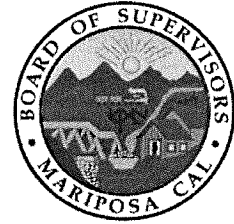




MARIPOSA COUNTY

Planning • 209-966-5151



ORDINANCE 2012-1091

MEETING: November 27, 2012
TO: The Board of Supervisors
FROM: Sarah Williams, Planning Director
RE: Ordinance Amending Zoning Map

RECOMMENDATION AND JUSTIFICATION: Waiving the second reading and adopting the ordinance is the final action that needs to be taken by the Board following the Board's action on November 13, 2012 to waive the first reading and introduce the ordinance and adopt a resolution adopting a mitigated negative declaration and approving General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109. The effective date of the approval of the accompanying General Plan Amendment reclassifying one portion of APN 011-311-007 from Agriculture/Working Landscape to Residential and the other from Residential to Agriculture/Working Landscape pursuant to General Plan/Zoning Amendment No. 2011-108 and the accompanying Land Division Application No. 2011-109 is the effective date of the ordinance.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On November 13, 2012 the Board of Supervisors approved General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109. The Board waived the first reading and introduced the ordinance on November 13, 2012 and adopted a resolution adopting a mitigated negative declaration and approving the amendment and land division on that same date.

The Board of Supervisors has adopted a resolution approving General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

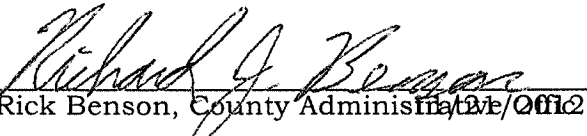
FINANCIAL IMPACT:
NONE

ATTACHMENTS:
Dinnel BOS Ordinance (Final) (2) (PDF)

CAO RECOMMENDATION

Ordinance 2012-1091

Requested Action Recommended


Rick Benson, County Administrator/Chief of Police

RESULT: ADOPTED [UNANIMOUS]

MOVER: Kevin Cann, District IV Supervisor

SECONDER: Jim Allen, District V Supervisor

AYES: Lee Stetson, Lyle Turpin, Kevin Cann, Jim Allen

EXCUSED: Janet Bibby

**MARIPOSA COUNTY ORDINANCE NO. 1091
(Not to be Codified)**

**AN ORDINANCE AMENDING THE ZONING DESIGNATION ON PORTIONS OF
ASSESSOR'S PARCEL NUMBER 011-311-007**

WHEREAS, a proposal to amend the General Plan land use classification and zoning designation on portions of Assessor's Parcel Number (APN) 011-311-007 (5556 A Hornitos Road) was initiated by Ron and Linda Dinnel on May 31, 2011; and

WHEREAS, the application is known as General Plan/Zoning Amendment No. 2011-108. The GP/ZA project is an equal acreage exchange (34.69+/- acres) within a 141.96 acre parcel between the General Plan Land Use designations of Residential and Ag/Working Landscape and the zoning classifications of Mountain Home and Agriculture Exclusive. The project "switches" the designations so that the Residential / Mountain Home portion of the project site will be located in the northwest portion of the project site instead of the southern most portion of the project site; and

WHEREAS, the Planning Commission held duly noticed public hearings on General Plan/Zoning Amendment No. 2011-108 on the 20th day April 2012, the 4th day of May 2012, the 3rd day of August 2012, and on the 7th day of September 2012, in accordance with State Law and County Code and on the 7th day of September 2012 adopted a resolution recommending the Board of Supervisors approve General Plan/Zoning Amendment No. 2011-108; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on General Plan/Zoning Amendment No. 2011-108 on the 13th day of November 2012, in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on General Plan/Zoning Amendment No. 2011-108 and its accompanying application, Land Division No. 2011-109, in accordance with the California Environmental Quality Act, a Mitigated Negative Declaration has been adopted and a Notice of Determination has been filed for the project.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend the zoning designation on portions of APN 011-311-007 pursuant to General Plan/Zoning Amendment No. 2011-108. The property to be rezoned is shown on the map in Exhibit A and legally described in Exhibit B.

