

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

Resolution
No. 2021-009

A Resolution Adopting a Mitigated Negative Declaration and Approving Land Division Application No. 2020-138 with Findings, Conditions and Mitigation Measure. Freeman & Seaman Land Surveyors, Agent; Jorge and Silvia Garcia, Applicants; Assessor Parcel Number 020-280-013, 2906 Ranchito Drive, La Grange

WHEREAS, an application for Land Division was received on September 25, 2020 from Jorge and Silvia Garcia for property located at 2906 Ranchito Drive also known as Assessor Parcel Number 020-280-013; and

WHEREAS, Land Division Application No. 2020-138 proposes to subdivide one (1) 17.84-acre parcel into two (2) parcels, Parcel A – 5.97 acres and Parcel B – 11.87 acres; and

WHEREAS, a biological survey of the project site, prepared by Michael Elsohn Ross and dated the 15th day of October, 2020, and a Cultural Resources Survey prepared by Culturescape, dated the 12th day of October, 2020 were received on the 2nd day of December, 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 the 11th day of June 2021; 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 does hereby approve Land Division Application No. 2020-138.

BE IT THEREFORE FINALLY RESOLVED THAT, the Planning Commission's project approval is based upon the findings set forth in Exhibit 1 and the conditions and mitigation measure as set forth in Exhibit 2 of this resolution.


ON MOTION BY Commissioner Smith, seconded by Commissioner Herman, this resolution is duly passed and adopted on this 11th day of June 2021 by the following vote:

AYES: Herman, McCamman, Smith, Walls, Wilmeth

NOES:

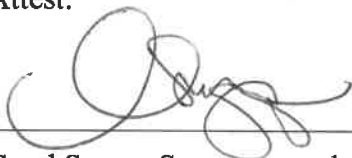
EXCUSED:

ABSTAIN:



Ed Walls, Chairman
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

Exhibit 1

Findings for Approval

Land Division Application No. 2020-138

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

EVIDENCE: The site is physically suited for the creation of an additional residential parcel. The project is required to meet all requirements relating to the provision of domestic water and the installation of a new septic system on proposed Parcel B. The subdivision density is designed in accordance with the Rural Residential 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 application of a mitigation measure to address potential impacts on drainages.

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 individual lots comply with all applicable County standards as well as standards contained in PRC sections 4290 and 4291. The parcels will take direct access from paved, county-maintained roads. 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." The proposed Parcels have existing and direct access to county-maintained roads which have adequate capacity for the additional traffic generated by the one new parcel created by this project.

5. **FINDING:** The design or improvement of the proposed subdivision is consistent with applicable General and Specific plans.

EVIDENCE: The minimum parcel size, minimum density, and building intensity proposed by the project is consistent with standards contained in the Residential Land Use Classification of the General Plan and the Rural Residential Zone. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration.

6. **FINDING:** The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

EVIDENCE: The project will not conflict with any public utility easements. There are no public access easements proposed on the property.

Exhibit 2

Recommended Conditions for Approval

Land Division Application No. 2020-138

General Conditions

1. Project approval is valid for a period of three years from the, June 11, 2021 date of approval by the Mariposa County Planning Commission. This approval shall expire on June 11, 2024 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 (\$2,480.25 as of 1/1/21) and the County Clerk fee (\$50.00 as of 1/1/21) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, June 18, 2021). 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 18, 2021, 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 \$2,530.25 (effective 1/1/21), 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.

(§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code

CALFIRE/County Fire Conditions

4. Prior to Parcel Map recordation, the applicant shall have complied with all applicable SRA Fire Safe Regulations according to PRC 4290, PRC 4291. Evidence that this condition has been satisfied shall be in the form of a letter from County Fire and CALFIRE to the County Surveyor.

(Title 14, California Code of Regulations [PRC 4290] and/or CALFIRE Recommendation)

Public Works Conditions

5. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to Merced Falls Road or Torre Drive. In addition, all grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. 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.

(Chapter 11, County Improvement Standards)

6. A Verification of Taxes Paid Form, acquired no sooner than 30-days prior to the recordation of the parcel map, shall be submitted to the County Surveyor.

(Section 16.12.395, County Subdivision Ordinance)

7. The telephone company shall be contacted prior to construction in order to coordinate the location of telephone facilities, including conduit. The applicant shall submit a letter from the telephone company to the County Surveyor stating that the requirement has been met.

(Public Works Recommendation)

Environmental Health Conditions

8. Prior to recordation of the parcel map, the applicant shall prove to the satisfaction of the Mariposa County Environmental Health Unit that Parcel B has a supply of potable water meeting requirements for quantity and quality. Proof is as follows:

- a. An approved connection from an approved public water provider; or
- b. A proposed connection to a shared well which has been pre-approved by the Environmental Health Unit; or
- c. A well, for which appropriate permits and inspections have been approved by the Environmental Health Unit, has been drilled on the subject property and developed with appropriate casings, and for which improvements may or may not include permanently installed pump equipment; or
- d. A demonstration that there can be a source of water capable of producing a sustained potable water supply with storage of at least 1,000 gallons per twelve (12) hour day per dwelling unit, which will be contained within any combination of (a) a potable water storage tank, (b) a static water supply in the well; or
- e. Other satisfactory proof and wells drilled and tested prior to sale to demonstrate the quantities described in "Section d." above.

Additionally, if the property is to be served in the future by a well, the applicant shall record a disclosure statement concurrently with the parcel map and referenced on the parcel map or shall

include the disclosure statement on an additional map sheet which indicates its relationship to the parcel map. The statement shall be the following:

“This notice is not intended to affect record title interest. Water supplies for residential lands are derived from a private well on Parcel (A or B) as shown on the Parcel Map for _____ filed in Book _____ at Page _____, Mariposa County Records. Mariposa County groundwater supplies are found in fractures in the bedrock. The costs associated with drilling and developing a private well is highly variable because it is unknown how much or if any additional water can be found on these parcels. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map.”

