

DEPARTMENT: Planning BY: Sarah Williams PHONE: 966-5151

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

The Planning Commission recommends:

- 1) Adoption of resolution approving General Plan/Zoning Amendment No. 94-4 with the recommended findings included as Exhibit "A" of Planning Commission Resolution No. 94-14, and finding that the amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.
- 2) Introduction and waiver of the first reading of an ordinance changing the home enterprise/rural home industry provisions of the General Plan Land Use Element and the Zoning Ordinance relating to who operates the business and who resides on the property.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On August 2, 1994, the Board adopted Resolution No. 94-325 initiating the public review and hearing process for the proposed amendment.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- ALTERNATIVES: 1) Continue matter for further discussion; or  
2) Modify the amendment.

NEGATIVE ACTION (i.e. denial of the amendment) would result in no changes to the home enterprise/rural home industry provisions of the General Plan Land Use Element and the Zoning Ordinance.

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 Ordinance
3. Planning Commission Resolution No. 94-14
4. Minutes from Planning Commission Public Hearing
5. Staff Report Considered by Planning Commission

CLERK'S USE ONLY:

Res. No.: 94-467 Ord. No. \_\_\_\_\_

Vote - Ayes: 4 Noes:       

Absent: \_\_\_\_\_ Abstained: \_\_\_\_\_

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

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:

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

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TO: ED JOHNSON, Planning & Building Director  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: General Plan/Zoning Amendment Number 94-4  
An Amendment Which Proposes Text Changes to the  
Home Enterprise/Rural Home Industry Provisions  
Resolution Number 94-467

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on October 25, 1994

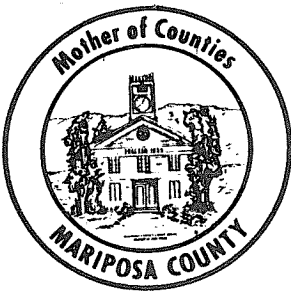
ACTION AND VOTE:

**11:25 a.m.** Ed Johnson, Planning and Building Director;

A) PUBLIC HEARING to Consider the Approval or Denial of General Plan/Zoning Amendment Number 94-4, an Amendment which Proposes Text Changes to the Home Enterprise/Rural Home Industry Provisions of the General Plan Land Use Element and the Zoning Ordinance; County of Mariposa, Applicant

**BOARD ACTION:** Staff report was presented by Sarah Williams/Associate Planner. Staff responded to questions from the Board concerning affect this would have on long-term leases, changes of ownership with grandfathered uses; and whether contiguous parcels could have the same owners, but different titles on the properties and still be considered contiguous. Public input was provided by: Dick Kunstman, member of the citizens' committee who drafted the revised Title 17 ordinance, stated they were trying to make the minimum regulations and still protect the citizens; stated he feels the intent with certain businesses has been abused; and advised that MERG has prepared restrictions for the Board to consider to avoid future problems. Public portion of the hearing was closed and Board commenced with deliberations. Following discussion, (M) Balmain, (S) Erickson, Res. 94-467 adopted approving General Plan/Zoning Amendment as recommended; and first reading was waived and an ordinance introduced changing the home enterprise/rural home industry provision of the General Plan Land Use Element and the Zoning Ordinance relating to who operates the business and who resides on the property/Ayes: Baggett, Balmain, Erickson, Parker; Noes: Taber. Hearing was closed.

cc: File



# 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

October 18, 1994

**TO:** Board of Supervisors

**FROM:** Sarah Williams, Associate Planner *SW*

**RE:** General Plan/Zoning Amendment No. 94-4 - Proposed Text Amendments to Home Enterprise/Rural Home Industry Provisions of General Plan Land Use Element and Zoning Ordinance

### PURPOSE OF PUBLIC HEARING

To receive public testimony and take action on the Planning Commission's recommendation regarding this general plan/zoning amendment.

### PROJECT DESCRIPTION SUMMARY

Proposed text amendments to home enterprise/rural home industry provisions of the General Plan Land Use Element and Zoning Ordinance:

- Amendment will require the owner of the business to operate the use/business and to permanently reside on the property.
- Amendment includes definitions of "business owner" (to address businesses which are owned by more than one person) and "property" (to address contiguous parcels which are owned by one person or business owner).

