

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2009-004

A resolution approving Amended Conditions Application No. 2008-148 David D'Esposito, applicant. Assessor Parcel Number 013-124-004.

WHEREAS an application for Amended Conditions Application was received on August 12, 2008 from David D'Esposito for a property located at 5110 Jessie Street in the Mariposa Town Planning Area, also known as Assessor Parcel Number 013-124-004; and

WHEREAS Amended Conditions Application No. 2008-148 proposes to amend Conditions of Approval No. 8, No. 14, and the approved site plan/elevations for Conditional Use Permit No. 2005-106/Design Review No. 2005-035; and

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

WHEREAS upon reviewing comments received on the application and County Code, staff determined that a recommendation for denial would be applicable; and

WHEREAS the applicant was notified on October 21, 2008 of the possibility of a recommendation for denial and was given several options on how to proceed; and

WHEREAS the applicant, on November 20, 2008, modified the proposed site plan to push the existing picket fence back to allow room for an on-site parking space; and

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

WHEREAS upon reviewing comments received on the application that were not favorable, staff scheduled and held a meeting on December 23, 2008 between the applicant, the Building Department, Public Works and staff to determine possible ways to modify the proposal to satisfy all safety and accessibility concerns; and

WHEREAS the applicant chose not to proceed with any modifications of the application and requested that it be continued to be processed as is; and

WHEREAS a duly noticed public hearing was scheduled for February 6, 2009; 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 the noticed date 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 Planning Commission continued the public hearing for March 6, 2009 in order to allow the applicant to modify his proposal to meet all applicable requirements; and

WHEREAS the applicant submitted a new revised site plan on February 26, 2009; and

WHEREAS the Planning Department re-circulated the application to the Building Department and to the Department of Public Works; and

WHEREAS a modified 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 the continued date of March 6, 2009 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

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby find that this project is exempt from the provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Amended Conditions Application No. 2008-148.

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the amended conditions and additional processing requirements set forth in Exhibit 2.

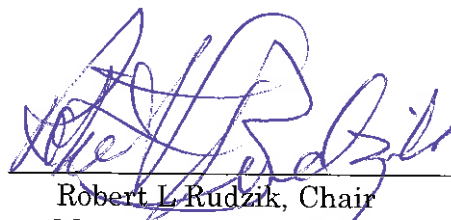
ON MOTION BY Commissioner Francisco, seconded by Commissioner Ross, this resolution is duly passed and adopted this 6th day of March 2009 by the following vote:

AYES: Ross, Rudzik, Francisco, Marsden

NOES: None

EXCUSED: None

ABSTAIN: None



Robert L. Rudzik, 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 Zoning Code)

EVIDENCE: The total area of this parcel is 6007 square feet. The proposed 146 square foot food preparation unit, with the 950 square feet of parking area, covers approximately 18 % of the site. With the existing development, 2556 square feet (43%) will be developed. There is no zoning provision for open space for parcels zoned General Commercial. The Mariposa TPA is the appropriate area for more dense development. Therefore, adequate open space has been provided by this parcel.

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

EVIDENCE: Based on the site inspection and the scale of the project as proposed, the applicant will be able to locate the proposed improvements, including the required parking, entirely onsite while meeting all County requirements for setbacks, landscaping, grading, and infrastructure. The use of the property is compatible with the surrounding development, which is commercial in nature.

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

EVIDENCE: The trailer is tied into the community sewer system in accordance with all MPUD requirements. Environmental Health previously reviewed the project and supported the project as proposed. The only thing that has changed from the prior approval is the installation of a picket fence and the movement of the parking spaces, which does not affect the disposal of sewage or the handling of solid waste. The applicant will be required to comply with all Environmental Health and Public Works Department standards for the disposal of solid waste. With the policies in place the project will comply with the sewage disposal and solid waste requirements.

