

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2006-41

A resolution conditionally approving Land Division Application No. 2005-161, Jerry Griffith and Wayne McCurley, applicants. Assessor Parcel Number 012-140-098.

WHEREAS an application for land division was received on September 1, 2005 from Jerry Griffith and Wayne McCurley for a property located at an unassigned address on the northeast side of the intersection of State Highway 140 and Bumguardner Mountain Road, also known as Assessor Parcel Number 012-140-098; and

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

WHEREAS concerns were raised regarding the septic disposal capabilities of the two westernmost parcels of the original proposal; and

WHEREAS percolation testing was conducted on the project site, and adequate septic disposal area meeting all Health Department requirements was found only on the two easternmost parcels; and

WHEREAS the applicant chose to merge the two westernmost parcels of the original proposal (Parcels C and D as shown on the proposed map submitted on September 1, 2005) with the next westerly parcel (Parcel B as shown on the proposed map submitted on September 1, 2005), thereby creating Parcel A at 6.29 acres and Parcel B at 15.39 acres as shown on the proposed map submitted on April 25, 2006; and

WHEREAS a revised percolation and soils analysis test report was submitted to the Health Department; and

WHEREAS the Health Department reviewed that report and agreed that the septic disposal areas as shown on Parcels A and B on the April 25 map meet Health Department requirements; and

WHEREAS a duly noticed public hearing was scheduled for the 8th day of September, 2006; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS a Staff Report and an Initial Study 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 Initial Study and Staff Report, 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 approve a Mitigated Negative Declaration; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application No. 2005-161; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms, conditions, and mitigation measures set forth in Exhibit 2.

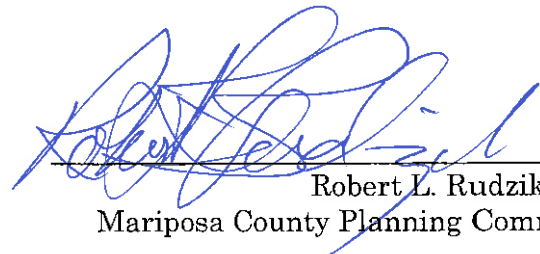
ON MOTION BY Commissioner Skyrud, seconded by Commissioner DeSantis, this resolution is duly passed and adopted this September 8, 2006 by the following vote:

AYES: Commissioners DeSantis, Hagan, Rudzik, and Skyrud

NOES: None

EXCUSED: Commissioner Ross

ABSTAIN: None


Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:


Carol Suggs, Secretary to the
Mariposa County Planning Commission

Exhibit 1—Findings for Approval
Land Division Application No. 2005-161

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

EVIDENCE: Based on site inspection, the site is physically suited for low-density homes and appurtenant improvements such as septic systems, provided that the conditions of approval regarding the access roads and the percolation testing are met. The proposed project is located within the Mountain Home land use and zoning classification. The subdivision density is designed in accordance with the Mountain Home land use and zoning 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, it would have a less than significant effect on the environment. According to the Department of Fish and Game's Natural Diversity Data Base and Areas of Special Biological Importance Map for Mariposa County, there are no special, rare, or endangered animal or plant species, or wildlife resources located on the project site and the surrounding area that would be affected by approval of this project. The land is currently undeveloped and will be used primarily for residential purposes. The project may have an adverse impact on wildlife resources and potential habitat areas, and is therefore subject to the California Department of Fish and Game filing fees of \$1,250 for a mitigated negative declaration as required by AB 3158 and a County Clerk fee of \$25.

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 Health Department standards for wells and wastewater disposal. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. As a condition of approval for this project, the applicant will be required to have designed special septic systems that comply with all Health Department requirements for this property. Additionally, all future residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection.

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 the General Plan's Housing Element overall goal to "...provide an adequate supply of sound, affordable housing units in a safe and satisfying environment for the present and future residents of the County..." The land division satisfies the following

Housing Element Policy: *"to ensure that there are adequate sites and facilities available to support future housing needs."* The project site is not covered by a specific plan.

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

EVIDENCE: The minimum parcel size proposed by the project is consistent with standards contained in the General Plan and the Zoning Ordinance. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The property is not covered by a specific plan.

