

DEPARTMENT: Planning BY: Sarah Williams PHONE: (209) 966-5151

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

The Planning Commission recommends the Board of Supervisors:

- Adopt Mitigation Monitoring Program as amended by November Staff Report.
- Adopt resolution approving Las Mariposas Planned Community Specific Plan dated 10/13/94 with Planning Commission's findings and with recommended conditions and modifications as contained in:
  - Staff Report dated November, 1994
  - Planning Department's Memorandum to Board and Planning Commission dated 12/6/94,
  - Planning Department's Memorandum to Board and Planning Commission dated 12/12/94.
- Adopt regulatory portions of Specific Plan by ordinance.
- Direct staff to prepare revised Development Agreement which contains recommended changes. Staff to return to Board for action on revised Development Agreement.
- Adopt recommended findings of Airport Land Use Commission, and recommend approval.
- Direct staff to prepare the ordinances for implementation of necessary developer fees.

Based upon input from County Counsel, staff also recommends the Board adopt revised "Findings of Fact and Statement of Overriding Consideration" as included in Board packet.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

Board continued 12/6/94 public hearing to 12/19/94, to allow Planning Commission to deliberate and form recommendation. On 12/6/94, the public input portion of the public hearing was closed.

**LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

- 1) Approve Specific Plan with revised conditions, or approve Specific Plan in format proposed.
- 2) Approve Development Agreement in format as proposed, or revise staff's recommendations for amendments to the proposed Development Agreement.
- 3) Deny Specific Plan and Development Agreement.

NEGATIVE ACTION, or denial of Specific Plan and Development Agreement, would have to be based upon a determination that there is evidence and testimony in the record that the adoption of the plan and development agreement would not be in the public's best interest. The applicant could still propose portions of the project in accordance with current zoning, through the use permit, use permit determination, land division and planned residential development processes.

**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:**

Res. No.: 94-547 Ord. No. \_\_\_\_\_

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

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

(1) Planning Commission's Recommendation document

**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: [Signature]

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MARIPOSA COUNTY RESOLUTION NO. 94-547

A RESOLUTION DENYING THE LAS MARIPOSAS PLANNED COMMUNITY  
SPECIFIC PLAN AND DEVELOPMENT AGREEMENT  
(SPECIFIC PLAN APPLICATION NO. 93-1 AND  
DEVELOPMENT AGREEMENT APPLICATION NO. 94-1);  
THE HIX-RUBENSTEIN COMPANY, APPLICANTS

WHEREAS, Mariposa County has received specific plan and  
development agreement applications for the Las Mariposas  
Planned Community project; and

WHEREAS, Government Code Sections 65450 through 65457  
establish criteria and procedures for the development and  
review of Specific Plans; and

WHEREAS, Government Code Sections 65864 through 65869.5  
establish criteria and procedures for the development and  
review of Development Agreements; and

WHEREAS, Section 2.50.040 of County Code charges the  
Planning Commission with the responsibility of reviewing such  
applications and formulating a recommendation to the Board of  
Supervisors for action; and

WHEREAS, Section 2.50.030 of County Code charges the Board  
of Supervisors with the responsibility of acting on such  
applications; and

WHEREAS, the Planning Commission and Board of Supervisors  
have held duly noticed public hearings on the project in  
accordance with State law and County Code; and

WHEREAS, the Planning Commission considered all public  
input received throughout the public hearing process and

1 adopted Planning Commission Resolution No. 94-18 recommending  
2 Board action on the project; and

3 WHEREAS, the Board of Supervisors considered the Planning  
4 Commission's recommendation and findings, and also considered  
5 all public input received throughout the public hearing  
6 process; and

7 WHEREAS, the Board of Supervisors, acting as the Lead  
8 Agency, has certified as complete and adequate an  
9 Environmental Impact Report (EIR) for the project in  
10 accordance with the California Environmental Quality Act  
11 (CEQA), the CEQA Guidelines, and the Mariposa County  
12 Environmental Review Policies and Procedures; and

13 WHEREAS, the EIR identified significant, unmitigable  
14 impacts on the existing rural residential character of the  
15 area resulting from the Las Mariposas Planned Community  
16 project; and

17 WHEREAS, Sections 15091 and 15093 of CEQA, and Section  
18 3.470 of the Mariposa County Environmental Review Policies and  
19 Procedures require a lead agency to made findings of fact and  
20 a statement of overriding consideration for each significant  
21 environmental impact identified by an EIR for which there are  
22 no feasible mitigation measures or project alternatives; and

23 WHEREAS, the Board of Supervisors is unable to make this  
24 mandatory finding and statement of overriding consideration as  
25 required by CEQA and the Mariposa County Environmental Review  
26 Policies and Procedures for the significant, unmitigable  
27 impacts on the existing rural residential character of the  
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1 area resulting from the Las Mariposas Planned Community  
2 project.

3 NOW THEREFORE BE IT RESOLVED, the Mariposa County Board  
4 of Supervisors hereby denies the Las Mariposas Planned  
5 Community Specific Plan and Development Agreement applications  
6 (Specific Plan Application No. 93-1 and Development Agreement  
7 Application No. 94-1).