See project staff report for additional details, including language of proposed amendment.

### HISTORY OF BOARD ACTION

The Board initiated this amendment on August 2, 1994 following a number of discussions regarding the Industrial Sites Open Window Period and the Countywide Community/Economic

**ATTACHMENT 1**

Development Committee Report. This proposed amendment is intended to immediately address issues or problems that have arisen when owners of home enterprises and rural home industries do not operate the business and do not reside on the property. At the time this amendment was initiated, the Board directed that no further review of the home enterprise/rural home industry standards (beyond that which is proposed by this amendment) occur until after additional property within the County is zoned for industrial development through the Industrial Sites Open Window Period.

### **PLANNING COMMISSION RECOMMENDATION SUMMARY**

The Planning Commission recommended that the Board:

- Approve General Plan/Zoning Amendment No. 94-4 as initiated, with the recommended, mandatory findings for a General Plan/Zoning Amendment (see Planning Commission Resolution).
- Find that any established home enterprise/rural home industry which does not conform to these provisions (i.e. business operator living on-site is not business owner) be considered a legally established non-conforming use.
- Find the proposed amendment to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of CEQA Guidelines.

### **PUBLIC NOTICE AND INPUT**

A 1/8 page public notice regarding this amendment and scheduled public hearings was published in the Mariposa Guide on September 15, 1994. As this is a proposed county-wide amendment which would affect more than 1,000 property owners, no direct mailed noticing was required.

On September 19, 1994, all former Title 17 Review Committee Members were sent a notice of the proposed amendment and scheduled public hearings. Only one committee member responded to the notice. This member questioned application of the proposed amendment to businesses which are owned by more than one person. This issue has been addressed in the proposed definition of business owner (part of proposed amendment).

No correspondence from the public has been received to date, and there were no public in attendance at the Planning Commission public hearing.

MARIPOSA COUNTY PLANNING COMMISSION  
RESOLUTION NO. 94-14

A RESOLUTION RECOMMENDING APPROVAL OF GENERAL PLAN/ZONING  
AMENDMENT NO. 94-4; COUNTY OF MARIPOSA, APPLICANT

WHEREAS, the Mariposa County Board of Supervisors adopted Resolution No. 94-325 thereby initiating the public review and hearing process to amend the Mariposa County General Plan and Zoning Ordinance; and

WHEREAS, the Mariposa County Planning Commission is responsible for reviewing the proposed amendment and formulating a recommendation to the Mariposa County Board of Supervisors relative to the approval or denial of the amendment; and

WHEREAS, the Planning Commission has held a duly noticed public hearing on the amendment in accordance with State law and County Code and has considered all input, written and verbal, delivered to the Commission.

NOW THEREFORE BE IT RESOLVED, the Mariposa County Planning Commission hereby recommends the following:

1) The Board of Supervisors approve the proposed amendment to Section 3.403(A)(2) of the Mariposa County General Plan and to Section 17.108.070(B) of Title 17 entitled "Zoning Ordinance" of the Mariposa County Code, said sections to read as follows:

"The on-site use has no more than one (1) employee per acre up to twenty (20) employees. ~~And is operated by permanent residents.~~ The use shall be operated by the

ATTACHMENT 3

1 owner of the business who shall reside on the property on  
2 a permanent basis."

3 2) The Board of Supervisors approve the proposed  
4 amendment to add Sections 3.403(A)(4) and 3.403(A)(5) of the  
5 General Plan and add Sections 17.108.070(E) and 17.108.070(F)  
6 of Title 17 as follows:

7 ""Business owner" shall mean a person who controls a 50%  
8 or more ownership in the business or corporation operating  
9 said business, or if no one party controls 50% or more of  
10 the business, the person who controls the greatest  
11 percentage of ownership in the business or corporation  
12 operating said business."

13 ""Property" shall mean that property which is contiguous  
14 to and under the same ownership as the parcel on which the  
15 business is located. If a portion of the property is sold  
16 or transferred, the home enterprise/rural home industry  
17 shall comply with the standards of this Section upon and  
18 after transfer of the property."

19 3) The Board of Supervisors find that any home  
20 enterprise/rural home industry which is established or has had  
21 a building permit issued prior to the effective date of the  
22 implementing ordinance and which is operated by a person who is  
23 not the owner of the business will be considered a legally  
24 established non-conforming use in accordance with Section  
25 17.08.020 of the Zoning Ordinance for the purpose of compliance  
26 with this standard.

