

DEPARTMENT: PLANNING

BY: Greta Hudak

PHONE: 966-5151

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

Adopt resolution granting a portion of the appeal and revising Condition No. 8 of Land Division Application No. 1457 to exclude the remainder from the requirement to record a covenant or declaration of non-protest.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See attached memorandum to Board of Supervisors for background and history of Board actions.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternative: Do not require a Covenant of Non-Protest for either Parcel No. 1 or the remainder; if the remainder subdivides in the future, Parcel No. 1 could protest the formation of a zone of benefit or assessment district and would not be required to participate in their fair share cost of road maintenance.

Negative Action: Uphold the Planning Commission's condition; the applicant would be required to record a Covenant of Non-Protest for Parcel No. 1 and the remainder to complete the land division.

COSTS: ( ) 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:

Memo to Board including Attachments

1. Site/Vicinity Map of LDA No. 1457
2. Appeal Form
3. Planning Commission Minutes of August 4, 1995

CLERK'S USE ONLY:  
Res. No.: 95-433 Ord. No. \_\_\_\_\_  
Vote - Ayes: \_\_\_\_\_ Noes: \_\_\_\_\_  
Absent: \_\_\_\_\_ Abstained: \_\_\_\_\_  
( ) Approved ( ) Denied  
( ) 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   
SUBJECT: PUBLIC HEARING Re Appeal of Conditions,  
Application No. 1457, Long, Applicant  
Res. 95-433

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on October 3, 1995

ACTION AND VOTE:

11:04 a.m. Ed Johnson, Planning and Building Director;

C) PUBLIC HEARING to Consider Resolution Granting a Portion of Appeal and Revision of Condition Number 8 of Land Division Application Number 1457, Frank Long, Applicant and Appellant

BOARD ACTION: Hearing was opened and continued to 2:00 p.m., with the concurrence of the applicant.

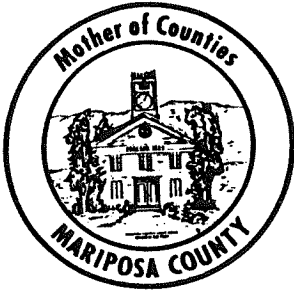
2:06 p.m. C) PUBLIC HEARING to Consider Resolution Granting a Portion of Appeal and Revision of Condition Number 8 of Land Division Application Number 1457, Frank Long, Applicant and Appellant

BOARD ACTION: Greta Hudak/Planner, presented staff report and responded to questions from the Board relative to survey standards for covenant of non-protest and recent State changes in requirements. Public portion of the hearing was opened and input was provided by the following: Frank Long/applicant and appellant, commended Planning staff for being considerate and professional; however, stated he disagrees with the survey requirements - stated his application is the first to deal with the costly new State requirements; advised of his conversation with Mr. Martin of the State Board of Equalization relative to the requirements who advised that a covenant of non-protest on the map is not required until there is an application for a zone of benefit for this type of subdivision; and referred to memorandum from Public Works to Planning relative to road maintenance issues. Mr. Long responded to questions from the Board relative to the survey requirements and covenant of non-protest and relative to the status of Williamson Act on the property and proposed improvements. Public portion of the hearing was closed and Board commenced with deliberations. Charlie Pratt/PWD-Associate Surveyor, responded to questions from

MINUTE ORDER  
October 3, 1995  
Page Two

the Board relative to his conversations with the State Board of Equalization and requirements for this type of subdivision. Staff responded to questions from the Board relative to the changes in the State's requirements for processing zones of benefit. (M)Taber, (S)Stewart, Res. 95-433 adopted amending condition for Parcel No. 1 by adding condition to the map, with language to be approved by County Counsel, that if an easement road is ever developed, the owner or subsequent holder of title, will bear their fair share of road maintenance costs. Applicant agreed to this condition. Ayes: Unanimous. Hearing was closed.

cc: Mike Edwards, Public Works Director  
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

