



Mariposa County

MINUTES of the Planning Commission

ACTION SUMMARY MINUTES

MEETING DATE: July 9, 2021
TIME: 9:00 AM
LOCATION: Board Chambers
Mariposa County Government Center
5100 Bullion Street, Second Floor, Mariposa, CA 95338

1. CALL TO ORDER

The meeting was called to order at 9:00 a.m. by Chair Walls.

Attendee Name	Title	Status	Arrived
Ed Walls	District I Planning Commissioner	Present	9:00 AM
Jack Wilmeth	District II Planning Commissioner	Present	9:00 AM
Mick Herman	District III Planning Commissioner	Present	9:00 AM
Deni Smith	District IV Planning Commissioner	Present	9:00 AM
John McCamman	District V Planning Commissioner	Excused	

2. PLEDGE OF ALLEGIANCE

The Pledge was led by Commissioner Smith.

3. MINUTES APPROVAL

A. Planning Commission – Regular Meeting – June 25, 2021 9:00 AM

By Motion of Commissioner Smith, seconded by Commissioner Wilmeth, the minutes of June 25, 2021 were approved as presented.

Motion was carried by the following vote:

RESULT: ADOPTED: [4-0]
AYES: Walls, Wilmeth, Herman, Smith

4. PUBLIC ADDRESS

Persons wishing to speak on any item of interest within the subject matter or jurisdiction of the Commission that is not on the agenda. None.

5. PUBLIC HEARINGS

A. PUBLIC HEARING: Resolution Approving Time Extension Application No. 2021-057 for Conditional Use Permit No. 2017-117, and Finding that No Further

Environmental Review is Required; Mariposa Biomass Project - Jay Johnson, Applicant. Location: 5673 Copper Leaf Dr. Mariposa. APN 012-050-066 and APN 012-050-067. 2021-PCRES-11

Planner: Sarah Williams

Senior Planner, Steve Engfer, presented the project along with a power point presentation, stating that the CUP for the Biomass project was previously approved and not a part of the consideration today and we are only reviewing the Time Extension request. Engfer stated that January 17, 2023, would be the new deadline if approved, noting that there was a date error in the notice. Engfer also noted that the applicant is here for any questions.

Public Comment was received from the following: Proponents of the project: Christiana Darlington, Steve Smallcombe, Jay Johnson and Melissa Barrett (RCD). Opposition: Tom Archibald and Ruth Sellers.

By Motion of Commissioner Herman, seconded by Commissioner Smith the Planning Commission adopted a resolution approving the Time Extension 2021-057 with findings, including a finding that the previously adopted Mitigated Negative Declaration for CUP No. 2017-117 satisfies the requirement for environmental review pursuant to the California Environmental Quality Act (CEQA) and no further environmental review is required.

Motion was carried by the following vote:

RESULT:	ADOPTED: [3-1]
AYES:	Walls, Herman, Smith
NAYES:	Wilmeth

B. PUBLIC HEARING: Resolution Approving or Denying Amended Conditions No. 2021-111 for Design Review No. 2019-035; Self-Help Enterprises, Applicant. Project Proposes to Amend Condition No. 13 Which Limits the Hours that Construction Can Occur. Pursuant to Condition No. 13, No Work Can Start Prior to 7 AM. the Applicant is Requesting that This Condition be Modified to Allow for Construction to Begin at 3 AM for No More Than 5 Days. This Will Allow for Concrete Pours for the Project Foundations to Occur During the Cooler Temperatures in the Day, to Maintain the Quality of the Concrete and Use the Product to Recommended Specifications. Design Review No. 2019-035 is Approved for a Multi-Family, 42 Unit, Affordable Housing Project. Project Site is Located at 5118 Fournier Road. APN 012-140-024 (ID # 11959)

Planner: Alvaro Arias

Deputy Director, Alvaro Arias, presented the project along with a Power Point Presentation. Noting that the only item they are considering today is the amendment of condition #13. Applicant is here with the General Contractor and Building Department Representatives.

Public Comment was received from the following:

Proponents of the project: Kristin Ainley, Self-Help Enterprises, Will Amador and Kip Bedell from Quiring General, Perrin Johnal and Naranian Purewal from Harris & Sloan.

By Motion of Commissioner Wilmeth, Seconded by Commissioner Smith, the Planning Commission adopted a resolution approving the Amended Conditions Application No. 2021-111 (for condition #13 only) with a provision that it not extend past October 1, 2021, with findings, including a finding that the previously adopted Mitigated Negative Declaration for Design Review 2019-035 satisfies the requirement for environmental review pursuant to the California Environmental Quality Act (CEQA) and no further environmental review is required.

Motion was carried by the following vote:

RESULT:	ADOPTED: [3-1]
AYES:	Walls, Wilmeth, Smith
NAYES:	Herman

6. PLANNING COMMISSIONER INFORMATION

None.

7. INFORMATION ITEMS

Information was received from Director, Sarah Williams.

8. ADJOURN

There being no further business the meeting was adjourned at 10:17 a.m.