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4) The Board of Supervisors find that the proposed amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.

BE IT FURTHER RESOLVED, this recommendation is based on the mandatory findings as established by Section 2.504 of the General Plan and as contained in Exhibit "A" attached hereto and incorporated herein.

PASSED AND ADOPTED by the Mariposa County Planning Commission on this 7th day of October, 1994 by the following vote:

- AYES: McFaden, Nichol, Stewart, Swift
- NOES: None
- ABSTAINED: None
- EXCUSED: Reilly

*Patti Reilly for Rick Nichol*  
RICK NICHOL, Vice Chairman  
Mariposa County Planning Commission

ATTEST:

*Suzan Banchem*  
SUZAN BANCHERO, Secretary  
Mariposa County Planning Commission

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## EXHIBIT "A"

### RECOMMENDED FINDINGS FOR GENERAL PLAN AND ZONING AMENDMENT:

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1. **The amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, and welfare.**

The amendment will modify the home enterprise/rural home industry provisions to more closely reflect the intent and purpose of home enterprise/rural home industries, said intent and purpose to allow residents to operate businesses on their property under certain conditions. The amendment will prevent non-resident commercial and industrial businesses (i.e. businesses not owned by the residents of the property) from being established in residential neighborhoods. The amendment applies only to the question of who must operate the business and reside on the property and will not modify the land use and operational characteristics of a home enterprise/rural home industry nor lessen the health, safety, and welfare standards which apply to home enterprise/rural home industries.

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 decision making.**

The amendment will improve the General Plan by modifying the home enterprise/rural home industry provisions to more closely reflect the intent and purpose of those provisions as discussed in Finding #1. The amendment clarifies the intent and wording of the standard, thereby allowing the Planning Department to better implement this provision on a day-to-day basis.

3. **The amendment conforms with the requirements of State Law and County policy.**

The amendment has been processed in accordance with the California Planning and Zoning Law and the County Zoning Ordinance, including noticing and holding of public hearings. The amendment has been determined to be exempt from environmental review in accordance with the California Environmental Quality Act and the County Environmental Review Policies and Procedures.



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4. The amendment is consistent with the policies and standards of the Mariposa County General Plan.

As discussed in Finding #1, the amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, and welfare. The amendment is not inconsistent with any policies, objectives, and standards of the General Plan, including those policies and standards relating to home enterprises/rural home industries.

**ZONING AMENDMENT APPLICATION NO. 94-1**, County of Mariposa, applicant. The County proposes to amend the sign standards of the County Zoning ordinance to allow for specific information signs (including neon open signs) throughout the County, including the historic districts of the Mariposa TPA and Coulterville TPA. Staff report presented recommending that the Planning Commission adopt the Resolution recommending approval of the proposed amendment. A discussion ensued wherein Reilly stated her concern that all affected areas had not been noticed of the hearings. She stated further that some county residents were afraid the historic integrity of some of the communities would be compromised. McFaden stated that he had received comments from some of the residents in the Triangle/Westfall area who did not like neon signs and he directed them to call the Planning Department with their concerns.

**PUBLIC PORTION OF PUBLIC HEARING OPENED.**

No comments from the public.

**PUBLIC PORTION OF PUBLIC HEARING CLOSED.**

There was some discussion about the signs in Mariposa TPA that may not conform to the new standard. Reilly stated that, again, her number one concern was whether the signs would detract from the historical value of the community. She was concerned that so many businesses in the area were going to COSTCO to purchase signs. For the record she stated that a business person should keep the character of the town in mind when putting up a sign, further, that many of the outlying areas did not want it; even if it had been discussed at the Board, those concerns need to be addressed. Reilly would like to see the outlying areas more involved in the process. Nichols stated that the Coulterville TPA Planning Advisory Committee unanimously vetoed this idea and he recommended that the Commission deny this particular resolution and try to address it to the Mariposa TPA only. It was suggested that Staff pass on the Commission's concerns to the Board of Supervisors.