September 22, 1995

**TO:** Mariposa County Board of Supervisors

**FROM:** Greta Hudak, Assistant Planner  
Ed Johnson, Director *EW for EW*

**RE:** Appeal of Condition applied to Land Division Application No. 1457, Long, applicant

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### RECOMMENDED ACTION

Planning staff recommends, and the Public Works concurs, that the Board of Supervisors revise Condition No. 8 of Land Division Application No. 1457 as approved by the Planning Commission to read:

A declaration or covenant of non-protest for road maintenance of Easement #1 and Easement #2 shall be recorded concurrently with the parcel map. The declaration or covenant shall be made appurtenant to Parcel No. 1 ~~and the remainder~~ and shall state that the owner or future owners of the parcels waive their right to protest the formation of a zone of benefit or assessment district within Countywide County Service Area No. 1 for road improvements, road upgrades, and/or maintenance of the easement road.

### JUSTIFICATION

Although the condition applied to the project by the Planning Commission was in accordance with Staff's original recommendations, staff has revised the recommended condition based upon a clarification of state requirements relative to surveying requirements for covenants. In January of 1995, the State Board of Equalization adopted stricter field surveying standards for covenants. If these standards are applied to the remainder (as would occur with the Planning Commission's condition no. 8), the costs of surveying would be significantly greater than that which would be required for just completing the parcel map for the land division. Staff was not made aware of these new surveying standards until after the Planning Commission had approved the land division with conditions. Staff has re-evaluated the matter and determined that a zone of benefit would not likely be necessary for easement #1 and easement #2 until such time as the remainder is ever divided. There would be discretionary review authority

over such a and division project, at which time the County could apply the zone of benefit or covenant condition as appropriate. Revising the condition as recommended addresses a portion of the applicant's request while still meeting the intent of the condition.

### BACKGROUND

Land Division Application No. 1457 proposes to divide a 2,818 acre parcel into two parcels of 36.3 (Parcel No. 1) acres and 183.88 (Parcel No. 2) acres, and a remainder of approximately 2592 acres. The project property boundary is adjacent to Highway 140 to the north, adjacent to Old Highway to the south and adjacent to Yaqui Gulch Road to the West (APNs 12-180-28 & 12-180-14). The applicant has appealed condition no. 8, imposed by the Planning Commission on LDA 1457.

February 2, 1995	Land Division Application No. 1457, Long, submitted to Mariposa County Planning Department.
May 5, 1995	Revised Tentative Map submitted by applicant
August 4, 1995	Planning Commission approves LDA 1457 with conditions.
August 24, 1995	Appeal of the conditions applied to LDA 1457 is received by the Board office.
August 29, 1995	Planning Department receives a copy of appeal.

### DISCUSSION

Condition No. 8 requires the applicant to file a declaration or covenant of non-protest for road maintenance of the easement and that the declaration or covenant be made appurtenant to Parcel No. 1 and the Remainder.

Although a zone of benefit is technically required for this easement based upon the provisions in the County Road Improvement and Circulation Policy, staff supported a waiver of the zone of benefit and included a condition for a covenant (condition no. 8). The purpose of the declaration or covenant is to ensure that if a zone of benefit or assessment district is formed in the future, which encompasses the easement, parcel owners waive their right to protest that zone of benefit or assessment district. If the zone or district is formed, all owners served by easement would participate in the zone or district and pay their fair share of the road improvements, road upgrades, and/or maintenance.

#### **Applicant's Grounds of Appeal --**

The applicant has appealed the entire condition due to the County's requirements for covenant submissions to the State Board of Equalization. The County requires the applicant to submit a map and description of the easement and parcel. These requirements would require additional field surveying for the condition as approved by the Planning Commission, and preparation of the map and description would entail significant costs to the applicant. The condition as revised would relieve the applicant of these costs while retaining for the County the option of requiring a zone of benefit when and if the remainder further subdivides. If the remainder never subdivides, the covenant for easement #1 and easement #2 would not be necessary.

# LONG APPEAL LAND DIVISION

## No. 1457

RELANDER'S STATEMENT  
FILED THIS 20th DAY OF APRIL 1995 AT THE COUNTY CLERK'S OFFICE  
IN AND FOR THE COUNTY OF MARICOPA, ARIZONA  
AT THE REQUEST OF THE RELANDER AND SURVEYOR.