Ed Walls, Chair
Mariposa County Planning Commission

Carol Suggs, Secretary
Mariposa County Planning Commission

Note: Full audio recordings of the minutes are available from the Planning Department by request or on-line:

<http://mariposacountyca.iqm2.com/citizens/calendar.aspx?view=list>

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Mariposa County

MINUTES of the Planning Commission

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LOCATION: Board Chambers
 Mariposa County Government Center
 5100 Bullion Street, Second Floor, Mariposa, CA 95338

1. CALL TO ORDER

Chair Walls called the meeting to order at 9:00 a.m.

Attendee Name	Title	Status	Arrived
Ed Walls	District I Planning Commissioner	Present	9:00 AM
Jack Wilmeth	District II Planning Commissioner	Present	9:00 AM
Mick Herman	District III Planning Commissioner	Present	9:00 AM
Deni Smith	District IV Planning Commissioner	Present	9:00 AM
John McCamman	District V Planning Commissioner	Excused	

2. PLEDGE OF ALLEGIANCE

The pledge was led by Commissioner Wilmeth.

3. MINUTES APPROVAL

A. Planning Commission – Regular Meeting – June 11, 2021 9:00 AM

By motion of Commissioner Herman, seconded by Commissioner Wilmeth, the Planning Commission approved the minutes of June 11, 2021, as presented.

Motion was carried by the following vote:

RESULT: ADOPTED: [4-0]
AYES: Walls, Wilmeth, Herman, Smith

4. PUBLIC ADDRESS

Persons wishing to speak on any item of interest within the subject matter or jurisdiction of the Commission that is not on the agenda. None.

5. PUBLIC HEARINGS

A. PUBLIC HEARING - Adopt a Resolution Recommending the Board of Supervisors: 1) Adopt a Resolution Approving General Plan/Zoning Amendment No. 2017-084 for Special Event Facilities with the Recommended

Findings, Including a Finding the Project is Exempt from Environmental Review, and 2) Waive the First Reading and Introduce an Ordinance Amending County Code Pursuant to County Code Amendment No. 2017-084 with Findings 2021-PCRES-10

Planner: Sarah Williams

Deputy Director, Alvaro Arias, presented the project along with a Power Point presentation.

There was no public comment received.

By motion of Commissioner Herman, seconded by Commissioner Smith, the Planning Commission adopted a resolution recommending that the Board of Supervisors: 1) adopt a resolution approving General Plan/Zoning Amendment No. 2017-084 for Special Event Facilities as amended to include the Mountain Preserve zone, with the recommended findings, including a finding the project is exempt from environmental review; 2) waive the first reading and introduce an ordinance amending County Code pursuant to County Code Amendment No. 2017-084 with findings and with the correction of February 30 to be last day in February; and 3) establish that currently operating event facilities are given a grace period of one year from the effective date of the ordinance to become compliant.

Motion was carried by the following vote:

RESULT: ADOPTED: [4-0]
AYES: Walls, Wilmeth, Herman, Smith

6. PLANNING COMMISSIONER INFORMATION

No information was received.

7. INFORMATION ITEMS

Information was received from Deputy Director Arias.

8. ADJOURN

There being no further business the meeting was adjourned at 9:50 a.m.

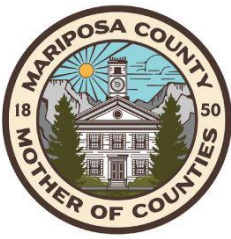
Ed Walls, Chair
Mariposa County Planning Commission

Carol Suggs, Secretary
Mariposa County Planning Commission

Note: Full audio recordings of the minutes are available from the Planning Department by request or on-line:

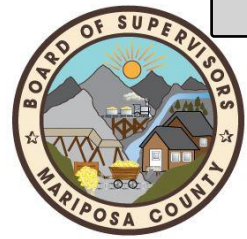
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Minutes Acceptance: Minutes of Jun 25, 2021 9:00 AM (Minutes Approval)



MARIPOSA COUNTY

Planning Commission • 209-966-5151



5.A

MEETING: July 9, 2021

TO: The Mariposa County Planning Commission

FROM: Sarah Williams, Planning Director

RE: Time Extension No. 2021-057, Mariposa Biomass Project, Jay Johnson

PUBLIC HEARING: Resolution Approving Time Extension Application No. 2021-057 for Conditional Use Permit No. 2017-117 (Mariposa Biomass Project), with findings, including a finding that No Further Environmental Review is Required; Mariposa Biomass Project - Jay Johnson, Applicant. Location: 5673 Copper Leaf Dr. Mariposa. APN 012-050-066 and APN 012-050-067.

Time Extension Application No. 2021-057 requests an 18-month time extension for **Conditional Use Permit (CUP) No. 2017-117**, Mariposa Biomass Project.

The approved project proposes a 2.4-megawatt (MW) Bioenergy Facility and a woodchip storage yard, which would be located on two parcels which are 2.86 and 2.41 acres in size within the Mariposa Industrial Park

See Staff Report for additional information and justification.