BE IT FINALLY ORDAINED, this action is based on the findings mandated by Section 17.128.050(C) of the Mariposa County Zoning Ordinance as shown in Exhibit C.

SECTION II: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this 27th day of November, 2012 by the following vote.

AYES: STETSON, TURPIN, CANN, ALLEN

NOES: NONE

EXCUSED: BIBBY

ABSTAIN: NONE

Janet Bibby
Chair

Janet Bibby, Chair
Mariposa County Board of Supervisors

ATTEST:

Margie Williams
Deputy
Margie Williams,
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Steven W. Dahlem
Steven W. Dahlem
County Counsel

Exhibit A

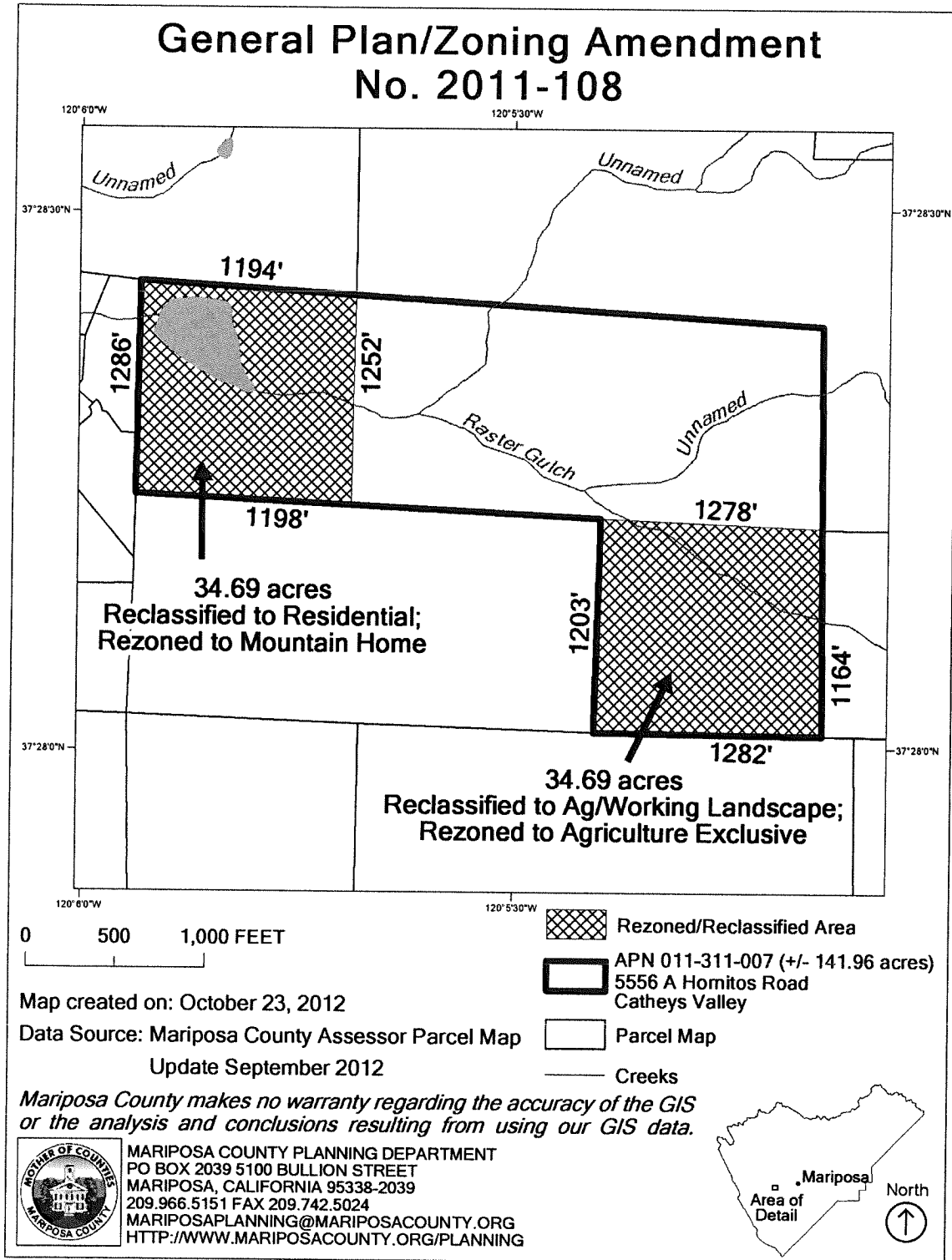


Exhibit B

The portion to be rezoned from Agriculture Exclusive to Mountain Home is legally described as follows:

A tract of land situated in a portion of Section 27, Township 5 South, Range 17 East, M.D.B. & M., Mariposa County, State of California, said tract of land also being a portion of that certain real property conveyed to Ronald A. Dinnel and Linda G. Dinnel, Trustees by Grant Deed recorded August 29, 2006 as Document Number 2065166 in the Official Records of Mariposa County, said tract of land being more particularly described as follows:

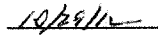
BEGINNING at the northwest corner of the Southeast quarter of the Northwest quarter (SE1/4 NW1/4) said Section 27, said SE1/4 NW1/4 being further delineated on that certain map entitled "Record of Survey for Steve Allison" filed March 22, 2007 in Book of Maps at Page 2755, Mariposa County Records; thence S83°07'40"E, along the north line of said SE1/4 NW1/4, for 1193.75 feet to a point, said point being located N83°07'40"W a distance of 78.00 feet from the northeast corner of said SE1/4 NW1/4; thence, leaving the north line of said SE1/4 NW1/4, S00°38'27"W for 1252.12 feet to a point on the