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MARIPOSA COUNTY RESOLUTION NO. 81-139

A RESOLUTION ADOPTING FINDINGS OF FACT
ON APPEAL OF USE PERMIT NO. 139

BE IT HEREBY RESOLVED by the Board of Supervisors of Mariposa County, a political subdivision of the State of California, as follows:

WHEREAS, Use Permit Application No. 139 came before the Board of Supervisors on July 14, 1981 and on August 4, 1981, at which times a noticed public hearing was held, with all parties and the general public given an opportunity to present evidence and testimony, and a record was made of all proceedings; and

WHEREAS, the Mariposa County Planning Commission adopted its Resolution No. 81-21 approving Use Permit No. 139 on or about May 28, 1981;

NOW THEREFORE IT IS HEREBY RESOLVED by the Board of Supervisors of Mariposa County that the following findings of fact are adopted for Use Permit No. 139:

1. The Findings of Fact and Conditions of Approval adopted by the Planning Commission in its Resolution No. 81-21, attached hereto as Exhibit A and incorporated herein by reference, are hereby adopted by the Board of Supervisors, with the following additional findings as required by Section 3.403 of the Land Use Update:

A. The proposed uses are deemed to be compatible with development policies of the land use designation in this location. This is a proposed use which is allowed in the accepted Land Use Element and is compatible with the Mountain Home Designation as out-

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lined in the accepted Land Use Element, which is more specific than the 1978 General Plan.

B. The proposed use or uses are not a substantial detriment to adjoining land use classifications and existing uses in the area. There are no immediate present residences or future residences proposed at this time; however, allowances can be made for that with the Specific Plan. This is not found to be a detriment to future residences in the area.

C. The proposed uses will not create a nuisance, and will not be significantly detrimental to health, safety, peace, and comfort of present residents or future residents of the area. Proposed uses are not a substantial detriment to the land use; there may be an effect, but this cannot be found to be a substantial detriment to adjoining land use classifications. As far as the area extends, it is found that the Use Permit is not a substantial detriment.

D. The proposed uses will not have more than a minimal detrimental effect on the property values in the area. If anything, property values would improve because of this.

E. The proposed uses are logical and desirable at the proposed site. On the basis of the evidence presented, it is found that the proposed uses are, indeed, logical and desirable at the proposed site.

F. The proposed uses are determined to be compatible with the development policies of the land use design-

1 nation in which it is located. The Use Permit com-
2 plements the goals and standards of Mariposa County
3 General Plan and there are provisions in this Update
4 for commercial uses. This project complements the
5 goals and policies of the present General Plan which
6 call for the use of rural home enterprise, commercial,
7 recreational, and industrial uses throughout.

8 2. With respect to the grounds for appeal set forth by Appel-
9 ant, the following findings are made:

10 A. BASIS No. 1:
11 Line 6, Planning Commission Res. No. 81-21, Section
12 2.52.320 is a typographical error which should read
13 2.52.310, and nothing more; not a sufficient basis
14 for an appeal.

15 B. BASIS No. 2:
16 The basis for appeal is that the findings required by
17 Section 3.403 page 11, of the accepted land use ele-
18 ment update, were not made by the Planning Commission.
19 It is found that the Planning Commission did not make
20 findings outlined in Section 3.403 (c). Those find-
21 ing are required because of the two screen method
22 that the County is mandated to follow now in approval
23 of any use permits. While it is found that the Plan-
24 ning Commission failed to specifically set forth
25 these findings which it chose to cover in a general
26 way, the Board finds that such specific findings can
27 be made and are included herein above.

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C. BASIS No. 3:

There is nothing that prohibits granting a Use Permit for this purpose in the unclassified zone. There is authority in the County Codes for granting of Use Permits; County Code Section 17.24.010, Subsection 3 (a). The use permit here is provided for in Section 3.403 (c) of the accepted Land Use Element Update in force in Mariposa County by virtue of the requirements of the Office of Planning and Research of the State of California.

D. BASIS No. 4:

We are in a contractual agreement with the State as to the two screen method of evaluating a project under the extension that we have with OPR and revision of our General Plan. These procedures are set out for us by the State; we have no ability but to follow them. It is found that this basis of appeal alleges that the extension procedure enforced by the State of California is somehow unconstitutional, and such allegations exceed the jurisdiction of the County to control.

3. Appellant has failed to present substantial evidence of any basis for denial of this use permit.

4. The Board of Supervisors of Mariposa County finds that the Use Permit No. 139 was and should be properly granted and the appeal is therefore denied.

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1 PASSED AND ADOPTED this 11th day of August, 1981, by the
2 Board of Supervisors of Mariposa County by the following vote:

3 AYES: Moffitt, Erickson, Taber, Barrick


4 NOES: None

5 ABSENT: Dalton


6 ABSTAINED: None

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8 
9 WILLIAM H. MOFFITT, Chairman
Board of Supervisors

10 ATTEST:

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12 
13 ELLEN BRONSON, County Clerk and
Ex Officio Clerk of the Board

14 APPROVED AS TO FORM AND
15 LEGAL SUFFICIENCY:

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17 
RICHARD K. DENHALTER, County Counsel

18 8/7/81