

DEPARTMENT: Planning BY: Greta Hudak

PHONE: (209) 966-5151

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

Adopt a resolution establishing Board review and approval authority for Conditional Use Permit No. 235 upon recommendation from the Planning Commission and approving a joint public hearing with the Planning Commission to consider Conditional Use Permit No. 235 on February 28, 1995, at 2:00 p.m., at the Marriott's Tenaya Lodge, 1122 Highway 41, Fish Camp, California.

This recommendation is based upon:

- Significant public interest in the project from the Fish Camp community
- Board's request on 1/24/95 that the 2/17/95 Planning Commission meeting be moved to Fish Camp
- Board's action on 1/24/95 to move their 2/28/95 meeting to Fish Camp
- Section 17.136.030 of the County Zoning Ordinance which allows the Board to review any matter decided upon by the Planning Commission upon its own motion

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See attached memo.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: 1) Take no action - The Planning Commission would hold a separate public hearing on February 17, 1995 to take action to approve or deny Conditional Use Permit No. 235. Staff anticipates that their decision will be appealed to the Board and has therefore scheduled a public hearing for February 28, 1995.

NEGATIVE ACTION would be the same as taking no action.

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: \$ \_\_\_\_\_

SPECIAL INSTRUCTIONS:  
List the attachments and number the pages consecutively:  
(1) Memo to Board

CLERK'S USE ONLY: Res. No.: 95-47 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

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: W

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 *mw*  
SUBJECT: Conditional Use Permit No. 235  
Regarding Tenaya Lodge Concert Application and  
Resolution Number 95-47

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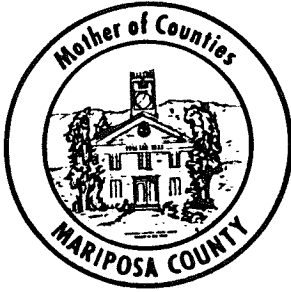
THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,  
ADOPTED THIS Order on February 7, 1995

ACTION AND VOTE:

Ed Johnson, Planning and Building Director;  
Resolution Establishing Board Review and Approval Authority  
for Conditional Use Permit Number 235 Upon Recommendation  
from the Planning Commission and Approving a Joint Public  
Hearing with the Planning Commission to Consider Conditional  
Use Permit Number 235 on 02/28/95 at 2:00 p.m., at the  
Marriott's Tenaya Lodge, Fish Camp, California; and  
Resolution to Commence Board's Meeting of 02/28/95, at 10:00  
a.m. at the Marriott's Tenaya Lodge in Fish Camp (County  
Administrative Officer)

BOARD ACTION: Ed Johnson advised the Board of the Planning  
Commission's decision to hold a separate hearing on February  
17th in the town of Mariposa; and of the Board's options for  
processing this application. (M)Taber, (S)Balmain, Res. 95-  
47 adopted declaring the Board's intent to review the  
Planning Commission's decision under the authority granted  
in Section 17.136.030 of the County Zoning Ordinance and  
leave the Conditional Use Permit Number 235/Marriott's  
Tenaya Lodge hearing scheduled as is - Planning Commission  
hearing on February 17th in the town of Mariposa, and Board  
of Supervisors' hearing on February 28, 1995, at 2:00 p.m.  
in Fish Camp. Motion was amended, agreeable with maker and  
second, to adopt Res. 95-48 scheduling the Board's meeting  
to commence on February 28, 1995, at 10:00 a.m. at the  
Marriott's Tenaya Lodge in Fish Camp/Ayes: Unanimous.

cc: File



# Mariposa County Planning and Building Department

EDWARD J. JOHNSON  
Director

5101 Jones Street  
P.O. Box 2039  
Mariposa, CA 95338  
(209) 966-5151  
FAX No. (209) 742-5024

## MEMORANDUM

January 31, 1995

TO: Mariposa County Board of Supervisors

FROM: Greta Hudak, Assistant Planner  
Edward Johnson, Planning Director

SUBJECT: Conditional Use Permit Application No. 235

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### STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors adopt a resolution clarifying review procedures for Conditional Use Permit No. 235 by establishing Board review and approval authority, upon recommendation from the Planning Commission, and approving a joint public hearing with the Planning Commission to consider Conditional Use Permit No. 235 on February 28, 1995, at 2:00 p.m., at the Marriott's Tenaya Lodge, 1122 Highway 41, Fish Camp, California.

Based upon input from County Counsel, staff has scheduled this matter for formal Board action for clarification and to invoke Section 17.136.030 of the County Zoning Ordinance which states that, "The board, on its own motion, may review any matter decided by the planning commission in accordance with provision of this Title."

### BACKGROUND

Conditional Use Permit No. 235, Marriott's Tenaya Lodge, applicant, was submitted to our office on December 2, 1995.

