

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION**

Resolution
No. 2020-008

A Resolution Adopting a Mitigated Negative Declaration and Approving Land Division Application No. 2019-125 with Findings, Conditions and Mitigation Measures. Freeman & Seaman Land Surveyors, Agent; Reza Abrahamzadeh and Susan Zakar, Applicants; Assessor Parcel Number 015-090-006, 5565 Meadow Lane, Mariposa

WHEREAS, an application for Land Division was received on July 18, 2019 from Reza Abrahamzadeh and Susan Zakar for property located at 5565 Meadow Lane also known as Assessor Parcel Number 015-090-006; and

WHEREAS, Land Division Application No. 2019-125 proposes to subdivide one (1) 20.04 acres parcel into three (3) parcels, Parcel A – 5.08 acres, Parcel B – 10.95 acres, and Parcel C – 5.01 acres; and

WHEREAS, an incomplete application letter was sent to the applicant on August 30, 2019, indicating a cultural resources survey and biological survey were required to complete the processing of the application; and

WHEREAS, a Rare Plant Survey, prepared by Michael Elsohn Ross dated May 4, 2016, updated September 4, 2019, Cultural Resources Survey prepared by Culturescape, dated October 2019 and a Land Division Soils Report prepared by O.S.T. System Designs, Inc. dated November 25, 2019 were received; and

WHEREAS, a revised tentative map was received on February 3, 2020; and

WHEREAS, the Planning Department circulated the applications among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for June 12, 2020; and

WHEREAS, a Staff Report and draft Mitigated Negative Declaration were prepared pursuant to the California Government Code, Mariposa County Code, 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, the draft Mitigated Negative Declaration, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE, BE IT RESOLVED THAT, the Planning Commission of the County of Mariposa does hereby adopt a Mitigated Negative Declaration.

BE IT THEREFORE FURTHER RESOLVED THAT, the Planning Commission of the County of Mariposa removed Condition No. 11, as reflected in the Draft Resolution of the Planning Commission agenda packet, due to redundancy.

Exhibit A

Recommended Findings for Approval

Land Division Application No. 2019-125

1. **FINDING:** The site is physically suitable for the type and density of development.

EVIDENCE: The site is physically suited for low-density homes and appurtenant improvements, and has already been developed as such. The proposed project is located within the Mountain Home Zone and the Residential Land Use Classification. The subdivision density is designed in accordance with the Mountain Home Zone and the Residential Land Use Classification.

2. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

EVIDENCE: The Initial Study prepared for the project found that based on the approved project description, the project would have a less than significant effect on the environment with mitigation applied. The project may have an adverse impact on the wildlife resources and potential habitat areas, and therefore, subject to the California Department of Fish and Wildlife file fees for a mitigated negative declaration as required by AB 3158 and SB 1535 and County Clerk fees.

3. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.

EVIDENCE: This land division and its subsequent use for low-density residential purposes are not likely to cause serious health problems. Future residential uses will be required to comply with all Building Code regulations and Environmental Health Unit standards for the proper installation of wells and sewage disposal systems. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. The project site is located in a State Responsibility Area. The project has been reviewed by the Mariposa County Fire Department and CALFIRE. The land division has been designed to comply with all applicable fire safe requirements. All future residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code (PRC) Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection. The design and location of each lot and ingress/egress points to the subdivision and individual lots comply with all applicable County standards as well as standards contained in PRC sections 4290 and 4291. Structural fire protection and suppressions services are available to the project site through the Mariposa County Fire Department and CALFIRE.

4. **FINDING:** The proposed map is consistent with applicable General and Specific plans as specified in Government Code Section 65451.

EVIDENCE: The land division is the initial step in the process to help accomplish Mariposa County General Plan's Housing Element overall goal to "Provide opportunities for an adequate supply of sound, affordable housing units for ownership and for rent in a safe and satisfying environment for the present and future residents of the County." The land division satisfies the following Housing Element Objectives, including: "Provide Adequate Sites and Services." All of the proposed Parcels have existing access from Meadow Lane, a county-maintained road which has adequate capacity for the additional traffic generated by the new parcels created by this project. The

Exhibit B

Recommended Conditions for Approval

Land Division Application No. 2019-125

General Conditions

1. Project approval is valid for a period of three years from the June 12, 2020 date of approval by the Mariposa County Planning Commission. This approval shall expire on June 12, 2023, three (3) years after the date of approval by the Mariposa County Planning Commission. An extension of time may be granted by the Planning Commission if a complete time extension application is submitted prior to the expiration date.