Background project information and approval documents are provided for informational purposes.
See attached staff report

ATTACHMENTS:

Staff Report (DOCX)

Attachment A - Vicinity Map & Approved Site Plan (PDF)

Attachment B- CUP Approval BOS RES 2018-357 (PDF)

Attachment C - Application and Justification (PDF)

Attachment D -Draft PC Resolution (DOCX)

TE 2021-057 PC Presentation (PDF)

RESULT: ADOPTED [3 TO 1]

MOVER: Mick Herman, District III Planning Commissioner

SECONDER: Deni Smith, District IV Planning Commissioner

AYES: Ed Walls, Mick Herman, Deni Smith

NAYS: Jack Wilmeth

EXCUSED: John McCamman



MARIPOSA PLANNING STAFF REPORT

From: Sarah Williams, Planning Director

Prepared By: Steve Engfer, Senior Planner

Planning Commission Meeting Date: July 9, 2021

PROJECT: Time Extension Application No. 2021-057 requests an 18-month time extension for **Conditional Use Permit No. 2017-117 (Mariposa Biomass Project)**

LOCATION: The project is located at 5673 Copper Leaf Dr. Mariposa, CA 95338, APN 012-050-066 and APN 012-050-067

APPLICANT: Mariposa Biomass Project, Jay Johnson

NOTICING: Gazette Ad: June 24, 2021
Mailed Notice: June 17, 2021
Posted Notice: June 28, 2021

COMMISSION ACTION

Staff recommends the Planning Commission adopt a resolution approving Time Extension Application No. 2021-057 with findings, including a finding that the previously adopted Mitigated Negative Declaration for CUP No. 2017-117 satisfies the requirement for environmental review pursuant to the California Environmental Quality Act (CEQA) and no further environmental review is required.

Project Description

The application an 18-month time extension request for Conditional Use Permit (CUP) No. 2017-117, Mariposa Biomass Project. The approved project proposes a 2.4-megawatt (MW) Bioenergy Facility and a woodchip storage yard, which would be located on two parcels which are 2.86 and 2.41 acres in size within the Mariposa Industrial Park. (Attachment A - Vicinity Map & Approved Project Site Plan)

Previous actions include:

February 23, 2018 – The Planning Commission adopted Resolution No. 2018-006 approving Conditional Use Permit (CUP) Application No. 2017-117 with findings, conditions, and mitigation measures. The approval included adoption of a mitigated negative declaration for the California Environmental Quality Act (CEQA) determination.

July 17, 2018 - The Board of Supervisors adopted Resolution No. 2018-357, denying Appeal No. 2018-051, and upholding the Planning Commission's approval of CUP No. 2017-117. The

adopted Board resolution included findings, amended conditions and mitigation measures. Per the Board resolution, the approval date for CUP 2017-117 is July 17, 2018. (Attachment B - Project Approvals)

Basis for Request

CUP No. 2017-117 Condition of Approval No. 4 established the initial timeframe of 36-months for the project to meet conditions and obtain a grading or building permit. The issuance of a grading or building permit “vests” the project under the CUP. Timelines from that point would be subject to the grading and building permit construction time requirements.

The initial CUP expiration date is July 17, 2021, 36-months after the July 17, 2018 adoption date of Board of Supervisors Resolution No. 2018-357 for the CUP.

Per Condition of Approval No. 5, one 18-month time extension may be requested 90 days prior to the expiration date of the CUP. The applicant submitted the request for extension application on April 8, 2021, 100 days prior to the expiration date of July 17, 2021.

Specific Reasons for Time Extension Request:

The applicant has provided four primary reasons for the Time Extension request summarized as follows:

1. **Technology Issues** - Cortus Engineering, the project technology design company, could not move forward due to issues with their other project implementation in Sweden. Issues that arose in Sweden resulted in some project redesign at that location. This therefore delayed the company from moving forward with the Mariposa Biomass Project.
2. **Land Use Issues** - Due to the Cortus Engineering re-design of its similar project in Sweden, the need arose for Mariposa Biomass Project to conduct design evaluation, layout, and feasibility for the Mariposa site in order to determine implications that may result for height, septic and other site context issues.
3. **Financing Issues** - Additional work necessary for gap financing for Investor Tax Credit due to uncertainties that arose due to election cycle COVID19 and implications on project financing in general.
4. **COVID Issues** - The project was impacted where COVID affected the supply chain for parts etc. for Cortus Engineering project in Sweden, creating delays. There were overarching delays generally due to COVID.

Please see Attachment C - Application and Justification, for additional details.

Agency Comments:

Mariposa County Public Works Department and the Mariposa County Health and Human Services Agency – Environmental Health Unit (EHU). The EHU and Air Pollution Control District, had no objections or concerns regarding the extension. The Public Works Department had no objection to the time extension of 18-months, given all other original CUP conditions remain unchanged. Public Works did provide a comment for a constructive reminder that the applicants be sure to contact the Federal Aviation Administration (FAA) and CALTRANS Aeronautics to ensure the project design meets their requirements pursuant to the CUP conditions of approval.

Environmental Review

CEQA review was conducted and a mitigated negative declaration was adopted March 23, 2018 at the time of Approval of Conditional Use Permit No. 2017-117. The project applicant is not requesting any amended conditions for the project. The request is only an allowance of an 18-month extension to implement the project. The Time Extension Application is not a substantial change in the project that would require major revisions of the previous mitigated negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The action to allow an additional 18-months, Time Extension Application No. 2021-057 does not require any further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162 and is exempt from environmental review, pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. It can be found with certainty that there is no possibility that the project will have a significant effect on the environment.