This application proposes to conduct seasonal, outdoor, amplified music events at the existing Marriott's Tenaya Lodge Resort Development, referred to as principal concerts. These music events are limited seven (7) concerts per year. The use permit also proposes other, amplified outdoor music events, to be directly associated with Hotel conferences or banquet activities, referred to as secondary concerts. These music events would be limited to five events per year.

Three concerts, similar in nature to the proposed principal concerts, were approved by the Board of Supervisors on June 28, 1994. These concerts were conducted on July 4, September 4 and October 8, 1994 under public assemblage permits. Based upon previous Board action, the Board established that the public assemblage permit process cannot be utilized for future concerts and that future concerts would have to be reviewed through the Use Permit process.

Separate public hearings for the project have been scheduled and noticed for the Planning Commission on February 17, 1995 and the Board of Supervisors on February 28, 1995.

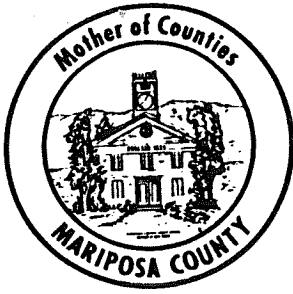
On January 24, 1995, the Board of Supervisors acted to move their meeting of February 28, 1995 to the Marriott's Tenaya Lodge, 1122 Highway 41, Fish Camp, California and requested that the Planning Commission consider moving the location of their February 17, 1995 meeting to Fish Camp as well.

At their regularly scheduled meeting of February 3, 1995, staff has scheduled the Planning Commission to consider whether or not to support holding a joint public hearing for the project with the Board of Supervisors on February 28, 1995, at 2:00 p.m., at the Marriott's Tenaya Lodge, 1122 Highway 41, Fish Camp, California. Staff will be able to advise the Board of the Planning Commission's action at the Board's February 7th meeting.

## **DISCUSSION**

The Planning Department has received several letters to date and daily calls from the public expressing concern regarding this project, and staff anticipates lengthy public hearings for the application. Calls from the public also express confusion and question which hearing was more important to attend, as persons coming from out of town or employed persons may not be able to attend both hearings. Based upon comments from the public and the Board's request that the Planning Commission move their hearing to Fish Camp, staff recommends that a joint hearing with the Planning Commission and Board of Supervisors be held at the Marriott's Tenaya Lodge, 1122 Highway 41, Fish Camp, California on February 28, 1995. This would eliminate confusion in the community about hearing dates and would accommodate the public and the applicant by relieving them from having to attend two weekday hearings.

Procedurally, the Planning Commission is the decision making body with the Board acting as the appeal body. Ideally, a twenty (20) day appeal period should separate the Commission decision hearing and the Board appeal hearing. Therefore, in order for a joint hearing to occur on the same date, the Board must be the decision making body and not the appeal body. Section 17.136.030 of the County Zoning Ordinance allows the Board, upon its own motion, to review any matter decided by the Planning Commission, which would elevate the decision to the Board and eliminate the need for twenty (20) days to separate the Commission and Board actions. Consequently, staff recommends that the Board adopt a resolution establishing Board review and approval authority of Conditional Use Permit No. 235, and establishing a joint hearing with the Planning Commission on February 28, 1995 in Fish Camp.




## **Mariposa County Planning and Building Department**

**EDWARD J. JOHNSON**  
Director

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February 6, 1995

### **MEMORANDUM**

**TO:** Board of Supervisors  
**FROM:** Ed Johnson   
**SUBJECT:** TENAYA LODGE CONCERTS

On January 24, 1995 the Board asked the Planning Commission to consider moving their hearing on the Tenaya Lodge Concert application to Fish Camp. On February 3, 1995 the Commission considered this request and decided not to move their meeting. They also decided against staff's suggestion that they conduct a joint hearing with the Board. Their reason was that other items were also scheduled for hearing that day which involved Mariposa applicants and the Commission did not think it was appropriate to disrupt these scheduled hearings.

Also, County Counsel has raised a concern about possible confusion regarding the approval process and advised that clarification be provided. The use permit in question is heard by the Planning Commission, where the decision is final unless appealed. Staff is reasonably certain that any decision made by the Commission will be appealed, given the controversy of this issue. Consequently, staff scheduled a date on the Board's calendar so that all parties would have maximum notice of when the Commission and Board hearings would occur. County Counsel advises that this may have been premature and that there should have been 20 days between the Commission and Board hearings, to allow maximum appeal filing time. Rescheduling would place any such appeal hearing in late March or early April.

The options available for the Board are (1) to declare their interest in this item under the authority granted in Section 17.136.030 of the County Zoning Ordinance and leave the hearing scheduled as is, which would provide maximum advance notice to all parties of hearing dates, and reduce confusion on hearing dates in the community. However, the disadvantage is that if someone files an appeal after the Board hearing on February 28, but before the appeal period ends on March 9, the Board would have to conduct another hearing to consider the appeal. Alternatively, the Board could (2) cancel the hearing and wait until the appeal period has expired which is our standard hearing procedure.