

STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION

Resolution  
No 2011-15

A resolution recommending an environmental determination and an amendment to Title 16, Subdivisions, to add Section 66499.33 of the California Subdivision Map Act allowing for additional enforcement provisions available to the County of Mariposa as it pertains to illegal subdivision matters

---

WHEREAS, the Mariposa County Planning Commission initiated Code Amendment Application No. 2011-023 based upon the recommendation of the Planning Department staff; and

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 16, Chapter 16.32 establishes rules and procedures for Enforcement and Penalties associated with illegal subdivisions; and

WHEREAS, Section 16.32.080 establishes penalties for violations of the County's Subdivision Ordinance; and

WHEREAS, the current language in Title 16 only allows for those individuals found guilty of violating the County's Subdivision Ordinance to be guilty of a misdemeanor and punishable under Chapter 1.20, the general penalty provisions of the Mariposa County Code; and

WHEREAS, the adopted Mariposa County General Plan speaks to "flexibility" and the fact that "Mariposa governance is not suited to the strict application of a rigid set of planning and development rules," however, there is also an expectation that the rules are followed otherwise enforcement of the County's flexible rules will be carried out; and

WHEREAS, the Planning Commission of the County of Mariposa initiated an amendment to Title 16, Chapter 16.32 adding Section 16.32.090 of the Mariposa County Code on the 10<sup>th</sup> day of September, 2010 with Resolution No. 2010-18; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 5<sup>th</sup> day of August 2011; and

WHEREAS, the Planning Department prepared environmental documents in accordance with the 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 Staff Report and testimony presented by the public concerning the application.

**NOW BE IT THEREFORE RESOLVED THAT** the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a resolution directing staff to file a Notice of Exemption for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approving Code Amendment No. 2011-023.

**BE IT THEREFORE FURTHER RESOLVED THAT** the addition of Section 16.32.090 incorporates additional language creating stronger enforcement powers as it pertains to illegal subdivisions in the County of Mariposa.

**BE IT THEREFORE FURTHER RESOLVED THAT** the amendment to Section 16.32.090 of the Mariposa County Code will read as follows (new text shown in *italicized underlined type* and deleted text shown in ~~strike-thru type~~):

16.32.090 Other Legal Action

*This title does not bar any legal, equitable or summary remedy to which the County or other public agency, or any person may otherwise be entitled. The County or other public agency, or such person may file a suit in the superior court to restrain or enjoin any attempted or proposed subdivision or sale, lease, or financing in violation of the Subdivision Map Act or this title.*

**BE IT THEREFORE FURTHER RESOLVED THAT** all other text in this Section of County Code shall remain unchanged.

**BE IT THEREFORE FINALLY RESOLVED THAT** the recommendation for project approval is based on the following findings supported by substantial evidence in the public record:

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

**Evidence:** The public will benefit by having County Code and the General Plan in alignment (consistent) with each other, and by having state law implemented by county code. The amendment will not have a significant adverse affect on the general public health, safety, peace, and welfare.

2. **Finding:** The amendment is 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.

**Evidence:** This amendment will improve the Mariposa County general plan by ensuring that county policy does not conflict with it, by ensuring that county code implements the general plan, and by ensuring that county code is consistent with state law.

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

**Evidence:** According to state law, general plans take precedence over zoning ordinances. This amendment conforms to the requirements of state law and county policy by aligning the zoning ordinance with the general plan. This amendment ensures county code is consistent with state law.

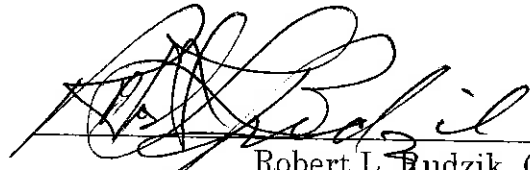
ON MOTION BY Commissioner Francisco, seconded by Commissioner Ross, this resolution duly passed and adopted this 5<sup>th</sup> day of August, 2011 by the following vote:

AYES: ROSS, TUCKER, RUDZIK, FRANCISCO, MARSDEN

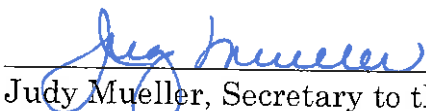
NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

  
Robert L. Rudzik, Chairman  
Mariposa County Planning Commission

Attest:

  
Judy Mueller, Secretary to the  
Planning Commission