RELANDER: MARICOPA COUNTY RELEASER  
BY: JERRY

# "AMENDED TERMINING" PARCEL MAP

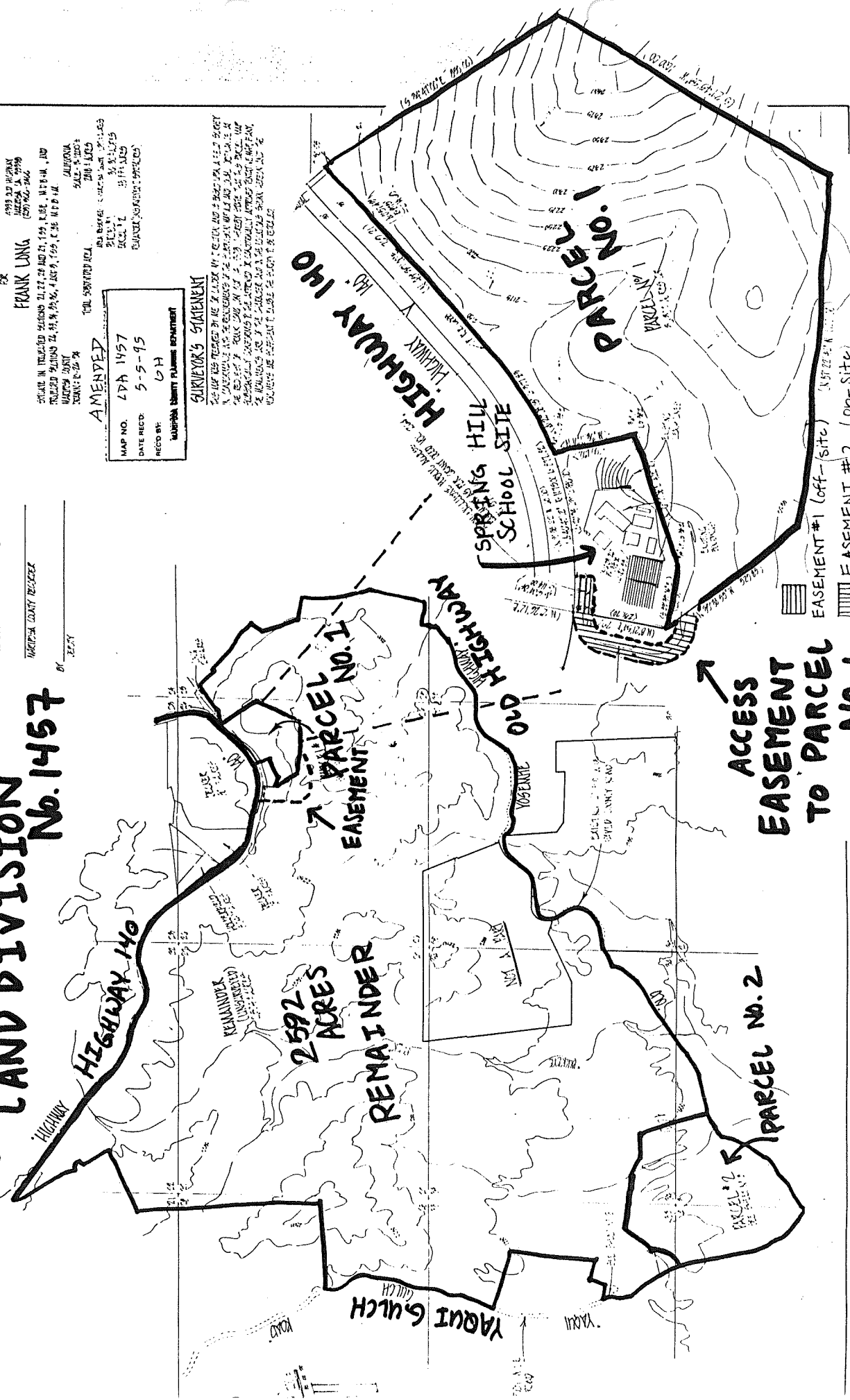
FOR  
**FRANK LUNG**  
1994 AD 1000000  
1000000.00 ACRES  
1000000.00 ACRES