(Section 16.16.090, Mariposa County Code)

2. The Property Owner shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the County.

(Mariposa County Code, Section 16.36.030)

3. Prior to filing of the parcel map, all fees associated with the County's processing of the map and filing of associated documents shall be paid. The Department of Fish and Game filing fee (\$2,406.75 as of 1/1/20) and the County Clerk fee (\$50.00 as of 1/1/20) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, June 19, 2020). If the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Friday, June 19, 2020, the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$2,456.75 (effective 1/1/20), and that it be in the form of a cashier's check or money order payable to "Mariposa County." The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning to file this fee and other required documents.

Note, the filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.

8. The easement along Segment 2, from Parcel A to the proposed 60- foot turnaround of the proposed access (see Staff Report – Road Segment Exhibit), shall be made a minimum 40-foot wide and non-exclusive. A turnaround easement with a radius of 60-feet (or an adequate easement to encompass a hammerhead T turnaround, if approved pursuant to Condition No. 10) shall be provided to encompass the required turnaround improvements. The easement shall be designated for access for the use and benefit of the subject property. Additional easement width may be required to encompass the required road improvements, including turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy. The location and width of the easements shall be approved by the County Engineer.

(Section 16.12.160.B, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy)

9. Prior to Parcel Map recordation, the easements from Meadow Lane to Parcel A (Segment 1) and from Parcel A to the proposed 60- foot turnaround (Segment 2) shall be improved to a Rural Class IIA standard and shall meet this standard at the time of parcel map recordation. (The intersection of the on-site easement road and the on-site/off-site easement road shall be constructed at as close to a 90 degree angle as possible or as approved by the County Engineer.) The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer at the time of recordation of the parcel map. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.

The maximum grade below 3000 foot elevation will be 12% and the maximum grade above 3000 foot elevation will be 10%. Grades may be increased per the County Improvement Standards, with the approval of the County Engineer. Increase of the grades may require paving. Road improvements are also subject to approval by CALFIRE in accordance with Calif. Fire Safe Standards.

The limits of the existing easement from Meadow Lane to Parcel A (Segment 1) shall be identified (flagged) on site by a surveyor, prior to construction. Flagging shall be maintained during road improvement work.

The on-site drainage crossing shall meet all applicable standards and is subject to approval by the County Engineer prior to commencing any road improvements. Drainage crossing may require engineered improvements plans prepared by a Registered Civil Engineer.

(Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy)

10. Prior to Parcel Map recordation, a cul-de-sac shall be constructed at the terminus of the required road improvements at the intersection of Parcels A, B and C (Segment 2) as shown on the tentative parcel map. The cul-de-sac shall be improved to meet county standards and shall meet these standards at the time of parcel map recordation. The required cul-de-sac improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be inspected and approved by the County Engineer at the time of recordation of the parcel map. The applicant may request permission to construct a hammerhead T turnaround with the approval of CALFIRE and concurrence of the County Engineer. The hammerhead T turnaround shall be completed in accordance with State Fire Safe Regulations, and

offsite parcels which already have existing addresses. The “address request form” will ensure that all homes on Parcels A, B, and C, served by the proposed easement (Segment 2), as well as existing residences served by the existing easement (Segment 1), are assigned new addresses off the newly named subdivision road by the Assessor/Recorder’s Office following the filing of the parcel map. A letter or e-mail from the Planning Department shall be sent to the County Surveyor which verifies this condition has been met.

(Planning Department Recommendation)

16. One of the following conditions shall be met prior to recordation of the parcel map:
- a. A gate shall be installed across the easement adjacent to the intersection of the off-site easement and on-site easement (between Segments 1 and 2). The type and location of the gate shall be approved by the Public Works Director. If the gate is to be locked, the gate shall be approved by the County Fire Chief and CALFIRE for emergency access purposes.