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 easement. The project has been designed in such a way that public easements are not affected. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

Exhibit 2—Conditions of Approval

Project Name: Jerry Griffith and Wayne McCurley
 Project Approval Date: September 8, 2006

File Number: LDA No. 2005-161

The following conditions of approval and mitigation measures were approved for this project in order to ensure compliance with county codes and policies, and to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist indicates that the conditions have been complied with and implemented.

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

	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT		
<p>1. The Bumguardner Mountain Road easement from Highway 140 along the northwestern edge of the project site is 60 feet wide and non-exclusive. 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 onsite portion of the existing easement shall be re-offered for dedication to the County of Mariposa; additional easement width shall be offered for dedication if necessary. Any necessary offers of dedication shall be non-revocable and specifically state on the parcel map that the dedications are for "public road and utility purposes."</p> <p>§16.20.130, County Subdivision Ordinance; Road Standard Cross-sections, Road Improvement and Circulation Policy.</p>	Public Works	
<p>2. Bumguardner Mountain Road shall be improved to a Rural Class I A SRA standard from State Highway 140 to Parcel B and shall meet this standard at the time of parcel map recordation. 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 the 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</p>	Public Works	

<p>commencement of construction work on the required road improvements. Prior to commencement of construction work on the required road improvements, the County Engineer shall approve any section of the road which exceeds 12% grade, and may require that the onsite road be paved. Grades for the onsite easement road shall not exceed 16% for any section of the road.</p> <p>§16.12.170, County Subdivision Ordinance.</p>		
<p>3. An encroachment permit shall be obtained from the California Department of Transportation prior to any work being done on or adjacent to Highway 140. In addition, all grading and road improvement work within the Highway 140 right-of-way required as a condition of approval of this project shall comply with the standards of the California Department of Transportation and all requirements thereof. The required encroachment improvements shall be completed and approved by CalTrans prior to recordation of the parcel map for this project. The applicant shall submit a letter or other evidence to the County Surveyor stating that this condition has been met to the satisfaction of CalTrans.</p> <p>Chapter 11, County Improvement Standards</p>	<p>Public Works/ CalTrans</p>	
<p>4. Access to Parcels A and B shall be limited to Bumguardner Mountain Road, and no further encroachments shall be approved for Parcel A from State Highway 140. A declaration shall be recorded with the parcel map, referenced on the parcel map and made appurtenant to Parcel A. The declaration shall state the following:</p> <p>“Approved access for residential development of Parcel A as shown on the Parcel Map for Griffith and McCurley, recorded in Book ___ of Parcel Maps at Page ____, Mariposa County Records is from Bumguardner Mountain Road. No further encroachment permits shall be issued to these parcels from State Highway 140.”</p> <p>The County Engineer will confirm that this condition has been met prior to map recordation.</p> <p>Public Works Recommendation</p>	<p>Public Works</p>	
<p>5. A road maintenance association shall be formed to provide for the maintenance of Bumguardner Mountain Road. 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 roads shall be responsible for road maintenance. These provisions</p>	<p>Public Works</p>	

<p>shall be reviewed and approved by the County Engineer prior to recordation of the final map and shall:</p> <ul style="list-style-type: none"> a. Be in effect for the life of the project 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 Bumguardner Mountain Road. 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 with the power of sale. e. Provide a mechanism for new parcels to be added to the association. <p>Public Works Recommendation</p>		
<p>6. Prior to the commencement of any road improvements, road 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 a representative of the Public Works Department, a representative of CDF, a representative of CalTrans, a representative from the Health Department, the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted onsite. This consultation meeting shall be set up by the applicant and/or agent. 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 to issuance of any road improvement or encroachment permit required for this project and prior to the scheduling of any onsite inspection of road improvements.</p> <p>Public Works Recommendation</p>	Public Works	
<p>7. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project, the applicant shall contact the Regional Water Quality Control Board to determine if a General Permit for Discharges of Storm Water</p>	Public Works/ NRCS/RCD	

