the Board to thoroughly review the documents as he feels there are no assurances and complete decisions to a lot of issues. Duane Hall explained the process for the project following this hearing and mitigation monitoring program. Bob Bondshu referred to the design and locations for other golf courses; changes golf courses have on wildlife habitat; and stated he feels the County needs this project. Tex Albaugh stated he feels there will be impacts by a project of this size, but the Board needs to weigh the "good" versus "negative" impacts; and further stated he supports this project. Public portion of the hearing was closed. Duane Hall responded to input received and questions by the Board relative to the water testing, transit service, response to the bond issue to occur during the specific plan stage, incorporation of the draft EIR into the final EIR, the issues that are addressed as "unavoidable and significant", traffic circulation, noise impacts, standards in the EIR versus the General Plan standards, golf course design, habitat impacts, air quality impacts, impact on airport and aviation easement, formation of special districts, impact on solid waste facilities and fire services. (M)Erickson, (S)Balmain, Res. 94-247 adopted certifying the final EIR for the Las Mariposas Planned Community Specific Plan, with the recommended findings/Ayes: Baggett, Balmain, Erickson, Parker; Noes: Taber. Hearing was closed.

cc: File

MARIPOSA COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 94-247

A RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE LAS MARIPOSAS PLANNED COMMUNITY SPECIFIC PLAN

The Board of Supervisors of the County of Mariposa, a political subdivision organized and existing under the laws of the State of California, hereby resolves as follows:

WHEREAS, the Mariposa County Board of Supervisors, acting as the Lead Agency, determined that an environmental impact report was necessary to analyze the potential environmental effects of the Las Mariposas Planned Community Specific Plan; and

WHEREAS, a Draft Environmental Impact Report was prepared in accordance with Section 21000 et seq. of the Public Resources Code, hereinafter referred to as the California Environmental Quality Act (CEQA); Section 15000 et seq. of the California Administrative Code, hereinafter referred to as the CEQA Guidelines; and the adopted Mariposa County Environmental Review Policies and Procedures; and

WHEREAS, public review of the Draft Environmental Impact Report was conducted in accordance with CEQA, the CEQA Guidelines, and the County Environmental Review Policies and Procedures; and

WHEREAS, comments on environmental points raised during the public review period have been responded to by the Lead Agency; and

1 WHEREAS, a copy of the proposed responses to comments
2 submitted by public agencies have been forwarded to the
3 commenting agency in accordance with Section 21092.5 of CEQA; and

4 WHEREAS, significant new information has not been added
5 and significant changes have not been made to the environmental
6 impact report after the close of the Draft Environmental Impact
7 Report public review period.

8 NOW THEREFORE, BE IT RESOLVED, the Board of Supervisors
9 of the County of Mariposa hereby certifies that the Final
10 Environmental Impact Report for the Las Mariposas Planned
11 Community Specific Plan, attached hereto and incorporated herein,
12 has been completed in compliance with Section 21000 et seq. of
13 the Public Resources Code, Section 15000 et seq. of the
14 California Administrative Code, and the Mariposa County
15 Environmental Review Policies and Procedures, and finds that the
16 Final Environmental Impact Report reflects the independent
17 judgment of the Board of Supervisors.

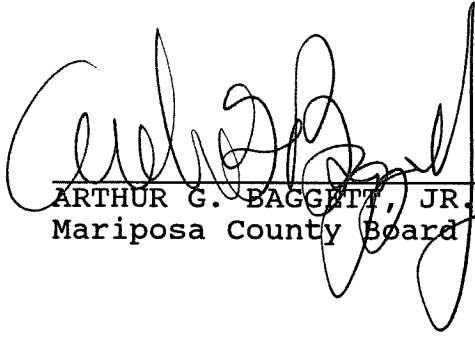
18 BE IT FURTHER RESOLVED, the Final Environmental Impact
19 Report has been presented to the Board of Supervisors, the Lead
20 Agency for the project, and the Board of Supervisors has reviewed
21 and will consider the information contained in the Final
22 Environmental Impact Report prior to making any decision to
23 approve the Las Mariposas Planned Community Specific Plan.

24 PASSED AND ADOPTED by the Mariposa County Board of
25 Supervisors on this 21st day of June, 1994 by the
26 following vote:

27 **AYES:** BAGGETT, BALMAIN, ERICKSON, PARKER
28

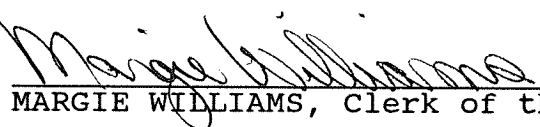
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NOES: TABER
ABSTAINED: NONE
EXCUSED: NONE



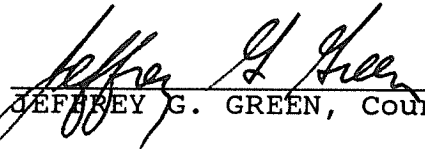
ARTHUR G. BAGGETT, JR., Chairman
Mariposa County Board of Supervisors