APPLICABLE TO THE APPEAL NO. 1457, FILED IN THE LAND DIVISION, MARICOPA COUNTY, ARIZONA, ON APRIL 19, 1995, AT THE COUNTY CLERK'S OFFICE.  
TERMINING NO. 1457  
DATE: 4/19/95  
BY: JERRY

MAP NO.	474 1457
DATE REC'D.	5-5-95
REC'D BY:	GH
MARIKOPA COUNTY PLANNING DEPARTMENT	

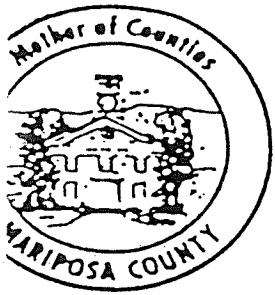
### SURVEYOR'S STATEMENT

I, JERRY, AM A LICENSED SURVEYOR IN THE STATE OF ARIZONA. I HAVE BEEN EMPLOYED BY THE RELANDER AND SURVEYOR FOR THE PURPOSE OF SURVEYING THE PROPERTY DESCRIBED HEREON. I HAVE BEEN ADVISED BY THE RELANDER AND SURVEYOR THAT THE PROPERTY DESCRIBED HEREON IS THE PROPERTY OF THE RELANDER AND SURVEYOR. I HAVE BEEN ADVISED BY THE RELANDER AND SURVEYOR THAT THE PROPERTY DESCRIBED HEREON IS THE PROPERTY OF THE RELANDER AND SURVEYOR. I HAVE BEEN ADVISED BY THE RELANDER AND SURVEYOR THAT THE PROPERTY DESCRIBED HEREON IS THE PROPERTY OF THE RELANDER AND SURVEYOR.

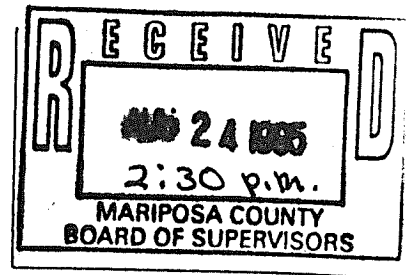


ACCESS  
EASEMENT  
TO PARCEL  
NO. 1

EASEMENT #1 (off-site)  
EASEMENT #2 (on-site)



# MARIPOSA COUNTY



Date Received

## NOTICE OF APPEAL

### APPELLANT/CONTACT PERSON

NAME

Frank Long

MAILING ADDRESS

4333 Old Hwy Mariposa 95338

DAY TELEPHONE NUMBER

209 966 2466

- Check this box if the appeal form is being filed by additional appellants. Attach list with name, address, and signatures of appellants. You may designate two persons on the list to receive copies of all correspondence and staff reports related to the appeal. The list must contain a statement which states the person signing the list has reviewed the Notice of Appeal form.
- Check this box if appellant is also the application or permit applicant for the finding or decision being appealed.

### APPEAL BODY

Decision, finding, or determination is being appealed to

- BOARD OF SUPERVISORS (Submit appeal form to Clerk of the Board of Supervisors)
- PLANNING COMMISSION (Submit appeal form to Planning Commission Secretary)

### DECISION BODY

Decision, finding, or determination being appealed was made by

- PLANNING COMMISSION
- OTHER COUNTY COMMISSION OR BODY

\_\_\_\_\_  
(Name)

- COUNTY DEPARTMENT HEAD OR OFFICIAL

\_\_\_\_\_  
(Title)

DATE OF DECISION

8/4/95  
(Date)

DECISION, FINDING, OR DETERMINATION BEING APPEALED  
(Attach copy of decision/findings)

APPLICATION NUMBER OR  
TYPE OF PERMIT

LDA 1457

OTHER (Specify)

SPECIFIC CONDITIONS, FINDINGS, AND/OR PORTIONS OF DECISION OR  
DETERMINATION BEING APPEALED

Condition # 8 Covenant of Non-Protest

STATEMENT OF GROUNDS OF APPEAL

(MAP AND BOUNDARY DESCRIPTION REQUIREMENTS  
FOR COVENANTS OF NON-PROTEST on file at  
the Mariposa County Planning Department.)