Project Correspondence

An interested party, caretaker for Dora Reidel, who resides in Mykleoaks (APN 012-050-001), contacted the Planning Department for additional information. They voiced no objections and mentioned the project seemed interesting. No other comments were received prior to completion of this report.

Summary Recommendation

Staff finds the applicant's request and justification to be reasonable, and staff supports the **18-month** time extension to **January 17, 2023**.

If approved, the expiration of the project approval would be

If the conditions of approval are not completed and the project is not fully implemented (grading or building permit issuance) by **January 17, 2023**, a new Conditional Use permit application may be required.

(Mariposa Planning Recommendation)

Alternative Actions

The Planning Commission may:

1. Approve the applicant's original request for an 18-month time extension; or
2. Approve a shorter time extension; or
3. Continue the hearing and request additional information; or
4. Deny the request for time extension.
 - a. If the Commission denies the request, there should be discussion to support findings for denial; staff will return with an amended resolution with findings based upon the Commission's discussion.

Final Action

The Planning Commission action is the final action on this application unless the action is appealed to the Board of Supervisors within 20 calendar days from the date of the action. Any interested person may submit an appeal.

ATTACHMENTS:

- A. Vicinity Map & Approved Site Plan
- B. PC and Board CUP Approvals
- C. Application and Justification
- C. PC Draft Resolution



1:2.470

PROJECT TYPE: Time Extension 2021-057

APPLICANT/OWNER: Mariposa Biomass Project, Inc and Bill and Carolyn Hilton Trust

SITE ADDRESS: 5673 & 5686 Copper Leaf Drive, Mariposa

APN: 012-050-0670 & 012-050-0660

Coordinate System: NAD 1983 State Plane California III FIPS 0403 Feet

Date: Tuesday, April 13, 2021

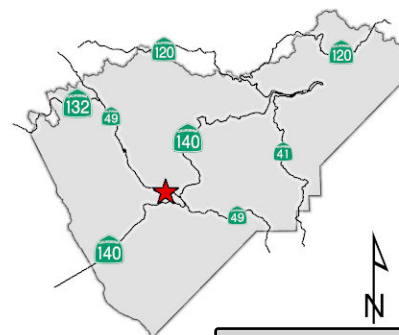
Data Source: Mariposa County Planning Department GIS:

Assessor's Parcel Map Update: 7/2020

Map Credit: J.W.

