

DEPARTMENT: PLANNING

BY: ERIC JAY TOLL
PHONE: 966-0302

RECOMMENDED ACTION AND JUSTIFICATION:

See attached memo.

Final action on SilverTip Resort

BACKGROUND AND HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Current FY Cost: \$	Annual Recurring Cost:\$
Budgeted Current FY?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Partially Funded	
Amount in Budget:	\$ _____		List Attachments, number pages consecutively _____	
Additional Funding Needed:	\$ _____			
Source:				
Internal Transfer				
Unanticipated Revenue	<input type="checkbox"/>	4/5's vote	<input type="checkbox"/>	
Transfer Between Funds	<input type="checkbox"/>	4/5's vote	<input type="checkbox"/>	
Contingency	<input type="checkbox"/>	4/5's vote	<input type="checkbox"/>	
General <input type="checkbox"/> Other <input type="checkbox"/>	<input type="checkbox"/>			

CLERK'S USE ONLY:

Res. No.: 966-0302 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 () Approved
 (x) Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

____ Requested Action Recommended
 No Opinion
 Comments:

The foregoing instrument is a correct copy of the original on file in this office.
 Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California
 By: _____
 Deputy

CAO: RJL



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BOB PICKARD, CHAIR
GARRY R. PARKER, VICE-CHAIR
LEE STETSON
DOUG BALMAIN
JANET BIBBY

DISTRICT V
DISTRICT IV
DISTRICT I
DISTRICT II
DISTRICT III



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ERIC TOLL, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: BOARD DELIBERATIONS AND FINAL ACTION ON SILVERTIP RESORT
VILLAGE PLANNED DEVELOPMENT
Resolution No. 03-396 (EIR)
Resolution No. 03-397 (Project Intent)

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on November 4, 2003

ACTION AND VOTE:

2:09 p.m. Eric Toll, Planning Director;

Board Action Relative to the Certification of the Environmental Impact Report (EIR) and Deliberations and Final Action on the SilverTip Resort Village Planned Development: Specific Plan Amendment (SPA) 99-1; Zoning Amendment (ZA) 99-1; Conditional Use Permit (CUP) 267; Planned Development Permit (PD) 99-1; and Land Division Application (LDA) 1511 and Indemnity Agreement (Continued from 10-14-03)

BOARD ACTION: Eric Toll presented additional information showing corrections/additions to the findings; new maps (Exhibits 2 and 3 to Attachment A) for the Specific Plan Amendment and Zoning Amendment showing a sliver of Fish Camp Lane that was inadvertently left off; and an Environmental Impact Report (EIR) Addendum prepared by Quad Knopf, Inc., that contains an analysis by Gene Smith after the on-site meeting with CalTrans. He reviewed the recommended actions if the Board determines to approve the project. He advised that the Board could reach consensus on portions of the project before taking action on the project as a whole. He advised that staff would need time to make changes that the Board may request before final action is taken. Eric advised that on October 28, 2003, Gene Smith/Quad-Knopf, Inc., met with CalTrans, the applicant and the applicant's engineer to review the left-turn lane situation; and they arrived at a conceptual design plan for the left-turn lane to the west. He advised that the development area is covered in the EIR. He also advised that correspondence has been received after the public portion was closed and legal counsel has reviewed it and determined that there is nothing in the correspondence that was not covered in the EIR, and he noted that the correspondence was not distributed to the Board.

Eric responded to questions from the Board relative to the left-turn lane, and whether the change creates any impact, including parking, to the front property owners such as the store; whether the owner of the store is aware of the findings; and relative to the additional information showing corrections/additions to the findings and the fact that the pages and sections referenced do not match. Attorney Bill Abbott, special

counsel, advised that he is responsible for the errors with the additional information not matching the pages and sections of the original document, and he advised that he has a clean set of the text showing each of the changes and he will make that available. Attorney Abbott also advised that the Board could make the final policy decisions and review the final document with the changes at a future date. He advised of the issues for the Board to decide today relative to the height limit and the number of units. Attorney Abbott advised that the Board could take action as a motion of intent today and direct staff to return with the final package for final action.

Eric and Attorney Abbott responded to additional questions from the Board relative to the differences between “performance zoning” and “bubble zoning” and whether the site plan can be amended; whether action to certify the EIR would be by consensus or vote at this time; and relative to the process for taking action on this project, including consideration of the findings after certification of the EIR. Attorney Abbott clarified that the Board could take action to certify the EIR and not take related actions on the findings and mitigation measures; and that the action would not obligate the Board to approve the project.