If additional space is needed, attach additional sheets to Notice of  
Appeal form. The grounds of appeal must clearly state those issues or  
portions of the finding, decision, or determination being appealed. The  
Board of Supervisors or Planning Commission will consider only those issues  
which are raised in the appeal form.)

The County requirement of an Exhibit  
Map and description (See attached)  
which due the requirements for the formation  
of a zone of benefit by the State Bd of  
Equalization. I talked to David J. Martin,  
head of Tax Area Services for the State  
Bd. He said there is no such requirement  
for a Covenant of Non-Protest.

Check this box if you request the right to submit additional  
reasons for appeal and amendments or supplements to the appeal.  
This additional information must be submitted no later than twenty-  
five (25) calendar days prior to the hearing date of the appeal.

SIGNATURE OF APPELLANT

8/24/95

DATE



**A. Use Permit No. 237; Catheys Valley Baptist Church, applicant. PROJECT PLANNER: Jay Pawlek, Assistant Planner.**

Pawlek presents staff report, using a revised site plan and wall maps for clarification; applicant is proposing a church development on a 5.0 acre parcel; Project location, relationship to the General Plan, expected times of operation, setback standards, lighting, access, road improvements and maintenance, parking, Caltrans, Health Department, and CDF comments all discussed with recommended findings and conditions, as outlined in Staff Report; staff recommends approval.

**PUBLIC PORTION OF PUBLIC HEARING OPENED**

Don Starchman, Attorney at Law, states that the applicant worked closely with staff prior to submission of his application and just wanted to thank staff for its cooperation and dedication.

Rudzik asks for clarification of the lighting to which Pawlek responds that staff wants to make sure the light from the project is contained on the parcel.

**PUBLIC PORTION OF PUBLIC HEARING CLOSED**

**STEWART MOVES** to adopt a Negative Declaration for the project and approve the project with the recommended findings and conditions. **MILLER SECONDS** the motion and it passes with the following vote: **AYES: MILLER, RUDZIK and STEWART. NOES: NONE. ABSTAIN: NONE. NOT VOTING: NONE. ABSENT: NONE. EXCUSED: McFADEN and STEAGALL.**

**B. Land Division Application No. 1462; Powers, applicant. PROJECT PLANNER: Greta Hudak, Assistant Planner.**

Hudak presents Staff Report using wall map for clarification. Location, site characteristics, access, road improvements, and Health Department, CDF and Fish and Game comments all discussed with recommended findings and conditions, as outlined in Staff Report; staff recommends approval.

**PUBLIC PORTION OF PUBLIC HEARING OPENED**

There were no comments from the public.

**PUBLIC PORTION OF PUBLIC HEARING CLOSED**

**STEWART MOVES** to adopt a Negative Declaration for the project and approve the project with the recommended findings and conditions. **MILLER SECONDS** the motion and it passes with the following vote: **AYES: MILLER, RUDZIK and STEWART. NOES: NONE. ABSTAIN: NONE. NOT VOTING: NONE. ABSENT: NONE. EXCUSED: McFADEN and STEAGALL.**

 **C. Land Division Application No. 1457/Use Permit No. 236; Long/Assembly of God Church, applicants. PROJECT PLANNER: Greta Hudak, Assistant Planner.**

Hudak explains that even though these projects are two separate applications, they are being presented together as one of the parcels created by the land division will contain the church development; each application will have its own findings and conditions. Hudak presents Staff Report for the Land Division using a parcel map for emphasis and

clarification; states that she was notified yesterday that Condition No. 5 had already been met; project conforms with the guidelines established in the General Plan.