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

EVIDENCE: This project is within the Mariposa Public Utility District. The MPUD commented that public water, wastewater, and fire protection services are available for the property, and it has been provided. MPUD expressed no concerns with the amended 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 Zoning Code)

EVIDENCE: The project as proposed 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 Zoning Code)

EVIDENCE: The project will not conflict with any public easement. The applicant must obtain an encroachment permit prior to work being done on or adjacent to Jesse Street. A large amount of traffic comes from foot traffic and the public parking facility on the opposite side of Jesse Street. The parking spaces as proposed on the site plan, do meet the size requirements for accessibility. The parking spaces have been designed to avoid having vehicles back into Jesse Street, thereby reducing traffic safety concerns. Therefore, appropriate access is available.

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 Zoning Code)

EVIDENCE: The parcel in question is located within the Mariposa Town Planning Area with a zoning designation of General Commercial. The existing use is similar in nature to uses permitted under zoning that is applicable to this property and is consistent with the policies and standards of the General Plan as related to Town Planning Areas. The design regulations applicable to parcels that are within the Design Review Overlay zone are also being addressed by the project and conditions.

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 Zoning Code)

EVIDENCE: The original project (CUP No. 2005-106) as proposed was found to be a class 3 categorical exemption from the provisions of the California Environmental Quality Act as stated in Section 15303(c), CEQA Guidelines. The amended conditions project as proposed has no expansion of the existing mobile food preparation unit, only the installation of a picket fence and the moving of parking spaces to the opposite side of the parking lot, which is a minor alteration to existing facilities. Therefore, the amended conditions project is a class 1 categorical exemption from the provisions of the California Environmental Quality Act as stated in Section 15301, CEQA Guidelines. The conditions attached to this approval are established to address the aesthetic quality, safe ingress and egress 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 Zoning Code)

EVIDENCE: According to the project as proposed, no detriment will be posed to the health, safety, morals, comfort, or general welfare of the neighboring people or to the value of the surrounding property.

10. **Finding:** The project complies with the architectural theme and design guidelines as established by the Board of Supervisors for the Design Review Overlay Zone. (§17.66.010.B, Mariposa County Zoning Code)

Evidence: The mobile food preparation unit is exempt from the architectural design guidelines as it is not considered a permanent building. However, the project complies with all other design requirements for the Design Review Overlay Zone.

11. **Finding:** The residence and all appurtenant facilities were existing non-conforming uses and thus, pursuant to Section 17.340.010 not required to be brought into compliance with the Road Improvement and Circulation Policy and other standards. Therefore, there is no requirement that a turnaround behind the residence be

provided. There is no evidence that the project will result in a change in the non-conforming use which will increase safety hazards associated with the current design.

EXHIBIT 2

AMENDED CONDITIONS OF APPROVAL NO. 2008-148

FOR

CONDITIONAL USE PERMIT #2005-106/DESIGN REVIEW #2005-35

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented, and fulfills the County of Mariposa's Monitoring requirements.

Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures

Project Description:

Approve project includes a 146 square foot food preparation unit on a 6007 square foot lot in the Mariposa Town Planning Area, located at 5100 Jessie Street. The mobile unit will be permanently located on his property. The business will prepare deli and coffee related food products. Project includes construction of a 950 square foot parking lot with accommodations for 1 onsite parking space. Access to the parking lot will be from an encroachment onto Jessie Street; the encroachment will be built to commercial standards. The subject parcel is developed with an existing single family residence with two parking spaces. Subject property is zoned General Commercial.

All conditions placed upon this project shall be completed prior to opening for business. The project will conform to the most recently approved site plan and project description, the Planning Director may approve minor amendments to the project provided that such amendments are in substantial compliance with the approved site plan and project description.

	Monitoring Dept.	Verified Implemented
--	-------------------------	-----------------------------

CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT

1. The existing encroachment shall be brought up to residential	Public Works	
---	--------------	--

<p>standards; the proposed encroachment shall be brought up to commercial standards with a width of not less than 22 feet, a paved walkway shall also be provided parallel to the encroachment to allow for pedestrian access to the property, the width and other design criteria shall be determined by Public Works. In addition, drainage issues relating to the required encroachment improvement that have the potential to impact Jesse Street as determined by The County Engineer shall be addressed. Improvements shall be completed in accordance with the Mariposa County Improvement Standards and shall meet this standard prior to opening for business.</p> <p>Road Improvement and Circulation Policy, Finding 6</p>		
<p>2. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to Jessie Street. 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. Evidence that all required encroachment improvements have been completed and approved by the Public Works Department shall be provided to Mariposa Planning before opening for business.</p> <p>Chapter 11, County Improvement Standards; Finding 6</p>	<p>Public Works</p>	
<p>3. Prior to the commencement of any improvements, driveway or parking lot construction or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permit for the required improvements, a consultation meeting with the Public Works Department, the applicant, and the site work contractor shall occur. This meeting shall be conducted on-site. This consultation meeting shall be set up by the applicant. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County Engineer shall verify that this condition has been met prior</p>	<p>Public Works</p>	

<p>to issuance of any road improvement or encroachment permit required for this project and prior to the scheduling of any on-site inspection of road improvements.</p> <p>Public Works Recommendation</p>		
<p>CONDITION OF APPROVAL / MARIPOSA PLANNING</p>		
<p>4. The mobile food preparation unit, advertising signs, and any other temporary structure supporting the unit or use, shall be removed from the property if the use is discontinued for a period of 90 consecutive days or more as determined by the planning director. If in question, the burden will be on the owner to provide proof to the planning director of continued use.</p>	<p>Mariposa Planning</p>	
<p>5. Approval of the project is valid for a period of three years from October 28, 2005. This approval shall expire on October 28, 2008. The applicant may request up to 18 months additional time through a time extension application process submitted prior to the expiration date. The project shall be considered complete when the applicant has met all conditions and the mobile food preparation unit opens for business.</p> <p>§17.08.170, 180 and 190, Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>6. The applicant shall submit a landscaping plan for the site. The landscaping plans shall indicate existing native trees within the development site to be retained. The landscaping plan shall conform to Section 17.336.060.C of County Code, delineating the size, type, and location of proposed landscape plantings as well as proposed irrigation methods. The landscaping plan shall provide for trailer enhancement, parking lot screening, and breaking up views from the road in conformance with Section 17.336.060.C.6. of County Code. This plan must be approved by the Planning Director and the landscaping shall be installed prior to opening for business.</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>7. All landscaping shall be maintained in good condition in order to present a healthy and neat appearance for the life of the development. Dead or diseased plants shall be immediately</p>	<p>Mariposa Planning</p>	

<p>replaced with plants which meet the size requirements of Section 17.336.060 of County Code, used as a guideline for development within a Town Planning Area.</p> <p>Mariposa County Zoning Code</p>		
<p>8. Parking lot shall be installed in accordance with approved plan date stamped February 26, 2009 and all standards of section 17.336.30 of the zoning code including the paving requirement. The unloading zone for the accessible parking space shall be located on the passenger side of the vehicle. In order to ensure compliance with Section 17.336.30.C, the parking stall depth shall be at least 19 feet. The applicant shall verify with the Building Department as to what, if any, requirements must be met for the project's accessible parking space, including but not limited to signing and striping and must meet those requirements prior to inspection by Planning Staff. Condition shall be met within 55 calendar days of March 6, 2009 (by 5 pm, Thursday, April 30, 2009). The applicant shall notify the Planning Department when the work has been completed, and staff will inspect to verify that it is in compliance with the approved site plan and this condition. This condition is applicable for the life of the project. Failure to comply with this condition can result in staff returning to the Planning Commission with action for revocation of Conditional Use Permit No. 2005-106, pursuant to Chapter 17.140, Mariposa County Code.</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>9. No lighting is proposed or approved by this project. New exterior lighting shall be of a hooded type and shall be designed and located to confine lighting directly on the premises. Lighting should be of minimum, but adequate, intensity. Exterior lighting fixtures shall not shine light upon or directly illuminate any surface other than the area required to be lighted. A lighting plan showing the design and location of all exterior lights shall be submitted to the Planning Department and approved by the Planning Director prior to being installed.</p>	<p>Mariposa Planning</p>	