8 BE IT FURTHER RESOLVED, the denial of these applications  
9 is based upon the following findings:

10 1. In accordance with the Environmental Impact Report for  
11 the Las Mariposas Planned Community project, certified by  
12 Mariposa County Resolution No. 94-247 on June 21, 1994, the  
13 Las Mariposas Planned Community project is not compatible with  
14 existing rural residential uses in the area. The project will  
15 introduce an urban and suburban type of environment into an  
16 area which is primarily rural residential. The project will  
17 change the area as there will be a loss of wildlife habitat  
18 and increased amounts of traffic, noise, and activity in the  
19 area. These impacts will present a significant change to the  
20 existing environment and to the lifestyles of nearby  
21 residents. This impact can not be mitigated to a less than  
22 significant level as once the project is developed, all of the  
23 impacts will be by-products of the project. There are no  
24 feasible mitigation measures which will entirely eliminate or  
25 reduce these impacts to a less than significant level.

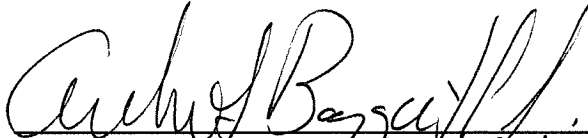
26 2. There are no specific economic, social, or other  
27 considerations which make the project's significant impacts on  
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the existing rural residential character of the area  
acceptable.

PASSED AND ADOPTED by the Mariposa County Board of  
Supervisors on this 19th day of December, 1994 by the  
following vote:

- AYES: Balmain, Parker, Taber
- NOES: Baggett, Erickson
- 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 BOARD OF SUPERVISORS

MINUTE ORDER

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TO: ED JOHNSON, Planning and Building Director  
FROM: MARGIE WILLIAMS, Clerk of the Board  
SUBJECT: Continued PUBLIC HEARING from 12/06/94 to  
Consider the Planning Commission's Recommendation  
on the Las Mariposas Planned Community Specific  
Plan and Development Agreement; the Hix-Rubenstein  
Company, Applicants;  
Resolution Number 94-547

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on December 19, 1994

ACTION AND VOTE:

**1:12 p.m.** Continued Meeting Called to Order at the Mariposa Senior Activity Center, 5246 Spriggs Lane, Mariposa; for Continued PUBLIC HEARING to Consider the Las Mariposas Planned Community Specific Plan and Development Agreement; Hix-Rubenstein, Applicants. The Board of Supervisors, Sitting as the **Mariposa-Yosemite Airport Land Use Commission**, will also Consider the Project's Consistency with the Pending Comprehensive Airport Land Use Plan (**Deliberation Phase**) (Continued from 12/06/94)  
**BOARD ACTION:** Supervisor Taber advised that she listened to the tapes and reviewed the record for the hearing on this project. In response to question from the Board, County Counsel reviewed the hearing process requirements for this project.

County Counsel advised of request received by the Planning Department from an interested public member indicating that procedurally they believe, as a result of certain kinds of actions, that the public portion of the hearing should be reopened. In addition, a number of letters have been received from Attorney Harriman, the attorney representing the developers, and from the School District which contain information that was not presented during the hearing process - County Counsel advised that if the Board wishes to make these a part of the hearing process, the public portion of the hearing will need to be reopened.

In response to opportunity for the public to address procedural issues, the following input was provided:

Ralph Bayless requested that the Board write specific hearing procedures which would allow the public to rebut the proponent's rebuttal.

**PAGE TWO**  
**MINUTE ORDER (12/19/94)**

Dick Kunstman/member of MERG, read his letter into the record relative to County Counsel's admonishment that Board members and Planning Commissioners not discuss the project with anyone as the hearing is in the deliberation phase, and expressed concern that the public does not have a chance to comment on changes recommended by the Planning Commission to the Board; and further stated that he felt the agenda package omits material that was presented during the public hearing.

Bart Brown asked if Attorney Harriman's letter was distributed; and was advised that it was not. He asked if Commissioner Larry Stewart was given copies of all of the materials presented during the hearing; and was advised that he was. Bart advised that during the Commission meeting on December 12, 1994, he raised a point of order about the amount of changes being recommended and that reference to his point of order was not placed in the minutes of the meeting - he requested that the minutes be corrected to reflect his statement. Bart referred to Attorney Harriman's letter and stated he feels the public should have a chance to respond to the changes recommended by the Commission, following a public review period.

Board discussed the issues raised and whether the public portion should be reopened. Ed Johnson/Planning and Building Department Director, responded to questions from the Board concerning this issue and relative to the meeting held with the proponent and staff relative to the proposed mitigation measures. Board concurred with not reopening the public portion and commenced with deliberations.

Ed Johnson and Sarah Williams/Planning Division, presented the Planning Commission's recommendations. County Counsel explained his recommendation for additional language to meet the requirements for overriding considerations for significant impacts identified in the Environmental Impact Report for which no mitigation is possible - it must be based on fact in the record. Discussion was held concerning rural residential use compatibility issue. (M)Parker, (S)Taber, Res. 94-547 adopted denying the Las Mariposas project due to lack of finding of overriding consideration relative to compatibility of the project with the existing rural residential uses in the area/Ayes: Balmain, Parker, Taber; Noes: Baggett, Erickson. Hearing was closed.

**2:31 p.m.** ADJOURNMENT

cc: Mike Edwards, Public Works Director  
Jeffrey G. Green, County Counsel  
Dr. Charles Mosher, County Health Officer