

Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2013-005

A resolution approving Amended Conditions for Conditional Use Permit Application No. 2011-101 through the Annual Review Process; Mariposa Mountain Rendezvous; Meg Keoppen, sole proprietor and applicant. APN 013-128-003.

WHEREAS an application for a Conditional Use Permit was received on May 31, 2011 from Kim Morgan and Meg Keoppen for a property located at 5087 Highway 140, Mariposa, also known as Assessor Parcel Number 013-128-003; and

WHEREAS applicants submitted an amended Conditional Use Permit application on February 1, 2012; and

WHEREAS the Planning Department circulated the amended application among local agencies, interested public organizations, and others as appropriate; and

WHEREAS a duly noticed public hearing was scheduled for April 6, 2012; and

WHEREAS the Planning Department determined the project is exempt from environmental review pursuant to Section 15303 of the California Environmental Quality Act Guidelines because the project does not propose any new construction; and

WHEREAS a Staff Report and Notice of Exemption 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 April 6, 2012 and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the original project request was approved by the Planning Commission on at their meeting on April 6, 2012; and

WHEREAS condition of approval No. 17 requires that the Commission conduct a review of the project after the first market season at a public hearing to determine if amendments to the conditions of approval are necessary for continuing the use and for ensuring that required findings can be made. Project applicants shall be responsible for all costs associated with the hearing, including any public noticing required for the hearing; and

WHEREAS a duly noticed public hearing was scheduled for April 19, 2013 for the Annual Review of Conditional Use Permit No. 2011-101; and

WHEREAS the Planning Department determined that the Annual Review of the project is exempt from environmental review pursuant to Section 15303 of the California Environmental Quality Act Guidelines because the project does not propose any new construction; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code and local administrative procedures; and

WHEREAS the Planning Commission did hold a public hearing on April 19, 2013 and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, agency comments and the comments of the applicant.

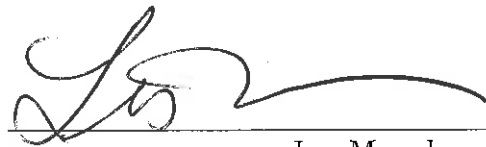
NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby find that this Annual Review is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15303, CEQA Guidelines.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve amendments to Conditional Use Permit Application No. 2011-101.

BE IT THEREFORE FURTHER RESOLVED THAT the amendments to the project are approved based upon the findings set forth in Exhibit 1 and amended conditions set forth in Exhibit 2.

ON MOTION BY Commissioner Rudzik, seconded by Commissioner Harris, this resolution is duly passed and adopted this April 19, 2013 by the following vote:

AYES: Marsden, Becker, Rudzik, Harris and Harter
NOES: None
EXCUSED: None
ABSTAIN: None



Les Marsden, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

Exhibit 1 – Findings

1. **FINDING:** Adequate open space is provided by this proposal. (§17.112.040.A, Mariposa County Code)

EVIDENCE: Adequate open space is being maintained by this project. The project sits on a .34 acre parcel that is graded flat and which has previously been used for commercial purposes. The proposed use will be intermittent, leaving the project site open most of the week. In addition, no permanent structures are proposed. Further, project is located in the town of Mariposa, where the General Plan encourages commercial uses.

2. **FINDING:** The site is physically suited for the proposed development. (§17.112.040.B, Mariposa County Code)

EVIDENCE: The site has previously been developed for commercial uses and has been graded flat in preparation for future development. The site has room for on-site parking, and has two existing encroachments, one from Highway 140, and one on Jessie Street. There is off-site, on-street parking in the vicinity of the project site. The site is easily accessed by pedestrians from all four sides. There is sufficient space to operate the project. Therefore, it can be found that the site is physically suited for the project.

3. **FINDING:** Adequate provisions have been made for sewage disposal and the handling of solid waste. (§17.112.040.C, Mariposa County Code)

EVIDENCE: The applicants will install a minimum of one portable toilet, as required by the Health Department. Two portable toilets will be installed and used at the site should there be more than fifty customers at any given time at the seasonal market. Adequate trash and recycling bins will be located throughout the project site. All trash and recycling will be removed at the end of each weekend event.

4. **FINDING:** The proposed development will have adequate potable water for public use and fire protection. (§17.112.040.D, Mariposa County Code)

EVIDENCE: Potable water will be available on-site via bottled water. There is a fire hydrant located on site. Neither Cal Fire nor County Fire had concerns with this project.

5. **FINDING:** The project proposal complies with all standard and special setback requirements and adequate buffers have been provided for adjacent land uses. (§17.112.040.E, Mariposa County Code)

EVIDENCE: The open air market meets all the minimum County setback standards. There are no special setbacks required for this project.

6. **FINDING:** Appropriate access is available or is proposed to the development. (§17.112.040.F, Mariposa County Code)

EVIDENCE: The project is accessed via Highway 140 and Jessie Street, both of which are publicly maintained roads of sufficient width and condition for the project. Ingress will be via Highway 140 and egress via Jessie Street with one-way traffic in order to prevent driver confusion, congestion, and pedestrian-vehicle conflicts. In addition, the project will not conflict with any public easements.