#### **PUBLIC PORTION OF PUBLIC PORTION OPENED**

David Thornton, brother of Merle Thornton (Use Permit Applicant) states he is in agreement with staff's report and all conditions.

Frank Long, property owner and applicant, clarifies that the lower parcel split is for financing purposes only; that banks are reluctant to loan money on larger acreages; states he will not be using the Highway 140 entrance and has a letter from the State Highway Department which indicates the entrance on Highway 140 is already sufficient.

Philip Helm, neighbor, states concern relative to future development of the parcel and expected traffic.

Mr. Larson, neighbor, states he does not understand why the property is being divided; Long and Hudak explain Williamson Act Contracts relative to land division and Long states he already has an agreement with Public Works Department to quit claim to the County the land they have requested for easement purposes.

#### **PUBLIC PORTION OF PUBLIC HEARING CLOSED**

**MILLER MOVES** to adopt a Negative Declaration with Mitigation Measures and approve the project with the recommended findings and conditions. **STEWART SECONDS** the motion and it passes with the following vote: **AYES: MILLER, STEWART, and RUDZIK.** **NOES: None. EXCUSED: McFADEN and STEAGALL. ABSENT: NONE. ABSTAIN: NONE. NOT VOTING: NONE.**

Hudak gives an overview of the 15 Conditions for Use Permit No. 236; staff recommends approval of the project.

Miller asks for clarification of the signage for the project; Hudak explains that the church will sit on a knoll overlooking the Highway, therefore, an on-site sign will be sufficient. Applicant and staff have discussed the signage issue and agree with the on-site requirement.

#### **PUBLIC PORTION OF PUBLIC HEARING OPENED**

Lloyd Hansen, School District employee, states that the District's only concern is with the access road in that the public will be going to the School looking for the church - project needs directional signs only. Further concern is with dust that may be created; recommends paved or oiled road.

Thornton states that the applicant has no problem with directional signs only.

Jan Holderfield, adjacent property owner, states that traffic is her major concern but is in agreement with the project and is comfortable with signage.

Bill Schroeder, property owner, inquires as to whether or not there is a school sign to slow traffic; it was answered by Long that there wasn't.

#### **PUBLIC PORTION OF PUBLIC HEARING CLOSED**

Rudzik asks if the landscaping will be natural vegetation; Hudak responds that it will.

**STEWART MOVES** to adopt a Negative Declaration with Mitigation Measures for the project and approve the project with the recommended findings and conditions. **MILLER SECONDS** the motion and it passes with the following vote: **AYES: MILLER, RUDZIK and STEWART. NOES: NONE. ABSTAIN: NONE. NOT VOTING: NONE. ABSENT: NONE. EXCUSED: McFADEN and STEAGALL.**

**11:05 A.M. RECESS**

**11:10 A.M. RECONVENE**

**D. Revised Planned Unit Development 1 (Mariposa Vista Estates); Thole/Winslow, applicants. PROJECT PLANNER: Jay Pawlek, Assistant Planner.**

Pawlek presents Staff Report using wall maps for clarification and emphasis. Pawlek incorporates history of project into report; relationship to General Plan, setback requirements, density, improvements, road/general standards, and timelines of development all discussed as outlined in staff report. Further, supportive letters are presented from adjacent property owners.

**PUBLIC PORTION OF PUBLIC HEARING OPENED**

Jimmy Gillis, Surveyor, states he is representing the applicants and believes the revision brings about a better subdivision; is under the impression that only one bridge would be needed. Pawlek explains that when he said "bridge" it was in the generic sense only. Gillis states he is in total agreement with Staffs Report and recommendations.

Rudzik states he would like to see revegetation with natural plants and as many trees as possible left; Gillis assures Commission that this is applicants' goal, they will not encroach on anyone's property.

Bill Summermeier, Civil Engineer for the project, states his concern relative to the crossing on Fournier; proposes a double arch bridge for Joe Howard Road.

