

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION**

Resolution
No. 2018-021

A Resolution Recommending that the Board of Supervisors Approve General Plan Zoning Amendment No. 2018-092 and Amended Site Plan/Amended Conditions No. 2018-094 (amending CIM Plan No. 2005-073) (Yosemite Ridge Resort) with the Recommended Findings and Conditions, including a Finding the Project is Exempt from Environmental Review. Joe McGrath Applicant. The Project Site is Located at 7597 Highway 120, Groveland. APN 004-020-014.

WHEREAS, an application for General Plan Zoning Amendment No. 2018-092 and Amended Site Plan/Amended Conditions No. 2018-094 (amending CIM Plan No. 2005-073) was received from Joe McGrath for a property located at 7597 Highway 120, Groveland CA. also known as Assessor Parcel Number (APN) 004-020-014; and

WHEREAS, General Plan Zoning Amendment No. 2018-092 and Amended Site Plan/Amended Conditions No. 2018-094 (amending CIM Plan No. 2005-073) proposes:

1. A General Plan/Zoning Amendment (GPZA 2018-092) to:
 - a. Rezone 38.56 acres of a 43.65 acre parcel from the Mountain Home Zone to the Resort Commercial Zone. Result will be all of 43.65 acre parcel in the Resort Commercial Zone.
 - b. Change the General Plan Land Use Classification for 1.5 acre area from the Buck Meadows Plan Area, Residential Land Use to the Buck Meadows Plan Area Rural Economic Land Use.

The purpose of the GPZA is to bring existing resort commercial uses into conformance with land use and zoning.

2. Amended Conditions/Amended Site Plan No. 2018-094. Amendment to CIM Plan (Commercial, Industrial, Mining Plan) No. 2005-73.

The purpose of the Amended CIM Plan is to bring existing resort commercial uses and development into conformance with the approved site plan; and

WHEREAS, the Planning Department circulated the applications among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 7th day of December 2018; and

WHEREAS, the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS, a Staff Report and Notice of Exemption were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the notice of Exemption and Staff Report, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE, BE IT RESOLVED THAT, the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a resolution finding the project is exempt from environmental review and directing staff to file a Notice of Exemption.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend the Board of Supervisors adopt a resolution approving General Plan Zoning Amendment No. 2018-092 and Amended Site Plan/Amended Conditions No. 2018-094 (amending CIM Plan No. 2005-073).

BE IT THEREFORE FURTHER RESOLVED THAT the project recommendation of approval to the Board of Supervisors is based upon the findings set forth in Exhibit 1 with the existing terms and conditions set forth in Exhibit 2 and the new terms and conditions set forth in Exhibit 3.

ON MOTION BY Commissioner Becker, seconded by Commissioner McCamman, this resolution is duly passed and adopted this 7th day of December 2018 by the following vote:

AYES: Becker, Harris, Herman, McCamman

NOES:

EXCUSED:

ABSTAIN:


Mick Herman, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Executive Assistant
Mariposa County Planning Commission

EXHIBIT 1

FINDINGS

***GENERAL PLAN ZONING AMENDMENT NO. 2018-092
AND CIM PLAN AMENDMENT NO. 2018-094***

General Plan/Zoning Amendment Findings:

1. **FINDING:** The proposed amendments are in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

The proposed zone change of the 38.56 acres and General Plan Land Use change of 1.5 acres are required for conformance of existing on-site development, pursuant to the Mariposa County General Plan and Zoning Ordinance. The public will benefit by the appropriate zone (Resort Commercial) and General Plan land use (Buck Meadows Special Plan Study Area, Rural Economic) being applied to the site where no physical change is proposed or required, and therefore, no potential adverse effects on the general public health, safety peace and welfare will result.

2. **FINDING:** The amendments are desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making.

These amendments ensure that the uses and activities on-site are conforming to the zoning ordinance and general plan. The Resort Commercial zone is listed as being consistent with the Buck Meadows Special Plan Study Area- Rural Economic land use classification.

3. **FINDING:** That amendment conforms to the requirements of state law and county policy.

This project has been processed in accordance with State law. According to State law, General Plans take precedence over zoning ordinances and one of the functions of the zoning ordinance is to implement the General Plan. This amendment conforms to the requirements of State law and county policy by aligning the zoning map and the General Plan land use and by ensuring consistency between the uses and the zoning where the applicable zoning required for the use is Resort Commercial and the land use is Buck Meadows Special Plan Study Area, Rural Economic land use classification.