**NICHOL MOVED, McFaden SECONDED**, to adopt Resolution No. 94-13 recommending that the Board of Supervisors deny or abandon Zoning Amendment No. 94-1; and recommended that the Board of Supervisors initiate a new amendment to allow for informational signs as proposed by Zoning Amendment No. 94-1 in just the Mariposa Town Planning Area. **Motion carried unanimously.**

Gavel passed to Vice-Chairman Nichol by Chairman Reilly, who was excused for the balance of the meeting.

**GENERAL PLAN/ZONING AMENDMENT APPLICATION NO. 94-4 (HOME ENTERPRISE/RURAL HOME INDUSTRY OCCUPANCY STANDARD)** County of Mariposa, Applicant. The County proposes to amend the home enterprise/rural home industry standards of the County General Plan and County Zoning Ordinance. The Amendment would require that the person who owns the business also reside on the property. Staff report presented

**ATTACHMENT 4**

recommending the Commission adopt a Resolution recommending approval of the proposed Amendment.

**PUBLIC PORTION OF PUBLIC HEARING OPENED.**

No comments from the public.

**PUBLIC PORTION OF PUBLIC HEARING CLOSED.**

**STEWART MOVED, McFaden SECONDED, to adopt Planning Commission Resolution No. 94-13 recommending approval of the proposed amendment and it carried with the following vote: AYES: STEWART, NICHOL, SWIFT and McFADEN. NOES: None. ABSTAIN: None. NOT VOTING: None. EXCUSED: REILLY.**

There being no further business, the meeting adjourned at 12:10 p.m.

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PATTI REILLY, Chairman  
Mariposa County Planning Commission

ATTEST:

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SUZAN BANCHERO  
Planning Commission Secretary

9/7/94

# Staff Report

## Mariposa County Planning Department

**APPLICATION:** General Plan/Zoning Amendment No. 94-4

**APPLICANT:** County of Mariposa

**PROJECT PLANNER:** Duane Hall, Planning Manager

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission adopt the attached resolution recommending approval of the proposed amendment.

**PROJECT DESCRIPTION:** The project consists of text amendments to the home enterprise/rural home industry provisions of the General Plan Land Use Element and the Zoning Ordinance relating to who operates the business and resides on the property.

**PROJECT LOCATION:** The amendment will apply to all home enterprises and rural homes industries countywide except for town planning areas with specific plans (i.e. Mariposa, Coulterville, Fish Camp, Wawona).

**ENVIRONMENTAL REVIEW:** It is the Planning Director's determination that the amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule exemption (15061[b][3] CEQA Guidelines). Findings in support of this determination are included in this staff report for the Planning Commission's consideration.

### **DISCUSSION:**

Proposed Amendment--The present home enterprise/rural home industry provisions require the business to be operated by permanent residents. The operator of the business does not have to be the property owner nor the business owner and may be a foreman, manager, or other person who operates the business. The amendment proposes to modify this standard to require the owner of the business to operate the use/business and to permanently reside on the property. The proposed amendment to Section 3.403(A)(2) of the General Plan and Section 17.108.070(B) of the Zoning Ordinance is as follows:

"The on-site use has no more than one (1) employee per acre up to twenty (20) employees. ~~And is operated by permanent residents.~~ The use shall be operated by the owner of the business who shall reside on the property on a permanent basis."

**ATTACHMENT 5**

Potential Land Use Changes--The amendment only addresses who must operate the business and reside on the property on a permanent basis. The number of counted employees may increase for a business since a foreman or manager would be counted as an employee whereas under current County policies they are not now presently counted as an employee if they reside on the property. Nonetheless, the business must continue to comply with the zoning standard for number of employees (i.e. one per acre up to a maximum of 20). Staff does not anticipate any changes in land use or the environmental impacts resulting from this amendment because the land use and operational characteristics of a home enterprise/rural home industry will not change. Some home enterprises/rural home industries may not be established in the future if the amendment is approved based on an unwillingness of a potential business owner to reside on the property.