(M)Parker, (S)Balmain, Res. 03-396 was adopted certifying the EIR for the SilverTip Resort project, without the related actions. Discussion was held. Attorney Abbott responded to a question from the Board as to whether this vote to certify the EIR would need to be rescinded if the Board chooses not to approve the project, and he advised that the action would not need to be rescinded. Ayes: Balmain, Bibby, Parker, Pickard; Abstained: Stetson.

Discussion was held relative to approving the Specific Plan Amendment, including the 45-foot height versus the allowed 35-foot, change in the size of the parcel to be zoned Resort Commercial for the project, and the number of rooms – 125 versus 137. Staff responded to questions from the Board relative to the amount of acreage that would be necessary to zone as Resort Commercial for 125 rooms and for 137 rooms and the location; whether the height limit would affect the density; relative to open space; relative to the number of cabins that would be allowed; and relative to the affect “performance” and “bubble” zoning would have. Supervisor Pickard expressed concern with the proposed amendment and stated he supports the community’s desire to retain the 35-foot height limit and he supports the 125 rooms. Supervisor Stetson noted that a great many people support this project; however, in listening to the citizens of Fish Camp, he feels the ten objectives of the Specific Plan should be honored; and he stated he cannot support this project. Further discussion was held. Staff responded to questions from the Board relative to providing water and sewer services; whether prohibiting development in the Big Creek flood zone is covered; relative to the portion of the project the existing nine acres of Resort Commercial would accommodate; and whether a parking district could be established. The Chairman polled the Board members to determine support for the 35 and 45-foot height and for the 125 and 137 number of rooms and the related increase in Resort Commercially zoned acreage. Board members concurred that the parking should be in the back of the project. Eric responded to questions from the Board relative to the 20-dedicated employee rooms and what those consists of. The majority of the Board members agreed with the 45-foot height and with 137 rooms with approximately 15.75 Resort Commercial acreage. Eric responded to questions from the Board relative to the reduction in the number of cabins that would occur as a result of the increase in the Resort Commercial acreage; whether any of the changes discussed would affect the EIR or the findings; and relative to the other proposed amendments to the Specific Plan. Eric advised that because this is a Planned Development overlay, the Board has the option to set different standards than the 5,000 square foot currently required, and that could reduce the size of the acreage. Supervisor Parker requested that this be presented as an alternative option when the project is brought back for final action. Attorney Abbott provided input relative to the flexibility on the size of the acreage and stated they could prepare an option for this without increasing the cabin area.

Discussion was held relative to approving the Zoning Amendment, and Eric advised that this is a mirror of the Specific Plan Amendment. The Board concurred with giving the same direction as given for the Specific Plan Amendment.

Discussion was held relative to the Use Permit. Eric responded to questions from the Board relative to housing options and clarifying what the units will be all about and whether they will serve employees in the Fish Camp area; and whether they will be living units or dorms. Attorney Abbott advised that there are statutory requirements for housing, and he advised that they could get input from the applicant relative to the parameters; however, staff usually does not set them. Supervisor Bibby asked that the language for the fair market rent for six months to allow for turnover in the housing be clarified. Eric responded to additional questions from the Board relative to the location of the employee housing; and whether some of the hotel rooms would be available for emergency employee housing. Eric provided a reminder of CalTrans’ request to be the monitoring agent for condition No. 66/monitoring by an archeologist during the

initial grading and construction activities for the access and existing roads. Eric responded to a question from the Board relative to condition No. 55 regarding the left-turn lane.

Discussion was held relative to the Planned Development Permit. Eric advised that there were minor changes in the conditions and they are the same as in the Use Permit. Supervisor Pickard noted that he stills supports the 35-foot height and the 125 rooms.

Discussion was held relative to the Land Division Application. Eric responded to questions from the Board relative to the cabins; water and waste water service; and road maintenance.

Eric requested a recess to allow staff time to recap the actions/directions of the Board for bringing the matter back for final action.

3:57 p.m. Recess

4:45 p.m. Eric reviewed the proposed motion of intent to approve the project based on the direction given by the Board, and advised that direction could be given to staff to prepare final documents for action at a future meeting. Further discussion was held relative to the height limit and the number of rooms; and relative to aesthetics with parking in the front versus the rear of the project. Eric advised that a larger footprint could be allowed and it could be specified that the parking remain in the rear.