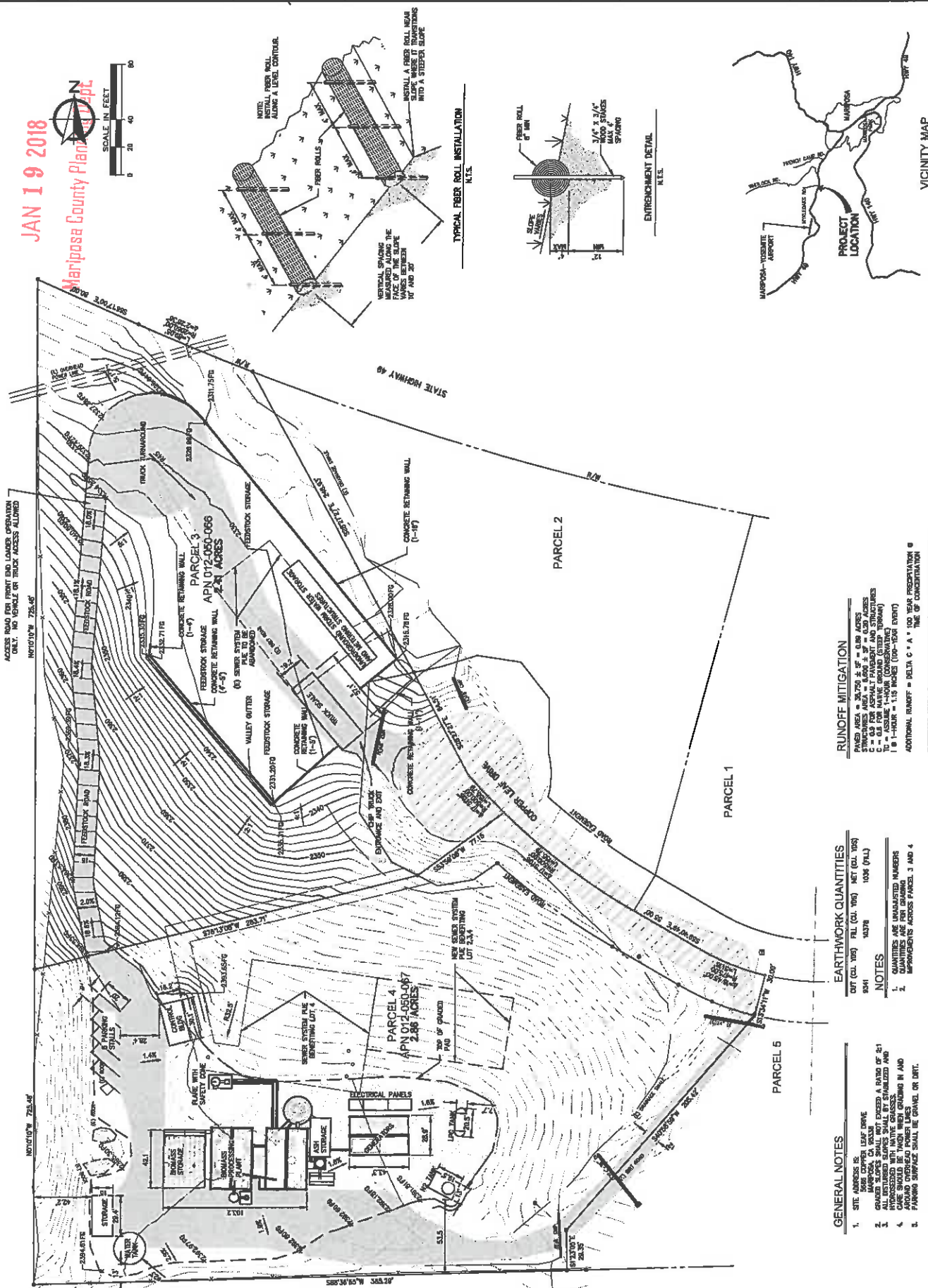


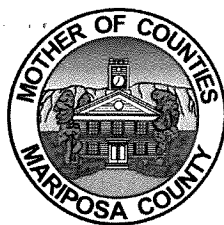
Mariposa County Planning Department
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<http://www.mariposacounty.org/planning>



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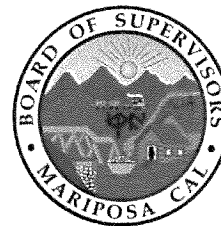
Location





MARIPOSA COUNTY

Planning • 209-966-5151



RESOLUTION - ACTION REQUESTED 2018-357

MEETING: July 17, 2018
 TO: The Board of Supervisors
 FROM: Sarah Williams, Planning Director
 RE: Appeal No. 2018-051 - Biomass

RECOMMENDATION AND JUSTIFICATION:

CONTINUED PUBLIC HEARING: Appeal No. 2018-051, Appeal of Planning Commission's Approval of Conditional Use Permit (CUP) No. 2017-117 (Mariposa Biomass Project). Ruth Sellers Et. Al., Appellant.

This appeal public hearing will be conducted according to the Mariposa County Appeals Procedure adopted by Resolution No. 97-3 and No. 10-92.

Staff recommends that the Board of Supervisors adopt a resolution:

- 1) Denying Appeal No. 2018-051 based on findings; and
- 2) Upholding the Planning Commission's approval of Conditional Use Permit (CUP) No. 2017-117 Mariposa Biomass Project, as amended by the applicant, with findings, amended conditions and mitigation measures.

Recommended findings are included in the draft Resolution.

Justification - See Staff Report and Resolution.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

No Board Actions have occurred related to Conditional Use Permit (CUP) No. 2017-117.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternative: Uphold Appeal and Reverse Planning Commission's action.

Alternative: Modify recommended findings.

Negative Action: Not taking action on this appeal would mean the Planning Commission's action stands.

ATTACHMENTS:

Resolution - Action Requested 2018-357

Staff Memo- Continuance 7-17-18 (DOC)
Attachment A - Revised Draft Board Resolution 7-17-18 (DOC)
Staff Report (DOC)
Attachment 1 - Vicinity Map (PDF)
Attachment 2 - Appeal Submittals (PDF)
Attachment 3 - Planning Commission Resolution No. 2018-006 (PDF)
Attachment 4 - Public Comments (PDF)
Attachment 4A Input from Wilson (PDF)
Attachment 5 - Draft Board Resolution (DOC)
PUBLIC INPUT: Letter from Daniel Flaming 7-8-2018 (PDF)
PUBLIC INPUT: Email from Beverley Andalora 7-8-2018 (PDF)
PUBLIC INPUT: Email from Holly Warner 7-8-2018(PDF)
PUBLIC INPUT: Letter from Ken Boche (DOCX)
PUBLIC INPUT: Email from Evie Wilson 7-5-2018 (PDF)
PUBLIC INPUT: Email from Melinda Barrett 7-6-2018 (PDF)
PUBLIC INPUT: Email from Len McKenzie 7-10-2018 (PDF)
PUBLIC INPUT: Letter from Kelly White and Michael Pieper 7-9-2018 (DOCX)
PUBLIC INPUT: Letter from Frank Balajadia, 7-10-18 (PDF)
List of Appeal Topics received from Planning Department (PDF)
Additional Information Received During 7-10-18 Public Hearing from Steve Sellers, Appellant (PDF)
Additional Information Received During 7-10-18 Public Hearing from Jay Johnson, Applicant (PNG)
Additional Information Received During 7-10-18 Public Hearing from Christinana Darlington, Applicant Team (PDF)
Additional Information Received During 7-10-18 Public Hearing from Steve Smallcombe (PNG)
Proposed changes received during hearing from Steve Engfer, Planning (PDF)
Staff Presentation 7-10-18 Public Hearing (PDF)

RESULT: ADOPTED [3 TO 1]

MOVER: Kevin Cann, District IV Supervisor

SECONDER: Marshall Long, District III Supervisor

AYES: Marshall Long, Kevin Cann, Miles Menetrey

NAYS: Merlin Jones

RECUSED: Rosemarie Smallcombe

**REVISED DRAFT
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS**

Resolution
No. 2018-357

A Resolution Denying Appeal No. 2018-051 with Findings and Upholding the Planning Commission's Approval of the Mariposa Biomass Project Conditional Use Permit (CUP) No. 2017-117, as amended by the applicant, with Findings, Conditions and Mitigation Measures as amended by the Board of Supervisors. APNs 012-050-066 and 012-050-067.