<p>Associated with Construction Activity is required. If required, the applicant shall obtain the permit prior to commencement of construction activities. A copy of the approved permit or evidence that a permit is not required shall be submitted to the Public Works Department by the applicant prior to the onsite consultation meeting required by Condition of Approval No. 6. If a permit is required, all provisions and requirements of the permit shall be completed prior to recordation of the parcel map. The applicant shall submit to the Public Works Department evidence that the permit requirements have been met to the satisfaction of the RWQCB.</p> <p>Alternatively, the applicant may provide evidence to the Public Works Department and the Natural Resource Conservation Service that a permit is not required; this evidence would consist of proof that the applicant will disturb less than one acre of ground during grading activities, and that proof shall be determined by Public Works and NRCS.</p> <p>State Water Quality Control Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES); Mitigation Measure 4.b.2</p>		
<p>8. A gate is installed across Bumguardner Mountain Road adjacent to the intersection with State Highway 140. Prior to recordation of the parcel map, the type and location of the gate shall be approved by the Public Works Director. If the gate is to be locked, the gate and lock shall be approved by the County Fire Chief and the California Department of Forestry for emergency access purposes.</p> <p>Section II.I, Road Improvement and Circulation Policy</p>	Public Works	
<p>9. Immediately upon completion of the required road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Natural Resource Conservation Service/Resource Conservation District (NRCS/RCD). The applicant shall also contact the NRCS/RCD for an inspection. Inspection fees shall be the responsibility of the application. A letter shall be submitted to the County Surveyor by NRCS/RCD stating that the re-vegetation and erosion control provisions have been completed.</p> <p>Public Works Recommendation</p>	Public Works/ NRCS/RCD	
<p>10. All cut and fill areas required for the construction of the proposed access road shall be included within the access and utility easement pursuant to the County Improvement Standards, which may necessitate a variable width easement greater than 60 feet in width. The location, width, and description of the</p>	Public Works	

<p>easements shall be approved by the County Engineer.</p> <p>Public Works Recommendation</p>		
<p>11. All required signs shall be installed on metal, break-away type posts prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation.</p> <p>Public Works Recommendation</p>	Public Works	
<p>12. A stop sign shall be placed onsite at the intersection of Bumguardner Mountain Road and State Highway 140. The stop sign shall be installed on metal breakaway type posts prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation. If the sign is to be placed within the CalTrans right-of-way, an encroachment permit shall be obtained prior to installation of the sign.</p> <p>Public Works Recommendation</p>	Public Works	
<p>13. A road name sign for Bumguardner Mountain Road shall be placed at the intersection of Bumguardner Mountain Road and Highway 140 prior to map recordation. The design and specifications of the signs shall be in accordance with the Mariposa County Improvement Standards and shall be approved by the County Engineer prior to installation. If the sign is to be placed within the CalTrans right-of-way, an encroachment permit shall be obtained prior to installation of the sign.</p> <p>§16.12.175, County Subdivision Ordinance</p>	Public Works	
<p>14. 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.</p> <p>§16.12.395, Mariposa County Subdivision Code</p>	Public Works	
CONDITION OF APPROVAL AND MITIGATION MEASURES/ MARIPOSA PLANNING		
<p>15. Project approval is valid for a period of three years from September 8, 2006. This approval shall expire on September 8, 2009.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	Mariposa Planning	
<p>16. Prior to recordation 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 (\$1,250) and County Clerk fee (\$25) should be paid within five (5) working days of the approval of the application,</p>	Mariposa Planning	

<p>because if the fee is not paid within 5 working days, the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code.).</p> <p>The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$1,275.00, and that it be in the form of a cashiers 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 who will file this fee and other required documents with the County Clerk.</p> <p>§16.12.390, Mariposa County Subdivision Code</p>		
<p>17. The Property Owner (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.</p> <p>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.</p>	<p>Mariposa Planning</p>	
<p>18. An open space building setback of fifty [50] feet from the centerline of the seasonal streams on both parcels and fifty [50] feet from the edge of the high water line of the ponds on Parcel B shall be located on Parcels A and B. A statement shall be recorded in Mariposa County Official Records concurrently with the parcel map, referenced on the parcel map, and made appurtenant to Parcels A and B as follows:</p>	<p>Mariposa Planning</p>	