4:55 p.m. Recess

4:59 p.m. Further discussion was held. Eric advised that a revised site plan would need to come back to the Board if the Board chose the 35-foot height limit with the layout of the 45-foot plan to have the parking in the rear. Eric responded to questions from the Board relative to revising the footprint and whether it would affect the environmental work for the project; and he advised of options and advised that he could present more information when the matter comes back for final action. Gene Smith advised that taking environmental concerns into consideration, there could be trade-offs for grading and topographical impacts for the aesthetic impact of having a 45-foot structure. Attorney Abbott responded to questions from the Board and advised that the environmental documentation and staff report and findings in the package are for 137 rooms and 45-foot height. He advised that under the Building Code for a Planned Development project, there would need to be a site plan for the 35-foot height if that is what the Board determines is appropriate. He stated that if the Board concurs with 137 rooms and 35-foot height, it should direct staff to generate an alternative site plan for conformity with the environmental analysis.

(M)Balmain, (S)Parker, Res. No. 03-397 was adopted approving the following motion of intent for the SilverTip Resort - approve Specific Plan Amendment, approve rezoning Amendment, approve Planned Development Permit and Use Permit, and approve the Land Division application, all subject to the following changes: 15.73 acres of Resort Commercial; 29.07 acres of Residential 1-Acre; 137 rooms in the hotel; 30 cabins with transient occupancy certificates; 45-foot height for the hotel; employee housing with rent restrictions for 20 employees, with clarification on preference for the employees and rent management formula for employee affordability; and direction was given to staff to return to the Board on December 2, 2003, at 2:00 p.m. with final documents for adoption, including a redline and strikethrough set for each alternative, including CEQA findings and a Mitigation Monitoring Program. Further discussion was held relative to the number of rooms. Eric clarified that the original request contained 137 rooms. Ayes: Balmain, Bibby, Parker; Noes: Stetson, Pickard. The matter was continued to December 2, 2003, at 2:00 p.m. for final action on the project.

cc: File



MARIPOSA PLANNING

COUNTY OF MARIPOSA

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Eric Jay Toll, Director
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MEMORANDUM

Date: November 4, 2003
To: Board of Supervisors
Rich Inman, County Administrative Officer
County Counsel
From: Eric Jay Toll, Director
Topic: Staff Report for the SilverTip Resort Village Deliberations

SUMMARY

This is intended to be the conclusion of an application process initiated in May, 1999 with the submission of the SilverTip Resort Village application for the following projects:

Specific Plan Amendment #99-1	Amending the map and text of the Fish Camp Town Planning Area Specific Plan
Zoning Amendment #99-1	Amending the map and text of the Fish Camp Town Planning Area Specific Plan zoning implementation ordinance (uncodified ordinance)
Planned Development Permit #99-1	Allowing the development of the proposed resort
Conditional Use Permit #267	Allowing the development, construction, and operations of the proposed resort
Land Division Application #1511	Subdivision of the subject property into four parcels
Indemnity Agreement	Agreement between the County of Mariposa and Pacificus to indemnify the County for any costs associated with litigation related to the project and County's actions to approve the project

The project was processed with an environmental impact report pursuant to the California Environmental Quality Act. In the professional opinion of the collective staff working on this project, the entire process and all procedures are in conformance with California statutes, California Environmental Quality Act, the CEQA Guidelines, and County codes and policies. This report and attachments total 302 pages.

ACTIONS BY THE BOARD OF SUPERVISORS

The Board of Supervisors is required to first consider certification of the Environmental Impact Report. Based on Board guidance and discussion as well as legal requirements, a proposed

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resolution certifying the Environmental Impact Report, adopting required findings substantiated in the public record, statements of overriding consideration, and a mitigation monitoring, reporting and compliance program are attached. If the Board of Supervisors does not certify the Environmental Impact Report, no other actions to approve the project are required or allowed.

Assuming certification, the Board of Supervisors needs to proceed through the project with separate actions on each of the steps. The progression of actions are a logical sequence ensuring that each step in the process is followed.

Board action denying the project:

To deny the project, the Board may either deny certification of the Environmental Impact Report or deny any of the following actions. However, if the Board denies certification, there is no requirement to take any action on the project itself.

Board action modifying the project from the attached resolutions:

The Board may, in its deliberations, modify or amend any of the proposed actions. It may be necessary to modify findings or conditions to accommodate the Board's modification(s). Legal counsel will provide guidance where necessary. Depending on the nature of modifications, it may be prudent to identify to Staff the changes desired and direct staff to revise the resolutions and return those to the Board. Essentially, the Board would be taking an action to direct modifications to the project.