ATTEST:

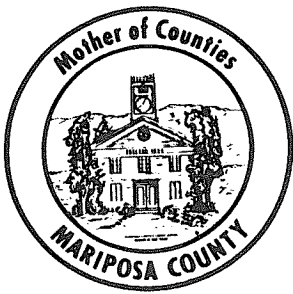


MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN, County Counsel



Mariposa County Planning and Building Department

EDWARD J. JOHNSON
Director

5101 Jones Street
P.O. Box 2039
Mariposa, CA 95338
(209) 966-5151
FAX No. (209) 742-5024

MEMORANDUM

June 8, 1994

TO: Mariposa County Board of Supervisors
FROM: Duane Hall, Associate Planner *DH*
SUBJECT: Final Environmental Impact Report for Las Mariposas Specific Plan

Background

Upon the closing of the public review period for the Draft Environmental Impact Report (EIR), the Board of Supervisors on April 26th directed the Planning Department to prepare the Final EIR for the project. The Board subsequently on May 24th acted to separate the action of certifying the Final EIR from the specific plan application public review and hearing process. As part of that action, the Board scheduled a public hearing for certification of the Final EIR to allow public comments on the responses to comments as contained in the Final EIR.

Recommendation

Staff recommends the Board adopt the attached resolution certifying the Final Environmental Impact Report for the Las Mariposas Planned Community Specific Plan.

Discussion

The California Environmental Quality Act (CEQA) requires that two actions be taken on an environmental impact report before a project may be approved. The first action is the certification of the Final EIR with a finding that the EIR has been completed in compliance with the provisions of CEQA. This action may be taken by the lead agency, i.e. the Board of Supervisors for this project, when the EIR is completed. The Board, in considering the certification of the Final EIR, may make modifications to the EIR, including its conclusions and mitigation measures. However, significant modifications may require the recirculation of the EIR.

The second action occurs as part of the project approval and requires the Board to make findings regarding the significance of each environmental impact and the incorporation of feasible mitigation measures into the project and to adopt a mitigation monitoring or reporting program for the mitigation measures. Although the findings of impact significance and the incorporation of mitigation measures cannot occur until project approval, the certified Final EIR will identify the significance of each environmental impact and the mitigation measures necessary to address significant impacts, and these mitigation measures must subsequently be incorporated into the project approval. Certification of the Final EIR does not bind the Board

on any subsequent actions regarding the project itself except for incorporation of the mitigation measures. Additional hearings by the Planning Commission and Board will be held where those bodies will have the opportunity to approve, modify, or deny the Las Mariposas Specific Plan application.

The Board of Supervisors has determined to consider the certification of the Final EIR separately from the consideration of the specific plan application. Consequently, the Board's action at this time is limited to certification of the Final EIR, and the other actions required by CEQA will be done when the Board considers approval of the specific plan application. Section 15089 of the CEQA Guidelines states the lead agency may provide an opportunity for the public to review the Final EIR, and the Board has elected to allow the public to review and provide comments on the Final EIR at a public hearing. However, since the public has already had the opportunity to comment on the Draft EIR, the Board should limit input and comments at the public hearing to the responses to comments as contained in the Final EIR. Comments which raise new issues or address issues of the Draft EIR not contained in the responses to comments should not be allowed.

CEQA only requires the Board to respond to comments on the Draft EIR, and the Board is not required to respond to comments received on the Final EIR. In addition, recirculation of the EIR is required only if significant new information is added to the EIR after the Draft EIR public review period closes. It is staff's opinion the Final EIR does not add significant new information or make significant new changes to the EIR which would deprive the public of a meaningful opportunity to comment upon a substantial adverse impact.

It is staff's opinion the Board may take action to certify the Final EIR at the conclusion of the public hearing. In order to take action to certify the Final EIR, the Board must make the following findings:

1. The Final EIR has been completed in compliance with CEQA. (15090[a] Guidelines)
2. The Final EIR was presented to the decision-making body of the Lead Agency and that the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project. (15090[b] Guidelines)
3. The Final Environmental Impact Report reflects the independent judgment of the lead agency. (Sec. 21082.1[c][3] Statutes)

It is staff's opinion the EIR complies with all provisions of CEQA in that:

- The discussion, analysis, and conclusions regarding environmental impacts are sufficient and comply with provisions of CEQA.
- All feasible mitigation measures which are necessary to reduce to a less than significant level or eliminate significant impacts have been identified.
- All other sections of the EIR (e.g. alternatives, growth inducing) are sufficient and were completed in compliance with the provisions of CEQA.

Furthermore, it is staff's opinion that the mandatory findings for certifying an EIR may be made for the Las Mariposas Final EIR, and staff recommends the Board of Supervisors certify the Final EIR with the findings contained in the attached resolution.