<p>“There is an open space easement of fifty [50] feet from the centerline of the unnamed drainage on Parcels A and B as shown on the Parcel Map for _____, recorded in Book ___ of Parcel Maps at Page ____, Mariposa County Records. There is also an open space easement of fifty [50] feet in width from the high water line of the ponds shown on Parcel B as shown on said Parcel Map. No structures shall be constructed within the open space easements. Construction activities within the open space easement shall be limited to necessary maintenance or replacement of the existing dam structures. No portions of a sewage disposal system shall be constructed within the open space easement, with the exception of sewage transmission lines or pipes across the creek, if the County Sanitarian determines their necessity. No grading shall be allowed within the easement. No removal of vegetation shall be allowed within the open space easement, unless necessary pursuant to the State Fire Safe Regulations. 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 easement subject to approval by California Department of Fish and Game. This easement shall be in perpetuity and shall restrict the use of the land within the easement.”</p> <p>Mitigation Measure 4.b.1</p>		
<p>19. Prior to the recordation of the parcel map for this project, the applicant shall submit an Oak Tree Identification and Preservation Plan to the Mariposa County Planning Department. This Plan shall show all trees of the genus Quercus located onsite in the area of construction activity that are 5” or larger in diameter at breast height, with breast height being 4 ½’ above natural grade. All trees identified as Quercus that will be removed for construction shall be identified on this Oak Tree Site Plan. All oak trees identified for removal on the project site shall be replaced at a ratio of three to one of a like species of oak, minimum of 10-gallon size, purchased from a nursery that has stock compatible for project site conditions. This Plan shall be prepared by a certified professional arborist, licensed landscape architect, registered professional forester, qualified botanist, or other qualified professional as approved by the Mariposa County Planning Department. This Plan shall specify maintenance requirements, costs, and procedures to ensure the viability of the replacement trees. If no trees of the genus Quercus within the specified size range are removed for purposes of road construction, Planning may waive this requirement by request of the applicant.</p>	<p>Mariposa Planning</p>	

Mitigation Measure 4.e.1		
CONDITIONS OF APPROVAL/ HEALTH DEPARTMENT		
<p>20. A statement shall be recorded in Official Records concurrently with the Parcel Map and referenced on the Parcel Map as follows:</p> <p style="padding-left: 40px;">"Approved percolation tests and soils analysis tests have been performed on Parcels A and B as shown on the Parcel Map for Griffith and McCurley, recorded in Book ___ of Parcel Maps at Page ____, Mariposa County Records, 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."</p> <p>§16.12.330, County Subdivision Ordinance; Health Department Recommendation</p>	County Health	
CONDITIONS OF APPROVAL/ CALIFORNIA DEPARTMENT OF FORESTRY & FIRE PROTECTION		
<p>21. Prior to recordation of the parcel map, all applicable State Fire Safe Regulations shall be met. A letter shall be submitted to the County Surveyor by CDF stating this condition has been met.</p>	CDF	
RECOMMENDATION ON OFFERS OF DEDICATION		
<p>Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public access and utilities, but reject the offer for public maintenance of Bumguardner Mountain Road.</p> <p>Mariposa Planning Recommendation</p>	Public Works	

Agency Contact List				
AGENCY	CONTACT	PHONE NUMBER	SITE ADDRESS	MAILING ADDRESS
		EMAIL		
Mariposa Planning	Megan Tennermann	209-742-1219 mtennermann@mariposacounty.org	5100 Bullion Street Mariposa CA 95338	P.O. Box 2039 Mariposa CA 95338
Public Works	Cheryl Jay	209-966-5356	4639 Ben Hur Road Mariposa CA 95338	Same as site
Health Department	Dave	209-966-2220	5100 Bullion Street	P.O. Box 5

Regional Water Quality Control Board	Conway JoAnne Kipps	559-445-5035	Mariposa CA 95338 1685 E Street Fresno CA 93706	Mariposa CA 95338 Same as site
Mariposa County Resource Conservation District	Dawn Afman	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Eddie Ellis	209-966-2332	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	Paul Alvarez	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.