-OR-

- b. A sign stating “PRIVATE ROAD” shall be installed on the easement adjacent to the intersection of the off-site easement and Meadow Lane (Segment 1). The location of the sign shall be approved by the Public Works Director, and the design and specifications shall be in accordance with the County Improvement Standards.

(Section II.I, Road Improvement and Circulation Policy)

17. A road maintenance association shall be formed to provide for the maintenance of both the off-site easement road (Segment 1) from Meadow Lane to the existing 60-foot turnaround and the on-site easement road (Segment 2) from the existing 60-foot turnaround and the boundary of proposed Parcel A to the proposed 60-foot turnaround at the shared boundary line of Parcels A, B, and C. Maintenance shall include, but not be limited to, drainage and erosion control devices, fuel modification, and upkeep of road surfaces. The road maintenance association provisions shall be developed by the applicant so those parcels served by the easement road shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to recordation of the parcel map and shall:
- a. Be in effect for a period of not less than thirty (30) years unless said maintenance is taken over by the County, a special district, or other governmental entity.
 - b. Provide for annual maintenance and the immediate correction of emergency and hazard situations.
 - c. Include 100% of the parcels in the subdivision served by the access roads.
 - d. Provide a mechanism for the road maintenance association to collect delinquent payments or assessments for the maintenance described above by filing a lien on the delinquent properties.
 - e. Provide a mechanism for new parcels to be added to the association.

-OR-

The Applicant shall join an existing road maintenance association provided it can be expanded to include all parcels and roads created as a result of LDA No. 2019-125 and it meets all of the provisions described above for formation of a new road maintenance association.

(Public Works Department Recommendation; Section II.I, Road Improvement and Circulation Policy)

22. The access easement for the existing shared well on Parcel C, also serving Parcel B, shall be located such that physical access can be made to the well from the access road on Parcel B and shall be shall be a minimum of 20-feet wide.

(Planning Department Recommendation)

23. A shared maintenance agreement shall be recorded concurrently with and referenced on the Parcel Map describing the property owner's responsibilities for sharing in all costs associated with the routine maintenance, upkeep, and replacement costs of the existing well.

(Planning Department Recommendation)

24. Any conditions of the Environmental Health Unit for a shared well such as well production quantity and water composition quality shall be met prior to recordation of the parcel map.

(Planning Department Recommendation)

25. Percolation tests and soils analysis tests have been performed on proposed Parcel A in accordance with Health Department rules and regulations and Health Department Policy 03-01. A report meeting the requirements of Health Department Rules and Regulations has been submitted to the Mariposa County Health Department and approved by the County Environmental Health Specialist. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

"Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on Parcel A as shown on the Parcel Map for Reza Abrahamzadeh and Susan Zakar, filed in Book ____ at Page ____, Mariposa County Records, based upon limiting soil conditions; however, the test results meet the Health Department Land Division policy requirements for use of engineered, alternative design on-site sewage disposal systems. The State of California is in the process of developing Statewide on-site sewage disposal regulations that could affect the future installation of engineered, alternative design on-site sewage disposal systems; therefore, buyers are encouraged to check with the Mariposa County Environmental Health Unit disposal system on this parcel.

Additionally, a notice shall be filed concurrently with the parcel map and referenced on the parcel map which states:

"The property described as Parcel A as shown on the Parcel Map for _____, filed in Book ____ at Page ____, Mariposa County Records, is required to be served by an alternative design on-site sewage disposal system which is to be installed in the exact area tested and approved by the Environmental Health Unit unless the Environmental Health Unit approves an alternate location as described below. Construction plans for the alternative design on-site sewage disposal system must be submitted to and approved by the Mariposa County Environmental Health Unit prior to the issuance of a development permit for any construction activities. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Environmental Health Unit.

The alternative design on-site sewage disposal system is to be maintained in accordance with Mariposa County Environmental Health Unit Policy 03-01 which states, "A maintenance entity shall be required prior to approval and installation of a special design sewage disposal system on a land division. In lieu of a public entity, an operation and maintenance protocol may be submitted for approval by the manufacturer of a specific technology and an agreement/contract entered into with a private on-site sewage disposal maintenance company certified by the manufacture to service their equipment." Said maintenance entity shall be created to provide maintenance on the