Board action to approve the project as proposed in the attached resolutions:

The Board may also approve the project by passing motions to adopt the attached resolutions.

Indemnification agreement

This package includes a request to authorize the Chair to execute an indemnification agreement between the County of Mariposa and PacificUS to indemnify the County from legal costs associated with any litigation resulting from a County approval.

THE PROJECT BEFORE THE BOARD

This package has the following attachments:

Appendices to the Staff Report memorandum

- Appendix I – Analysis of density issues by special Legal Counsel William W. Abbott
- Appendix II – Analysis of the Left Turn Lane issues from Quad-Knopf
- Appendix III – Preliminary design of the left turn lane from Provost and Pritchard
- Appendix IV – Analysis of the employee impact issues from Quad-Knopf
- Appendix V – Staff report to the Planning Commission concerning the Board's referral
- Appendix VI – Indemnification Agreement

Indemnification Agreement ready for signatures

Attachment A – Letter from County Counsel approving as to form

Attachment B – Resolution from PacificUS authorizing a corporate officer to sign the agreement

Appendix VII – Resolutions in support of the recommended action:

Certification of the Environmental Impact Report

Exhibit 1 – Resolution Certifying the Environmental Impact Report

Attachment A – CEQA required findings

Attachment B – Mitigation Monitoring and Report Program

Attachment C – Statements of Overriding Consideration

Specific Plan Amendment #99-1

Exhibit 2 – Resolution approving the Specific Plan Amendment

Attachment A – Map of the Specific Plan Amendment

Attachment B – Specific Plan Text Amendment

Attachment C – Findings

Zoning Amendment #99-1

Exhibit 3 – Resolution approving the Specific Plan Amendment

Attachment A – Map of the Zoning Amendment

Attachment B – Uncodified Zoning Text Amendment

Attachment C – Findings

Use Permit #267

Exhibit 4 – Resolution conditionally approving the Use Permit

Attachment A – Project description and defined uses

Attachment B – Conditions of approval

Attachment C – Findings

Attachment D – Approved site plan

Planned Development Permit #99-1

Exhibit 5 – Resolution conditionally approving the Planned Development Permit

Attachment A – Project description and defined uses

Attachment B – Conditions of approval

Attachment C – Findings

Attachment D – Approved site plan

Land Division Application #1511

Exhibit 6 – Resolution conditionally approving the tentative parcel map

Attachment A – Tentative Parcel Map

Attachment B – Conditions of Approval

Attachment C – Findings

ISSUES OF NOTE

Indemnification agreement

This is the first time the Board has requested an indemnification agreement. This agreement requires the applicant to cover the County's costs should the project be approved and ultimately litigated. It also ensures cooperation from the permit holder in the defense of any such litigation. If

the Board denies the project, the agreement is not executed. County Counsel can provide further explanation of the terms of the agreement.

Specific Plan Amendment

Based on the Planning Commission referral comments, Staff is recommending the use of Performance Zoning. This option applies a “blanket” Planned Unit Development land use classification to the subject property and constrains the amount of area which may be used for Resort Commercial to 10.8± acres as defined in the CUP and PD permits, Residential to 34.0± acres with similar constraints, and Residential-2.5 to 2.5 acres for regular residential use.

Included with the text amendment is a change in second bullet of the text provision. Staff is modifying the PUD setback to prescribe a 35’ site perimeter setback when the 35’ height limit is exceeded. The original language created a standard increasing the setback by one foot for each one foot of height over the 35’, the same as the Mariposa Town Planning Area Specific Plan. However, in Fish Camp, the revision is needed because some of the base zoning districts do not establish setbacks, and a PD land use essentially eliminates setbacks. This change is more restrictive than original language and does not affect any of the analysis in the Environmental Impact Report or prior staff reports.

Zoning Amendment

The amendment to the zoning map mirroring the Specific Plan amendment. The amendment to the uncodified zoning ordinance text also mirrors the Specific Plan text amendment described above.

Conditional Use Permit

The project description has been modified to reflect 20 employee housing units and the land uses allowed in the Open Space component of the Residential land use classification and zoning.

Planned Development Permit

Changes mirror the Conditional Use Permit.

Land Division Application

No changes.