Bill Schroeder, who lives on Standen Park Drive, expresses concern relative to potential renaming of this road; all of his legal documents contain the Standen Park Drive address, therefore, he would like the road name to remain the same; further concern relative to cul-de-sacs and potential for misuse by teenagers. Asked for clarification of "crash gate". Pawlek explains the functional use of a crash gate and the fact that it would be used as an emergency access only. Summermeier states that, typically, crash gates are used by firefighters first.

**PUBLIC PORTION OF PUBLIC HEARING CLOSED**

**MILLER MOVES** to adopt a resolution recommending to the Board of Supervisors the following: 1. Filing of a Notice of Exemption for the project. 2. Approval of Revised PUD 1 with the revised development standards. 3. Adoption of the recommended findings. **STEWART SECONDS** the motion and it passes with the following vote: **AYES: MILLER, STEWART, and RUDZIK. NOES: None. EXCUSED: McFADEN and STEAGALL. ABSENT: NONE. ABSTAIN: NONE. NOT VOTING: NONE.**



# COUNTY of MARIPOSA

4639 Ben Hur Road  
Mariposa, CA 95338  
(209) 966-5356 FAX (209) 966-2828

DEPARTMENT OF  
PUBLIC WORKS  
Divisions of:  
Design & Construction  
Administration  
Operations

September 25, 1995

**MICHAEL D. EDWARDS**  
**Director**

Frank Long  
4333 Old Hwy.  
Mariposa, CA 95338

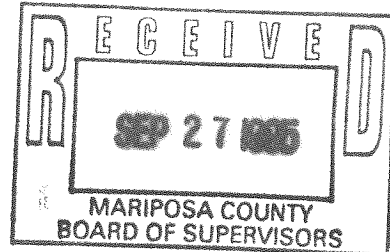
RE: L.D.A. 1457

Dear Mr. Long:

Please find enclosed a copy of my recommendations to the Planning Staff for your land division dated February 21, 1995. Under recommendation no. 2 you will clearly see that I did not feel that there were any road maintenance issues with this division.

Very Truly Yours

Charlie Pratt  
Associate Surveyor





# COUNTY of MARIPOSA

4639 Ben Hur Road  
Mariposa, CA 95338  
(209) 966-5356 FAX (209) 966-2828

DEPARTMENT OF  
PUBLIC WORKS  
Divisions of:  
Design & Construction  
Administration  
Operations

February 21, 1995

**MICHAEL D. EDWARDS**  
Director

## INTEROFFICE MEMORANDUM

TO: Greta Hudak and Jay Pawlek, Planning Department

FROM: Charlie Pratt, Associate Surveyor *CP*

SUBJECT: L.D.A. 1457, Long

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After review of the above referenced application, the following conditions are recommended:

1. In accordance with the Mariposa County Road Improvement and Circulation Policy, Public Works recommends that the applicant be required to improve the road, from the State Highway to "Parcel No. 1", to a Rural Class I standard. Public Works would like to strongly suggest to the applicant that the road should be built to a Rural Class I S.R.A. standard as this will be the required level of road improvement for the proposed use of the newly created parcel.
2. Public Works also recommends that the proposed easement for access to "Parcel No. 1" be made a private access easement and offered for dedication for public utility purposes as shown on the tentative map. I do not foresee any road maintenance or Zone of Benefit issues with this application since only one parcel is to be served by the proposed easement.

On my site visit I saw a few things that are not necessarily within the usual Public Works recommendations. One of the things that I saw, which is sure to become an issue, is the School District security gate. It is located at the highway encroachment in such a fashion that whomever wishes to use the proposed access to this newly created parcel will have to open/go through this gate. I see on the comment sheet that the school district has been contacted so I will assume that they will address this problem. I also see on the comment sheet that CalTrans has been contacted. The proposed new use of "Parcel No. 1" will increase the use of the encroachment onto Hwy. 140. The State may have additional requirements or recommendations regarding this increase.

It appeared, from my site visit, that the school district has a fenced enclosure encroaching onto "Parcel No. 1". I am not sure exactly what the purpose of this fenced area is, but it is not shown on the tentative map. This encroachment could become an issue after the sale or transfer of "Parcel No. 1".