4. **FINDING:** The amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan.

The amendment implements the General Plan by making the uses conforming to zoning and zoning conforming to the General Plan land use thereby meeting the standards within County Code titles consistent with those contained in the General Plan. The amendment is consistent with the guiding policies, goals, policies, standards and implementation measures of the General Plan.

5. **FINDING:** In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map,

- a. the subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development; and
- b. the proposed zoning and land use is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

The area proposed for Resort Commercial Zone is physically suitable for the existing tourist oriented resort lodging facility. The provision of utilities, infrastructure and land use compatibility is established at the site.

The proposed zoning and land use is logical as it reflects the existing development and uses at the site and brings the subject lands into conformance through the Resort Commercial zone and General Plan land use. These support the resort commercial activities as a permitted use.

6. **FINDING:** Amendment to the Commercial Industrial Manufacturing Plan (CIM 2003-073) applicable to the parcel is required to reflect the General Plan Zone change and existing uses including the HCD Permit for a Special Occupancy Park (RV) and conformance to the CIM plan. The amendment is to remedy the zoning non-conformities (violations) and related zoning compliance issues pursuant to Code Case No. 2017-060 applicable to the project site.
7. **FINDING:** This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060(c) (2), (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15061(b) (3) (there is no possibility the activity in question may have a significant effect on the environment), CEQA Guidelines.

The proposed Zone Change and General Plan amendment and CIM Plan amendment are necessary to conform existing development and uses to requirements of the Mariposa County General Plan and County Code. No improvements are proposed or approved as a part of the project. Any future development application would undergo environmental review required at the time of application and any future changes would undergo its own permitting process in addition to the land use permitting process required. It is noted that minimal physical changes occurred on-site as a result of the change in land uses. The prior development on-site was a mobile home park, which was changed to an RV park, some spaces of which were developed with park model units.

EXHIBIT 2
EXISTING PROJECT TERMS AND CONDITIONS

Resolution No. 20-227 July 12, 2005

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EXHIBIT 4

CONDITIONS OF APPROVAL for

COMMERCIAL-INDUSTRIAL-MANUFACTURING PLAN NO. 2005-73

- 1) The Commercial-Industrial-Manufacturing Plan is approved for the operation and development of the following: a 3,350 s.f. restaurant/general store building, a 2,800 s.f. garage/office, a 876 s.f. river raft office, one small (490 s.f.) residential cabin, an 836 s.f. shower/laundry building, and the new development of a 10,000 gallon aboveground gasoline storage tank, a two-pump gas island, and a swimming pool.
- 2) The project shall be developed in accordance with the approved Site Plan. Prior to any modification and/or any deviation from the approved Site Plan, said modification/deviation shall be reviewed and approved by the Planning Director in accordance with the conditions of approval. Minor modifications in the site layout, configuration, size, and materials of the project site may be approved by the Planning Director provided that any expansion does not exceed 10% of the size of area of the approved facility, and provided a finding can be made that the modification does not create impacts which were not addressed in the original project approval. Should any proposed modification(s) result in potential impacts which were not reviewed and conditioned by the original action and approval of this CIM Plan then an application for amended conditions of the CIM Plan may be required.
- 3) Prior to receiving a Certificate of Occupancy for the use(s) there shall be submitted to the County Planning Department from either the Mariposa County Fire Department or the Tuolumne County Fire Prevention Bureau a letter or other documentation that states the gas station is in compliance with all applicable standards and regulations of the California Fire Code.
- 4) Prior to receiving a Certificate of Occupancy for the use(s) there shall be submitted to the County Planning Department a letter or other documentation from the California Department of Transportation [Caltrans] that all encroachments upon State Highway 120 accessing the subject property are in compliance with Caltrans standards and regulations.
- 5) Prior to receiving a Certificate of Occupancy for the use(s) there shall be submitted to the County Planning Department a letter or other documentation from the County Dept. of Weights and Measures that the gas pumps have been tested for accuracy.
- 6) Prior to receiving a Certificate of Occupancy for the use(s) there shall be submitted to the County Planning Department a letter or other documentation from the County Health Department that the gas station pumps are in compliance with all applicable standards under the Health Department's purview, including but not limited to vapor recovery standards.
- 7) Prior to receiving a Certificate of Occupancy for the use(s) the existing and proposed use(s) shall comply with all applicable standards and regulations of Mariposa County, including but not limited to Zoning Ordinance Chapter 17.84 Commercial-Industrial-Manufacturing Plan; Chapter 17.96 Resort Commercial Zone; and Section 17.103.100-Signs.
- 8) All proposed overhead lighting will be designed and built so it projects its illumination downward, and all overhead lighting fixtures will be fully shielded. (Fully shielded means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test.

report.) Prior to receiving a Certificate of Occupancy for the use[s] the lighting shall be checked by staff of the Planning Department to ensure its conforms to the intent of the Mitigation Measure.