Implementation Issues--Staff has identified two potential issues that may arise with implementation of the proposed standard. The first issue is who constitutes a business owner, especially if there are multiple owners. County Counsel recommends that a definition be added to define a business owner for the purposes of who must reside on the property. Staff proposes that a business owner be defined as a person who has a 50% or more ownership in the business or the corporation operating the business. If no one party has 50% or more ownership in the business, the business owner would be the person with the greatest ownership in the business or corporation. The other issue is what constitutes "property". If a business owner owned two contiguous parcels and wished to establish the business on one parcel and reside on the other parcel, staff has previously determined that this would be permitted since they are contiguous and under the same ownership and constitute that person's property. Nonetheless, the owner would have to continue owning both parcels during the operation of the business. If one of the parcels is sold, the business operator would have to reside on the parcel which has the business. County Counsel recommends a definition for "property" be added to codify this standard.

The proposed amendments to Section 17.108.070 of the Zoning Ordinance are as follows:

*"E. "Business owner" shall mean a person who controls a 50% or more ownership in the business or corporation operating said business, or if no one party controls 50% or more of the business, the person who controls the greatest percentage of ownership in the business or corporation operating said business."*

*"F. "Property" shall mean that property which is contiguous to and under the same ownership as the parcel on which the business is located. If a portion of the property is sold or transferred, the home enterprise/rural home industry*

*shall comply with the standards of this Section upon and after transfer of the property."*

Applicability to Existing Home Enterprises/Rural Home Industries--Several home enterprises/rural home industries have been established on properties where the business owner does not reside on the property. The proposed amendment will not apply retroactively to these operations, and they will be considered legal non-conforming uses as they relate specifically to this amendment standard. Staff recommends for clarification that wording be added to the adopting resolution and ordinance which states that established operations or operations for which building permits have been issued will not be subject to this standard if they presently do not comply.

Applicability to Bed and Breakfasts and Transient Rentals--The proposed amendment would not apply to bed and breakfasts and transient rentals. Although classified as home enterprises, these uses have separate standards apart from home enterprises including standards regarding occupancy. Transient rentals do not have to be occupied by a permanent resident, and bed and breakfasts are defined as transient rentals in which there are permanent occupants.

Summary/Recommendation--It is staff's opinion the proposed amendment will not have substantial land use implications, if any, and is not inconsistent with the other goals, policies, and standards of the General Plan, including those relating to home enterprises/rural home industries. Further it is staff's opinion that the mandatory findings for amending the General Plan can be made for this amendment. Staff recommends that the amendment be approved as proposed.

**RECOMMENDED FINDINGS FOR ENVIRONMENTAL REVIEW EXEMPTION:**

1. Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines states "... CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."
2. The amendment only addresses where the operator of the business must reside and further limits the ability to establish a home enterprise/rural home industry. The amendment will not change the land use or operational characteristics of a home enterprise/rural home industry and will not create or modify land use or environmental impacts which may result from a home enterprise/rural home industry. Based on this, it can be determined with

certainty that the amendment will not have a significant effect on the environment.

**RECOMMENDED FINDINGS FOR GENERAL PLAN AND ZONING AMENDMENT:**

1. **The amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, and welfare.**

The amendment will modify the home enterprise/rural home industry provisions to more closely reflect the intent and purpose of home enterprise/rural home industries, said intent and purpose to allow residents to operate businesses on their property under certain conditions. The amendment will prevent non-resident commercial and industrial businesses (i.e. businesses not owned by the residents of the property) from being established in residential neighborhoods. The amendment applies only to the question of who must operate the business and reside on the property and will not modify the land use and operational characteristics of a home enterprise/rural home industry nor lessen the health, safety, and welfare standards which apply to home enterprise/rural home industries.

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 decision making.**

The amendment will improve the General Plan by modifying the home enterprise/rural home industry provisions to more closely reflect the intent and purpose of those provisions as discussed in Finding #1. The amendment clarifies the intent and wording of the standard, thereby allowing the Planning Department to better implement this provision on a day-to-day basis.

3. **The amendment conforms with the requirements of State Law and County policy.**

The amendment has been processed in accordance with the California Planning and Zoning Law and the County Zoning Ordinance, including noticing and holding of public hearings. The amendment has been determined to be exempt from environmental review in accordance with the California Environmental Quality Act and the County Environmental Review Policies and Procedures.

4. **The amendment is consistent with the policies and standards of the Mariposa County General Plan.**

As discussed in Finding #1, the amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, and welfare. The amendment is not inconsistent with any policies, objectives, and standards of the General Plan, including those policies and standards relating to home enterprises/rural home industries.