WHEREAS, an application for a Conditional Use Permit was received on the 23rd day of June, 2017, for the Mariposa Biomass Project, Jay Johnson, applicant, for a project located within the Mariposa Industrial Park at 5673 and 5686 Copper Leaf Drive, Mariposa, CA, Mariposa County, also known as Assessor Parcel Numbers 012-050-066 and 012-050-067; and

WHEREAS, the application proposed a 2.4 MW Bioenergy Facility with support buildings, parking, access and a woodchip storage yard; and

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

WHEREAS, an Initial Study and Subsequent Mitigated Negative Declaration, State Clearinghouse Number (SCH) 2018011038, were prepared for the Mariposa Biomass Project pursuant to the California Environmental Quality Act; and

WHEREAS, the Mariposa Biomass Project Notice of Intent to Adopt Subsequent Mitigated Negative Declaration was published on the 23rd day of January, 2018; and

WHEREAS, a Staff Report, Subsequent Mitigated Negative Declaration, public comments received, response to comments, findings, conditions and an environmental determination were prepared pursuant to the California Government Code, Mariposa County Code, Planned Development Zone (PDZ) 87-1, Mariposa County General Plan, the California Environmental Quality Act, and local administrative procedures; and

WHEREAS, a duly noticed Planning Commission public hearing for the project and Subsequent Mitigated Negative Declaration was scheduled for the 23rd day of February, 2018; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered staff's recommendations, all of the information in the public record, including the Staff Report, Initial Study and Subsequent Mitigated Negative Declaration, project findings, mitigation measures, conditions of approval, testimony presented by the public concerning the application, and the comments of the applicant; and

Resolution No. 2018- 357

Appeal No. 2018-051 Ruth Sellers Et Al. Appellant,

Appeal of Planning Commission's Approval of CUP No. 2017-117, for the Mariposa Biomass Project

July 17, 2018

Page 2 of 20 pages

WHEREAS, on the 23rd day of February, 2018, the Mariposa County Planning Commission adopted Resolution No. 2018-006 approving the Mariposa Biomass Project, Conditional Use Permit (CUP) No. 2017-117 by:

- Finding the Subsequent Mitigated Negative Declaration to be adequate and complete (SCH 2018011038);
- Approving the project application with findings, conditions and mitigation measures; and

WHEREAS, an appeal of the Planning Commission's action approving Conditional Use Permit Application No. 2017-117 was submitted by Ruth Sellers, et. al on the 12th day of March, 2018 (Appeal No. 2018-051); and

WHEREAS, Appeal No. 2018-051 was deemed sufficient for processing on the 12th day of March, 2018; and

WHEREAS, on the 20th day of March, 2018, a supplement to the appeal was submitted by appellant Ruth Sellers on behalf of Steve Sellers; and

WHEREAS, the processing of Appeal No. 2018-051 was conducted pursuant to Mariposa County Resolution No. 10-92, entitled the Mariposa County Appeals Procedure; and

WHEREAS, a duly noticed Board of Supervisors public hearing on Appeal No. 2018-051 was scheduled for the 10th day of July, 2018; and

WHEREAS, a Staff Report packet was prepared for the Board of Supervisors' public hearing pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS, the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Notice of Appeal, the Supplement to the Notice of Appeal, the Staff Report, the testimony presented at the public hearing and correspondence submitted for the public hearing; and

WHEREAS, the Biomass Facility is a unique facility and unique operation; and

WHEREAS, if the Biomass operation were to fail in the future, the structures and equipment wouldn't be able to be modified to accommodate another use; and

WHEREAS, based on concerns expressed by the Supervisors regarding this during the appeal hearing, the applicant proposed to amend their project proposal to include bonding. If the project fails and the site is abandoned in the future, the bond would cover the costs of reclaiming the site to existing conditions; and

WHEREAS, in order to allow additional time for deliberation, the Board of Supervisors did continue the Appeal No. 2018-051 hearing to the 17th day of July, 2018 at 11:00 a.m.; and

Resolution No. 2018- 357

Appeal No. 2018-051 Ruth Sellers Et Al. Appellant,
 Appeal of Planning Commission's Approval of CUP No. 2017-117, for the Mariposa Biomass Project
 July 17, 2018

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WHEREAS, the Board of Supervisors did hold the continued hearing on the 17th day of July, 2018 and considered all of the information in the public record, including the Notice of Appeal, the Supplement to the Notice of Appeal, the Staff Report, the testimony presented at the public hearing, correspondence submitted for and at the public hearing, amendments to the project description (Condition of Approval No 1.) and amendments to Condition of Approval No. 23.