south line of said SE1/4 NW1/4, said point being located N84°45'42"W a distance of 78.00 feet from the southeast corner of said SE1/4 NW1/4; thence N84°45'42"W, along the south line of said SE1/4 NW1/4, for 1197.93 feet to the southwest corner thereof; thence N00°58'12"E, along the west line of said SE1/4 NW1/4, for 1285.69 feet to the POINT OF BEGINNING.

The above-described tract of land contains 34.69 acres, more or less, and is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:



Richard A. Seaman, LS 5339



Date



Exhibit B (cont.)


The portion to be rezoned from Mountain Home to Agriculture Exclusive is legally described as follows:

A tract of land situated in a portion of Section 27, Township 5 South, Range 17 East, M.D.B. & M., Mariposa County, State of California, said tract of land also being a portion of that certain real property conveyed to Ronald A. Dinnel and Linda G. Dinnel, Trustees by Grant Deed recorded August 29, 2006 as Document Number 2065166 in the Official Records of Mariposa County, said tract of land being more particularly described as follows:

BEGINNING at the northwest corner of the Northeast quarter of the Southeast quarter (NE1/4 SE1/4) said Section 27, said NE1/4 SE1/4 being further delineated on that certain map entitled "Record of Survey for Steve Allison" filed March 22, 2007 in Book of Maps at Page 2755, Mariposa County Records; thence S84°45'42"E, along the north line of said NE1/4 SE1/4, for 1278.05 to the northeast corner thereof; thence, S00°01'13"E, along the east line of said NE1/4 SE1/4, for 1163.96 feet to the southeast corner thereof; thence N86°32'25"W, along the south line of said NE1/4 SE1/4, for 1282.17 feet to the southwest corner thereof; thence N00°19'11"E, along the west line of said NE1/4 SE1/4, for 1203.29 feet to the POINT OF BEGINNING.