<p>Mariposa County Zoning Code</p>		
<p>10. All MPUD requirements for sewer and water connections shall be met prior to opening. Applicant shall provide evidence to Planning Staff in the form of a letter from MPUD that this condition has been met prior to opening for business.</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>11. New and relocated refuse storage areas, dumpsters, and propane tanks used for the business shall be screened from view from adjoining parcels and Jessie Street in accordance with Design Review standards. Proposed locations and screening of these facilities shall be reviewed and approved by the Planning Department prior to installation.</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>12. All new utilities, with the exception of propane storage tanks, shall be underground within the project site.</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>13. Expansions of the food preparation unit, of up to 10% of the square footage, may be approved by the Planning Director provided that a finding can be made that the modification does not create impacts which were not addressed in the original project approval. The project shall be developed in accordance with the approved plans and applicable development codes and regulations; prior to any plan modifications of the submitted plan any deviation shall be submitted for review by the Planning Director for approval and must receive approval prior to modifications being made.</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	

<p>14. The applicant shall submit a Sign Design Review Plan for the facility, delineating the location, size, materials, colors, lettering, and lighting method for all on-site signage. The proposed signage shall be in conformance with all applicable requirements of County Code. The signage shall be approved by the Planning Director prior to be installed</p> <p>Mariposa County Zoning Code</p>	<p>Mariposa Planning</p>	
<p>15. All fees associated with the County's processing of the Amended Conditions Application shall be paid within 60 days of action on the project by the Planning Commission (by 5 pm, Tuesday, May 5, 2009). The Planning Director may approve an additional extension of up to 90 days upon request by the applicant. Failure to comply with this condition can result in staff returning to the Planning Commission with action for revocation of Conditional Use Permit No. 2005-106, pursuant to Chapter 17.140, Mariposa County Code.</p>	<p>Mariposa Planning</p>	
<p>16. Non compliance with any of the conditions of approval for Conditional Use Permit (CUP) No. 2005-106, including any of the amended conditions of approval amended through Amended Conditions Application No. 2008-148 may be grounds for revocation of the CUP.</p>	<p>Mariposa Planning</p>	
<p>17. Optional Step. The applicant may opt to have Mariposa Planning file the Notice of Exemption (NOE). 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 the applicant opts to file, then the NOE must be posted within five days of March 6, 2009. The County Clerk's Office requires a fee of \$50.00 for the filing of the NOE for your project. If the applicant <u>opts</u> to file, the applicant shall submit cash or a money order made payable to the Mariposa County Clerks Office to Mariposa Planning for that amount within 4-days of the approval of the Conditional Use Permit.</p>	<p>Mariposa Planning</p>	

CONDITION OF APPROVAL/ MARIPOSA COUNTY ENVIRONMENTAL HEALTH

<p>18. The applicant shall obtain a food preparation permit from the Mariposa Health Department. The food facility shall meet all requirements of the California Uniform Retail Food Facilities Law (CURFFL). Major violations of CURFFL as determined by the Mariposa County Health Department shall be grounds for suspension or revocation of the conditional use permit.</p>	<p>Environmental Health</p>	
<p>Environmental Health Recommendation</p>		

Agency Contact List

AGENCY	CONTACT	PHONE NUMBER EMAIL	SITE ADDRESS	MAILING ADDRESS
Mariposa Planning	Alvaro Arias	209-742-1218 aarias@mariposacounty.org	5100 Bullion Street Mariposa CA 95338	P.O. Box 2039 Mariposa CA 95338
Public Works	Jerry Freeman	209-966-5356	4639 Ben Hur Road Mariposa CA 95338	Same as site
Health Department	Dave Conway	209-966-2220	5100 Bullion Street Mariposa CA 95338	P.O. Box 5 Mariposa CA 95338
Mariposa County Resource Conservation District		209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Sarah Wise	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35 Mariposa CA 95338
County Fire	Blaine Shultz	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal. Dept of Forestry	Dennis Townsend	209-966-3622	5366 Highway 49 North Mariposa CA 95338	Same as site

Certificate of Completion: By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

Environmental Coordinator

Date

Explanation of Headings:

Monitoring Dept: Department or Agency responsible for monitoring a particular mitigation measure.

Verified Implemented: When a mitigation measure has been implemented, this column will be initialed and dated.