- 9) Prior to receiving a Certificate of Occupancy for the use[s] and pursuant to Zoning Code Section 17.88.040.C. landscaping will be required in the parking area for the restaurant/general store building.
- 10) Prior to receiving a Certificate of Occupancy for the use[s] there shall be submitted to the County Planning Department for review and approval a Sign Plan that shows and details all existing and proposed signage for the uses on the project site.
- 11) Prior to receiving a Certificate of Occupancy for the use[s] there shall be submitted to the County Planning Department a letter from Pacific Gas and Electric there is necessary protection [such as bollards] in place for the guide supporting wire for a utility pole located adjacent to the proposed driveway that is shown to be located on the project site between existing mailboxes and said guide supporting wire.
- 12) Within twenty (20) days of the Board of Supervisors public hearing for the introduction of the ordinance approving General Plan/Zone Amendment No. 2005-23 and CIM Plan No. 2005-73 and possible waiver of the first reading of said ordinance, or prior to the Board of Supervisors public hearing of the second reading and subsequent adoption of the ordinance approving General Plan/Zone Amendment No. 2005-23 and CIM Plan No. 2005-73, the project applicant/developer shall submit to the County Planning Department a signed Indemnification Agreement that states the project applicant agrees to defend, indemnify, and hold harmless the County and its agents, officers, officials, and employees (the Indemnified Parties) from any claim, action, or proceeding against the Indemnified Parties to attack, set aside, void, or annul the Requested Entitlements and/or certification of CEQA review approved by County or its officers, officials, agents or employees concerning the Requested Entitlements and other proceedings, or to impose personal liability against such officers, officials, agents or employees resulting from their involvement in any and all proceedings or actions taken by County in connection with the processing of the Requested Entitlements, specifically including but not limited to any claim for damages, attorney fees, costs of court, or expenses of litigation claimed by or awarded to any party from County in such litigation (the Indemnity Obligations).
13. Prior to the Board of Supervisors public hearing of the adoption of the ordinance approving General Plan/Zone Amendment No. 2005-23 and CIM Plan No. 2005-73, documentation from a governmental entity shall be submitted to the County Planning Department proofing: 1) removal of the underground gas tanks used for the previous gas station on the project site, and 2) soils testing and analysis related to the removal of these underground gas tanks has been conducted on the project site.

**MARIPOSA COUNTY
MITIGATED NEGATIVE DECLARATION**
State Clearinghouse Number 2005041073

(Pursuant to California Administrative Code, Section 15070)

APPLICATION: **General Plan//Zone Amendment #2005-23 &
Commercial Industrial Manufacturing Plan #2005-73**

APPLICANT: John Moore & Joseph McGrath, dba as Yosemite Ridge Resort
7589 Highway 120 Groveland, CA 95321

PROJECT DESCRIPTION: Amendment to the General Plan Land Use Map and Zoning Map and approval of a Commercial Industrial and Manufacturing Plan (CIM Plan).

The amendment to the General Plan Land Use Map and Zoning Map changes the land use classification and zoning district on approximately 4.6 acres of a 43.6 acre parcel from Mountain Home to Resort Commercial (CR).

The approval of the proposed CIM Plan legalizes an existing restaurant, general store, and supporting buildings [been existing +30 years] and allows the applicant to construct and install an aboveground 10,000-gallon gasoline storage tank, a two-pump gas island and a swimming pool.

Due to the proposed gas island requiring nighttime lighting and due to the project site being in a rural area, the following mitigation measure is implemented.

ENVIRONMENTAL IMPACT	SPECIFIC ENVIRO. AREA	MITIGATION MEASURE
Aesthetics	Light & Glare	<u>MITIGATION MEASURE 4.d.1</u> All proposed overhead lighting will be designed and built so it projects its illumination downward, and all overhead lighting fixtures will be fully shielded. [Fully shielded" means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.]