The above-described tract of land contains 34.69 acres, more or less, and is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:


Richard A. Seaman, LS 5339

10/29/11
Date



Exhibit C

Findings for General Plan/Zoning Amendment No. 2011-108

Pursuant to Mariposa County Zoning Ordinance, Section 17.128.050(C), the following Findings are made:

1. **FINDING:** That such an 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 amendment to the Mariposa County zoning map and the Mariposa County General Plan land use diagram pursuant to General Plan/Zoning Amendment No. 2011-108 is in the general public interest as there is no decrease in the amount of acreage in the Agriculture Exclusive (AE) zone or the Agriculture/Working Landscape (A/WL) land use, there is no net loss of like kind of agricultural lands (type and quality), and the project results in a consolidation of agricultural lands and consolidation of residential lands. There is no evidence that the project will have any impact on the general public health, safety, peace, and welfare.

2. **FINDING:** That such an 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: The amendment is desirable for improving the General Plan as it will result in the division and separation of the Residential Land Use / Mountain Home zoned portion of the site from the Agriculture/Working landscape land use / Agriculture Exclusive zoned portion of the project. Having one land use and zoning designation on a parcel is desirable for the purpose of applying land use policies and zoning regulations to future development proposals as there is no question about which land use or zone applies to a potential project.

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

EVIDENCE: The processing of General Plan/Zoning Amendment No. 2011-108 conforms to the requirements of state law and county policy. The General Plan Amendment for a Transfer of Agricultural Lands has been found to comply with the Criteria for Transfers of Agricultural Lands pursuant to Board of Supervisors Resolution No. 2012-367.

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

EVIDENCE: The project is consistent with Goal 10-2 and Policy 10-2a of the General Plan. The project will not result in a loss or decrease in the amount of acreage in the Agriculture Exclusive (AE) zone or the Agriculture/Working Landscape (A/WL) land use and agricultural lands are retained. Implementation Measure 10-2a(4) has been met; the identified consequence of which is to provide for the consolidation of agricultural lands. There is evidence in the record that there is no net loss of like kind of agricultural lands (type and quality). The Planning Commission and Board of Supervisors' evaluation of the Criteria for Transfers of Agricultural Lands, Resolution No. 12-367, resulted in a positive score.

The project is consistent with Goal 5-2 and Policy 5-2a of the General Plan. The project will result in a land use density and development pattern to manage growth – the project ensures that development shall occur first where services are located. The project will result in the Residential Land Use portion of the project site being adjacent to other, already divided, Residential lands. The project will result in the Residential Land Use portion of the project site being accessed by an existing improved road and dedicated public road and utility easement.

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

EVIDENCE: Based on the review of the amendment concurrently with Land Division Application No. 2011-109, it can be found that the subject parcel is physically suitable for the proposed land uses.

The land division project, which proposes a division of the Residential Land Use / Mountain Home zoning on the northwesterly portion of the project site from the remainder of the parcel, is conditioned to meet all land division conditions. All Subdivision Ordinance and General Plan requirements for access can be met. The project is consistent with State Fire Safe Regulations. The project will comply with soils testing for on-site septic disposal and proof of water. The proposed Mountain Home portion is suited for moderate residential densities based on suitability of terrain, location nearer population centers and service areas, and frontage to a recorded easement within which a road is fully improved, providing access to a paved county maintained road. The project will result in one large lot Mountain Home parcel, which will be adjacent to agricultural lands and 5 acre sized parcels recently created through a major subdivision project. The Agriculture/Working Landscape Land Use / Agriculture Exclusive zoned portion of the project is physically suitable for agricultural uses and low density appurtenant housing. It is located further away from a recorded easement providing access to a paved county maintained road than the proposed Residential / Mountain Home portion. It is surrounded by Agricultural lands and one large lot Mountain Home property.

6. **FINDING:** In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map, that the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

EVIDENCE: If the general plan/zoning amendment is approved, the proposed Residential Land Use / Mountain Home zoned portion of the project will be divided into one parcel which will provide additional housing opportunities for the residential population of Mariposa County.