NOW, THEREFORE BE IT RESOLVED THAT, the Board of Supervisors does hereby adopt a resolution:

- 1) Denying Appeal No. 2018-051 based on findings; and
- 2) Upholding the Planning Commission's approval of Conditional Use Permit (CUP) No. 2017-117 for the Mariposa Biomass Project, as amended by the applicant, with findings, amended conditions and mitigation measures as shown in attached EXHIBIT 1,

BE IT FURTHER RESOLVED THAT, the Board of Supervisors has exercised its independent judgment and has determined that the Planning Commission Resolution No. 2018-006 adopting a Mitigated Negative Declaration (SCH 2018011038) and approving Conditional Use Permit (CUP) 2017-117, with findings, conditions and mitigation measures documented and established sufficient objective justification for approval of CUP 2017-117 with amendments to the project description (Condition of Approval No. 1) and Condition No. 23 in attached EXHIBIT 1,

BE IT FURTHER RESOLVED THAT, the Board of Supervisors' actions, interpretations and determinations are based on the following findings:

1. The Board of Supervisors reviewed the Planning Commission's approval of Conditional Use Permit 2017-117 for the Mariposa Biomass Project and its finding that the proposed use is similar to and consistent with the policies and standards of PDZ 87-1, the General Plan and any applicable specific plan. The Board finds the Planning Commission's action was appropriate as stated in Commission Resolution No. 2018-006:

The project parcels are within the PDZ 87-1 Mariposa Industrial Park with a General Plan Land Use classification of Natural Resources, Expanded Mariposa Town Plan Study area. The General Plan Land Use Element 5.3.05 Natural Resources states:

'The Board of Supervisors has determined that parcels within the Natural Resource Land Use Classification on the Land Use Diagram, the existing zoning assigned to that parcel, as of December 1, 2006, is consistent with the Natural Resources land use classification.

Resolution No. 2018- 357

Appeal No. 2018-051 Ruth Sellers Et Al. Appellant,
 Appeal of Planning Commission's Approval of CUP No. 2017-117, for the Mariposa Biomass Project
 July 17, 2018

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PDZ 87-1 Mariposa Industrial Park zoning applicable to the Project site was assigned to the Project Parcels prior to December 1, 2006. The PDZ 87-1 zone allows for processing uses and the Project is therefore consistent with the Planned Development Zone and the General Plan.

There are no specific plans applicable to the project site.

and

The project has been reviewed in accordance with all use and development standards established by Planned Development Zone No. 87-1.

The Biomass processing use is consistent with the following PDZ 87-1 uses as outlined in the following excerpts from PDZ 87-1 Mariposa Industrial Park Section:

"VI. Use Standards, A. Permitted Uses:

... 3. Processing uses- to include, but not limited, to bottling plants, creameries, wineries, laboratories, tire retreading, and cleaning, laundry and dyeing plants.

... 7. Agricultural Product Processing

...12. Other- manufacturing, processing, treatment, fabrication or assembly uses similar to those enumerated above."

The project proposes an agriculture (forest) materials processing use and is similar to the other uses listed above and therefore a permitted use under PDZ-87-1.

2. The Board of Supervisors finds that the Planning Commission staff report for the project, the project Initial Study and project documents include a project description that indicates the project is an energy producing facility:

"The Biomass Project proposes to process woody biomass feedstock (woodchips) at the facility using Pyrolysis (thermal decomposition) creating syngas to be used for energy production..."

"...The construction of a 2.4 MW community based bioenergy facility and woodchip storage yard..."

"...The facility will utilize approximately 12,000 bdt (bone dry tons) per year of sustainably harvested forest biomass in a gasification process to produce a syngas. The syngas will be used to fuel two gas engine generators to produce electricity..."

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3. The Board of Supervisors reviewed the Planning Commission's approval and adopted Mitigated Negative Declaration that includes mitigation measures and conditions of approval relating to hydrology, water and wastewater for the project. The Initial Study included a hydrology study prepared by Kenneth D. Schmidt and Associates that determined impacts to ground water to be less than significant as is stated in the Hydrology and Water Quality section of the Initial Study. The Board of Supervisors finds the Planning Commission review and action to be appropriate based upon the objective documentation and evaluation prepared by an appropriately qualified professional.
4. The Board of Supervisors determines that the project requirement to obtain an "Authority to Construct" permit prior to building permit issuance from the Mariposa County Air Pollution Control District (MCAPCD) insuring all applicable MCAPCD requirements are met, is adequate to address potential air pollution impacts. There are existing requirements, permitting and inspection processes in place in the county.
5. The Board of Supervisors concludes that the Planning Commission's Conditions 29-32 will insure all Mariposa County Health Department and Mariposa County Air Pollution Control District requirements are met by the project, including odor controls. The project Initial Study included an air quality study prepared for the project by TSS Consultants of Sacramento, CA. The conclusions of the study are summarized in the Air Quality section of the CEQA environmental checklist contained in the Initial Study. The Initial Study addresses air contaminant issues. The discussion on long term and cumulative impacts concludes with the statement: *"In summary, the project has a less than significant impact related to air contaminates."*
6. The Board of Supervisors considered the Planning Commission's requirements for the project to adhere to regulations governing hazardous materials. The conditions of approval require that all Completed Unified Program Consolidated Forms and Materials Release Response Plan (Business Plan) be submitted to the County Environmental Health Department for review and approval prior to the issuance of a Certificate of Occupancy for the project. These requirements will ensure the project operates in compliance with applicable hazardous materials regulations.
7. The Board of Supervisors reviewed Planning Commission Resolution No. 2018-006 CUP Finding 3, which found that adequate provisions have been made for sewage disposal and handling of solid waste. The Board finds this action to be appropriate and adequate:

The Project Initial Study evaluated the solid waste outputs and the project will comply with all solid waste laws. Two disposal outputs, non-hazardous ash and sludge will be taken to the Mariposa County Landfill or an appropriately permitted waste facility.