7. **FINDING:** The proposed use is consistent with the policies and standards of the general plan and any applicable specific plan. (§17.112.040.G, Mariposa County Code)

EVIDENCE: The Mariposa County General Plan and the Mariposa Town Planning Area Specific Plan govern this property. The land use and zoning for this parcel is General Commercial. Commercial activities involving outside sales are conditionally-permitted uses in this zone. The conditional use permit process allows for the proper integration of the proposed use into the community through the placement of conditions deemed necessary to protect property owners and the public interest. This project is for a job-creating business that will add to the locally-established tourism and retail industry. It can be found that the proposed use is consistent with the policies and standards of the General Plan and the Specific Plan.

8. **FINDING:** The project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or it has been determined that the significant effects are unavoidable and acceptable due to overriding concerns. (§17.112.040.H, Mariposa County Code)

EVIDENCE: The project as proposed would be categorically exempt from the provisions of the California Environmental Quality Act, as this project will result in no new construction (§15303 CEQA Guidelines). Additionally, the General Plan has a certified EIR which covers the development of all property within its boundaries. The conditions attached to the approval adequately address the issues of aesthetics, safe ingress and egress, dirt and dust control, traffic circulation, parking, and other potential impacts of this project on the surrounding parcels and neighborhood.

9. **FINDING:** The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county. (§17.112.040.I, Mariposa County Code)

EVIDENCE: With the implementation of conditions of approval attached to the Conditional Use Permit, it can be found that the project is not detrimental to the health, safety, morals, comfort, or general welfare of the neighboring people or to the value of the surrounding property. It also can be found that the use will not be injurious or detrimental to property and improvements in the neighborhood.

10. FINDING: Mariposa County has no authority to enforce parking restrictions on Highway 140.

Exhibit 2 – Conditions of Approval Effective 4/19/13

Project: Mariposa Mountain Rendezvous

Conditional Use Permit No. 2011-101

Applicant: Meg Keoppen (sole proprietor)

Project Action Dates: April 6, 2012 and April 19, 2013

The following conditions of approval were approved for this project in order to ensure compliance with County Codes and policies.

1. **Approved Project:** The use permit is approved for an open-air market located at 5087 Highway 140, between 9th and 10th Streets in Mariposa, APN 013-128-003. The market is approved to operate two Saturdays per month from 10 a.m. until dark (8 - 9 p.m.) from May 1st through October 31st, weather permitting. No permanent structures shall be constructed on the project site. The use shall meet all applicable standards of the General Commercial Zone as determined by the Planning Department. Any change in configuration, use, and periods of operation may be approved by the Planning Director provided that any expansion does not exceed 10% of the size of the area of the approved use (any amount of a reduction in size of area may be allowed), and provided a finding can be made that the modification does not create impacts which were not addressed in the original approval.
2. **Neighboring Parcel:** Prior to each market event, applicants shall rope off or otherwise block vehicular access to the parcel adjacent the project site. The adjacent parcel shall remain inaccessible at all times during market events. Vehicles shall not be permitted on the adjacent parcel at any time during market events. Use of the adjacent parcel is prohibited without prior written approval of the owner.
3. **Nuisances, Maintenance:** The project site shall be maintained and operated in such a manner as to not create nuisances in the form of odors, noise, dust, solid waste, or light. The project site shall be maintained in a neat, clean, and orderly manner at all times during market events. All booths, garbage, recycling, temporary signage, etc. shall be removed from the project site at the end of each market event weekend.
4. **Dust Control:** The applicants, in consultation with the Health Department, shall take necessary measures to control dust. Dust shall not be allowed to drift off site.
5. **Waste Disposal:** Applicants shall provide an adequate number of solid waste and recycling bins so as to prevent littering. Solid waste and recycling bins shall be placed throughout the project site including the parking area(s). All solid waste shall be removed from the site daily and properly disposed of at the county landfill.
6. **Parking:** A minimum of nineteen (19) parking spaces shall be provided, including one (1) on-site, van-sized parking space for the disabled. The on-site parking area and the disabled- accessible parking space shall be indicated with temporary signage and/or

markings during market events. The applicants' parking plan dated February 1, 2012 is approved pursuant to this condition.