BOARD DELIBERATIONS

The applicant and staff are not in agreement on one issue—the number of rooms permitted within the SilverTip Resort hotel. The project application has always included 137 lodging rooms in the hotel. Of these, the application proposed that 12 would be made available as “emergency housing” for employees. In the course of final direction from the Board, the applicant indicated that for a major hospitality management group, the hotel needed at least 125 rooms. When the Board provided final direction to Staff on September 9, the Board’s action identified “125” as the number of hotel rooms. As such, all actions attached to this report define the number of hotel rooms as 125. The applicant seeks modification to the recommended entitlements to accommodate the originally proposed and applied for 137 rooms. Staff has determined that this revision does not affect the project analysis in the Environmental Impact Report. The Environmental Impact Report analysis and all studies are based on 137 lodging rooms.

The Board may wish to consider other modifications to the project. The breadth and scope of the Environmental Impact Report and project alternatives considered by the Planning Commission and the Board of Supervisors, combined with the scope of the administrative record, allows a lot of

flexibility for the Board. Staff will provide suggestions, if needed, on whether the Board's modifications require any changes in findings or supporting documentation.

Planning Commission referral

On September 9, the Board of Supervisors referred a change in the Specific Plan land use classification and zoning district to the Planning Commission for comment. The Commission considered two options:

Approach A: Applying the classification/zoning district "Resort Commercial" to the hardscape. This was referred to as the "bubble zone" approach.

Approach B: Performance zoning standards in which no land use classification or zoning district were applied to the ground, only a total acreage to be used within each classification would be identified.

The Commission considered the options and unanimously recommended (1 absent) the Board use the Performance Standard approach. Staff has incorporated that recommendation into its recommended actions.

Caltrans issues

Quad-Knopf met with representatives of Caltrans, the applicant's engineers Provost & Pritchard, and others on Tuesday, October 28. The issues associated with the project are essentially issues of design. Caltrans has a number of discretionary standards applicable to any improvements along its roadways. The County of Mariposa Board of Supervisors has no authority to specify which design is acceptable or preferred. Under CEQA, this is the purview of a responsible agency.

Mariposa County, as the lead agency, has the responsibility to prepare the environmental analysis for the project. The County's Environmental Impact Report is used by all subsequent agencies. Therefore, Mariposa County's obligation is to ensure that the environmental review covers potentially significant environmental impacts for the area within which construction may occur.

Quad-Knopf has completed its review and finds that even if the intersection area were to be extended in length as suggested by Caltrans, there are no new environmental impacts that have not been previously identified in the Environmental Impact Report. Caltrans has the authority to make changes in the intersection design, and should such design extend outside of the area analyzed in the EIR, Caltrans could ask the applicant to provide supplemental environmental data.

Caltrans late letter and comments on possible design results in no unmitigated environmental impacts.

STAFF RECOMMENDED MOTIONS

The following referenced resolutions are contained in Appendix VII of the Staff Report.

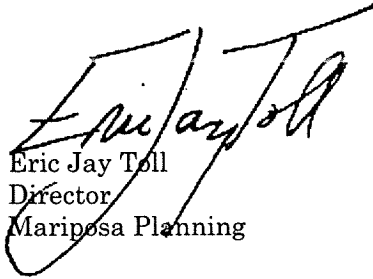
1. Staff recommends the Board of Supervisors adopt a resolution certifying the SilverTip Resort Village Environmental Impact Report, adopting Statements of Overriding Consideration, and a Mitigation Monitoring and Reporting Program (Exhibit 1).
2. Staff recommends the Board of Supervisors adopt a resolution approving Specific Plan Amendment #99-1 for SilverTip Resort Village incorporating Attachments A, B, and C to the resolution (Exhibit 2).
3. Staff recommends the Board of Supervisors waive first reading and enact a ordinance approving Zoning Amendment #99-1 for SilverTip Resort Village incorporating Attachments A, B, and C to the resolution (Exhibit 3).

4. Staff recommends the Board of Supervisors adopt a resolution conditionally approving Use Permit #267 for the SilverTip Resort Village incorporating Attachments A, B, C, and D to the resolution (Exhibit 4).
5. Staff recommends the Board of Supervisors adopt a resolution conditionally approving Planned Development Permit #99-1 for the SilverTip Resort Village incorporating Attachments A, B, C, and D to the resolution (Exhibit 5).
6. Staff recommends the Board of Supervisors adopt a resolution conditionally approving Land Division Application #1511 for the SilverTip Resort Village incorporating Attachments A, B, and C to the resolution.

The following action is found in Appendix VI to the Staff Report.

7. Staff recommends the Board of Supervisors approve a motion authorizing the Chair to execute an indemnification agreement with PacificUS.

Respectfully submitted,



Eric Jay Toll
Director
Mariposa Planning