With the mitigation measure, no significant effects are foreseen based on the following findings:

- (1) No unique or significant natural features including but not limited to animal life, fish life, or plant life, or its habitat or movement are to be adversely affected; (2) No known archeological, cultural, historical, recreational, or scenic sites are to be adversely affected; (3) The project will not result in a significant dislocation of people; (4) The project will not result in a substantial detrimental effect on air or water quality or on ambient noise levels; (5) The project will not breach any published national, state or local standards relating to solid waste or litter control; (6) The project will not have a substantial and demonstrable negative aesthetic effect; (7) The project will not create hazards including but not limited to flooding, erosion, or siltation; (8) The project is not subject to major known geologic hazards; (9) The project will not result in the need for public services beyond those presently

EXHIBIT 3
NEW PROJECT TERMS AND CONDITIONS

1. This Amended CIM Plan No. 2019-094 is for existing uses and development as depicted on CIM Plan Amendment Application No. 2018-094 and listed as follows:

Dwelling (876 SF)	Restaurant/Store (3,100 SF)
Water well and system	Septic Leach field & Septic Tank (25,000 Gallon)
Gasoline Pump Pad	Gasoline Tank (10,000 Gallon)
Park Office & Garage (2,800 SF)	Swimming Pool
Shower/Laundry (830 SF)	Cabin or Mobile- Employee
Non-Residential Cabin Structure	12 RV/Transient Occupancy Sites
Access and parking area improvements	

*No expansion of the uses, new development, physical changes are proposed or would be allowed by this approval. Any future development would undergo separate review including but not limited to a CIM plan amendment at that time.

2. As of the effective date of approval of this Amended CIM Plan No. 2018-094, the applicant shall have three (3) years to meet conditions of approval and vest the approval. The project is not vested until all conditions have been met.

(Planning Department Recommendation)

3. This approval does not change applicable conditions and mitigation measures required pursuant to CIM Plan No. 2005-073. All prior conditions and mitigation measures remain in full force and effect.

(Planning Department Recommendation)

4. All requirements of the CA Department of Housing and Community Development (HCD) Permit 22-0008-MP for the Special Occupancy Park shall be met prior to issuance of any Transient Occupancy Certificates required of the units. Verification in the form of a current HCD permit to operate reflecting this CIM Plan amendment is required PRIOR to transient occupancy of the units. Planning Department approval that this condition has been met shall be required.

(HCD and Planning Department recommendation)

5. A final Site Plan for Amended CIM Plan No. 2018-094 shall be submitted to Mariposa Planning and shall delineate all existing uses and development. The final Site Plan shall be a scaled and dimensioned plan, and shall be prepared by an appropriately licensed professional. The purpose of the Site Plan shall be to document all existing uses and development on-site, as of the date of action. This Site Plan shall be submitted review and approval by the Planning Department prior to vesting of the amendment and prior to final HCD approvals.

(Planning Department Recommendation)

6. All requirements of Code Case No. 2017-060 applicable to the project site shall be completed prior to the vesting of the CIM Plan amendment. Verification in the form of a letter from the

Code Compliance Technician shall be required prior to occupancy of any structures requiring compliance.

(Planning Department Recommendation)

7. A Transient Occupancy Tax Certificate shall be obtained by the applicant prior to use/occupancy of all transient occupancy units at the site as approved by Amended CIM Plan No. 2018-094. The TOT certificate is required for transient occupancy rental of any structures including park model units. All requirements established by County Code for transient occupancy tax shall apply.

(Planning Department Recommendation)

8. The Property Owner shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the County.

(Mariposa County Code, Section 18.06)

9. OPTIONAL- Notice of Exemption (NOE) filing. This filing notifies the public that Mariposa County has determined the project is exempt from the California Environmental Quality Act (CEQA). While filing is not required by CEQA, it may be filed to shorten the statute of limitations on appeals from 180-days to 35-days. If this option is exercised then the NOE must be posted within five days of December 7, 2018. The County Clerk's Office requires a fee of \$50.00 for the filing of a NOE. If the applicant decides to have the NOE filed, cash or a money order made payable to the Mariposa County Clerk's Office shall be submitted to Mariposa Planning within 4-days of the approval of the project.

(Planning Department Recommendation)

10. All fees for processing of this project shall be paid within forty-five (45) days of the date of billing.

(Planning Department Recommendation)