7. **Vendor Parking:** Vendors shall be encouraged to use off-site public parking located away from the immediate vicinity of the project site after loading and unloading their vehicle for each market event.
8. **Signage Review Required:** Prior to erecting, placing, or installing any market event signage, applicants shall submit to the Planning Department a signage plan that includes sign design samples or mock-ups. Event signage shall be reviewed and approved prior to use. Signage shall conform to Mariposa County Code Section 17.336.070. Individual vendor signs shall be oriented inward, away from the highway and adjacent streets.
9. **First Aid:** If first aid services will be offered, applicants shall submit a plan to the Health Department for providing first aid services at least 30 days prior to the first event at which such services will be available. The plan shall be reviewed and approved prior to offering first aid services.
10. **Sanitation:** There shall be at least two (2) portable toilets equipped with hand washing stations located within two hundred (200) feet of all food vendors. In general, there must be a minimum of one (1) portable toilet facility per fifty (50) participants and visitors on-site at the same time. This requirement may be reduced by the Planning Director if it can be shown that the current market operation does not exceed 50 patrons at any given time. Should 50 or more patrons frequent the market during regular business hours, the original requirement for two (2) portable toilets equipped with hand washing stations shall be met.
11. **Potable Water:** All potable water shall be from a Health Department-approved source. This may require the use of bottled water or source testing.
12. **Agricultural Commissioner:** The applicants must remain in compliance with all applicable state, federal, and local laws and regulations relating to the sale of produce, honey, eggs, nursery stock, and other commodities; the operation of open air markets; the use of approved weights and measures devices (eg., scales); and other requirements as regulated and enforced by the Mariposa County Agricultural Commissioner, for the life of the project.
13. Any and all food must be provided by an approved/permitted vendor. All food vendors shall obtain a permit from the Health Department at least 10 days prior to the event.
14. **Lighting:** Lighting was not proposed with this application. If lighting is to be used, lights shall not be directed off-site, including toward the adjacent streets and highway. Lighting shall be shielded or full cut-off fixtures and shall not create off-site impacts. Exterior lighting is to be installed so that it directs light downward onto the subject to be lighted only. Flashing lights shall not be used. Dark Sky standards shall be observed.

15. **Electrical:** If electricity is to be used, applicants shall obtain any necessary permits and final inspections from the Building Department prior to use.
16. **Representations Made:** Any representations or commitments made by the applicants at the Planning Commission hearing shall be incorporated as conditions of project approval.
17. **Site Plan Conformance:** All site development shall be in substantial conformance with the plan(s) presented to the Planning Commission and/or as amended by the conditions of approval.
18. **Project Review:** If necessary, the Planning Director may refer the project to the Planning Commission for review at any given time in the future if it is determined that the seasonal market is noncompliant with project conditions and such noncompliance creates on-site or off-site nuisances in the form of odors, noise, dust, solid waste, traffic impacts or light affecting the health, safety and welfare at the site or surrounding properties or roads in the immediate vicinity. Planning Commission project review at a public hearing may involve amendments to the conditions of approval that are necessary for continuing the use and for ensuring that required findings can be made. Project applicants shall be responsible for all costs associated with the hearing, including any public noticing required for the hearing.
19. **Approval Timeframe:** Project approval is valid for a period of three years from April 6, 2012. The use granted by this Conditional Use Permit must be established by conducting at least one event prior to April 6, 2015. If applicants are unable to establish the use prior to April 6, 2015, they may apply for an extension of one and one half (1.5) years. The request for an extension must be made prior to April 6, 2015 in order to be considered. *(Condition compliance has occurred.)*
20. **Fees:** All fees associated with the County's processing of this Conditional Use Permit application shall be paid within thirty (30) days of the Planning Commission's public hearing of the application (by Monday, May 7, 2012). Mariposa Planning will provide an invoice for the costs associated with processing this application. *(Condition compliance has occurred.)*

Project applicant shall be responsible for all costs associated with Planning Commission's annual review of the first season of the Mariposa Mountain Rendezvous' first season or any required future reviews. The applicant shall specifically be responsible for the costs associated with the hearing, including any public noticing required for the hearing.

21. **Indemnity Agreement:** The Applicant 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, Applicant 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 Applicant'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 Applicant 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 (by Thursday, April 26, 2012). Non-compliance with this condition may result in revocation of project approval by the county. *(Condition compliance has occurred.)*

22. **Non-Compliance:** Non-compliance with any of the conditions of approval for Conditional Use Permit (CUP) No. 2011-101 may be grounds for revocation of the CUP. This condition shall remain in effect for the life of the project.
23. **Optional Step/CEQA:** The applicants may opt to have Mariposa Planning file the Notice of Exemption (NOE) prepared for this project. This filing notifies the public that Mariposa County has determined that the California Environmental Quality Act (CEQA) does not apply to the project. While filing is not required, it shortens the statute of limitations on appeals from 180 days to 35 days. If applicants opt to file, the NOE must be posted within five days of April 6, 2012. The County Clerk's Office requires a fee of \$50.00 for the filing of the NOE. If the applicants opt to file, the applicants shall submit to Mariposa Planning a cashier's check or money order made payable to the Mariposa County Clerk's Office for that amount within four (4) days of the approval of the Conditional Use Permit (by April 10, 2012). *(Condition compliance has occurred.)*
24. Any proposed on-site alcohol service and/or the manufacturing, selling, or possessing dangerous weapons (California Penal Code 12020) is prohibited unless reviewed and approved by the Mariposa County Sheriff's Office and the Planning Commission.