(Mariposa County General Plan, Section 5.3.02.E(4))

9. Percolation tests and soils analysis tests shall be performed on Parcel B 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 shall be submitted to the Mariposa County Health Department and be approved by the County Environmental Health Specialist prior to recordation of the parcel map. A letter from the County Environmental Health Specialist shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcel. If the Health Department approves the use of Standard Septic Systems then a statement shall be recorded in Official Records concurrently with the (parcel / final) map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows:

“This notice is not intended to affect record title interest. Approved percolation tests and soils analysis tests have been performed on Parcel B as shown on the Parcel Map for _____, to verify the feasibility of installing an on-site septic disposal system. A map identifying the location of the approved percolation tests is on file in the County Health Department. If an on-site septic system is proposed for a portion of a parcel that has not had an approved percolation tests, additional percolation tests and design recommendations may be required.”

If the Health Department approves the report based on the use of special design or engineered septic systems then a statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows:

“This notice is not intended to affect record title interest. Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on Parcel B as shown on the Parcel Map for _____, 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 Health Department regarding State or local regulation changes that could affect the installation of an on-site sewage disposal system on this parcel.”

Additionally, a notice shall be filed concurrently with the parcel map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The notice shall state:

“This notice is not intended to affect record title interest. The property described as Parcel B as shown on the Parcel Map for _____, 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 Health Department unless the Health Department 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 Health Department prior to the issuance of a development permit for any construction activities other than a private well. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Health Department. The alternative design on-site sewage disposal system is to be maintained in accordance with Mariposa County Health Department 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.” Said maintenance entity shall be created to provide maintenance on the engineered sewage disposal systems prior to issuance of a development permit for residential construction activities other than a private well.

In the event that additional soils testing is conducted demonstrating that an alternative design on-site sewage disposal system is not necessary, the Mariposa County Health Department may allow the use of a conventional on-site sewage disposal system in the newly tested area. Any newly tested area requiring the use of an engineered alternative design on-site sewage disposal system must meet the same minimum soils requirements of Health Department policy 03-01 as a newly created parcel.”

(Any parcel or lot not meeting the criteria outlined in Health Department Policies and/or rules and regulations shall be merged with one or more of the adjoining parcels or lots.)

Any mitigation, such as flagging easements or identifying them in the field, shall be implemented prior to conduct of testing.

(Section 16.12.330, County Subdivision Ordinance; Environmental Health Unit Recommendation)

10. Prior to recordation of the parcel map, the applicant shall prove to the satisfaction of the Health Department that Parcel A and B has a supply of potable water meeting requirements for quantity and quality. Proof is as follows:
 - a. an approved connection from an approved public water provider; or
 - b. a proposed connection to a shared well which has been pre-approved by the Health Department; or
 - c. a well, for which appropriate permits and inspections have been approved by the Health Department, has been drilled on the subject property and developed with appropriate casings, and for which improvements may or may not include permanently installed pump equipment; or
 - d. a demonstration that there can be a source of water capable of producing a sustained potable water supply with storage of at least 1,000 gallons per twelve (12) hour day per dwelling unit, which will be contained within any combination of (a) a potable water storage tank, (b) a static water supply in the well; or
 - e. other satisfactory proof and wells drilled and tested prior to sale to demonstrate the quantities described in “Section d.” above.

Additionally, if the property is to be served in the future by a well, the applicant shall record a disclosure statement concurrently with the parcel map and referenced on the parcel map or shall

include the disclosure statement on an additional map sheet which indicates its relationship to the parcel map. The statement shall be the following:

“This notice is not intended to affect record title interest. Water supplies for residential lands are derived from private wells on Parcel B as shown on the Parcel Map for _____. Mariposa County groundwater supplies are found in fractures in the bedrock. The costs associated with drilling and developing a private well is highly variable because it is unknown how much or if any additional water can be found on these parcels. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map.”

[(Mariposa County General Plan, Section 5.3.02.E(4)]

Mitigation Measure

11. An open space setback of twenty-five (25) feet from the centerline of the blue line drainage on the site shall be shown on the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows:

“This notice is not intended to affect record title interest. There are open space setbacks on Parcels A and B as shown on the Parcel Map filed in the Book of Maps ____ at Page ___, Mariposa County Records. The setback is twenty-five (25) feet from the edge of the drainage. No structure or improvement shall be constructed within the open space setback except as provided below. A well or wells, water pipes, underground and above ground power lines, fencing and other similar structures or improvements may be constructed within the open space setback subject to approval by the Planning Director. Consultation with a qualified biological consultant, whose services shall be paid for by the property owner, may be required by the Planning Director in order to make a determination. No removal of vegetation (except noxious weeds identified by the United States Department of Agriculture, the California Department of Food and Agriculture, and/or the Mariposa County Agricultural Commissioner) shall be allowed within the open space setback, except as determined necessary by CAL FIRE, and except as needed to implement the uses described in this and the following paragraph. No grading shall be allowed within the setback, except as needed to implement the uses described in this and the following paragraph.

Prior to any grading or construction activities occurring within this setback area, the owner of said lots shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the owner shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code.

Depending upon the location and nature of the construction, grading, or disturbance within the setback area, the parcel owner may be required to obtain approval from the Army Corps of Engineers for permitting under Section 404 of the Clean Water Act. This agency shall be contacted prior to initiation of any disturbance to the setback area. If a Section 404 permit is required, a Section 401 Water Quality Certification from the State Regional Water Quality Control Board shall also be required”.

(Mitigation Measure 4.b.1)