Conditions of approval require that an adequate waste handling plan be in place to serve the project site prior to operation. Enforcement of State Law and County Health standards

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will insure that sewage disposal and solid waste disposal are adequately handled and will not generate a health hazard.

The Mariposa County Public Works Department, the agency which manages the Mariposa County Landfill, was afforded the opportunity to review and provide input on this project. Condition No. 23 ensures appropriate handling of the solid waste that includes oversight by the Environmental Health Division of the Health Department and Public Works Department.

A project solid waste/material output plan is required for submittal and review by the County Environmental Health Division-Local Enforcement Agent and the Public Works Department-Public Works Director prior to grading permit issuance and a final plan approval must occur prior to Certificate of Occupancy for the project.

8. The Board of Supervisors considers the Planning Commission action to be adequate as pertains to feedstock availability. The Initial Study Attachment G, Mariposa Tree Mortality Maps and Data; Attachment H, Mariposa Tree Removal Plan; and Attachment R, Woody Biomass Feedstock Assessment were considered by the Planning Commission in its review and approval of the conditional use permit. The conclusion of the Woody Biomass Feedstock Assessment analysis on page 33 states:

"This feedstock availability analysis confirms the long-term sustainable availability of sufficient volumes of forest, urban, and agricultural feedstocks to support a 2 MW bioenergy project at Mariposa."

9. The Board of Supervisors finds the Planning Commission actions as pertains to potential noise impacts to be based on objective data and quantifiable standards. Additionally, the conclusions require the involvement of a professional in the future to ensure compliance with existing standards for the Mariposa Industrial Park. The Initial Study evaluated noise impacts including all aspects of the operation, the existing site noise conditions and both the policy and regulatory requirements applicable to the project contained in the General Plan, and PDZ 87-1 standards. The PDZ 87-1 Noise Standards are prescriptive and the project must comply with the standards as follows:

The project Initial Study evaluated noise impacts of the project that included all aspects of the operation, the existing site noise conditions and both the policy and regulatory requirements applicable to the project by the General Plan, and PDZ 87-1 standards. The PDZ 87-1 Noise Standards are prescriptive and the project must comply with the standards as follows:

"VII. Activity Standards..., A. Noise. Within the Mariposa Industrial Park the following regulations, regarding the production or generation of sound shall apply:

- 1. Noise Levels at any interior property line shall not exceed 70dBA level.*
- 2. Noise Levels at the boundary of State Highway 49 North shall not exceed 55dBA.*

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3. Noise levels at all other external boundaries of the Mariposa Industrial Park shall not exceed the 70 dBA level."

The Noise Study included in the Initial Study evaluated noise at the nearest residential receptors and also at the property lines of the project site. The results of those calculations indicate that the average noise levels generated by the project would not exceed 63 dB Leq at the nearest property line. This level is in compliance with the Mariposa Industrial Park standard of 70 dBA at the project site property line.

The noise generation of the proposed project is predicted to be satisfactory relative to both the noise standards of the Mariposa Industrial Park PDZ 87-1 and CEQA guidelines during both daytime and nighttime conditions, for both onsite operations and off-site traffic. As a result, no adverse noise impacts are identified for this project, and no noise mitigation measures would be warranted at this time.

However, the Noise Study recommends that follow-up noise testing be conducted upon commencement of normal site operations to verify the reference sound level data provided by the project applicant and to incorporate any additional noise control measures which may be determined to be warranted as a result of that testing. The Project applicant will follow up with noise testing to be conducted upon commencement of normal site operations to verify the reference sound level data and to incorporate any additional noise control measures which may be determined to be warranted as a result of that testing.

Application of the mitigation on the project insures that identified noise impacts from the project are mitigated to less than significant levels as follows:

Mitigation Measure 12d.1: Within the facility start up and operational testing period and prior to building permit certificate of occupancy, a noise monitoring report shall be submitted to the Planning Director for review and verification that project operating noise levels do not exceed the allowances pursuant to PDZ 87-1. If the monitoring report finds that the noise thresholds are in exceedance of PDZ 87-1 allowances, then the report shall provide recommendations for appropriate noise reduction measures that reduce noise levels to meet the PDZ 87-1 standards and those recommendations shall be incorporated into the project. A certificate of occupancy shall not be issued until the noise monitoring concludes. The report shall be prepared by an appropriately licensed professional.

10. The Board of Supervisors finds that, based on the record, Environmental Review for the biomass facility was carried out in full compliance with the requirements of the California Environmental Quality Act.
11. The traffic study, prepared by TJKM and included in the Initial Study as Attachment P, was prepared utilizing accepted and required professional protocols. The Transportation/Traffic checklist section on page 100 of the Initial Study states:

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It should also be noted that the proposed Project would divert trucks from elsewhere on CA-49 and reduce their distance traveled. Currently, trucks hauling chips and other woody biomass from forest thinning operations must travel to Fresno, Sonora, or farther in order to access a willing recipient for the biomass. For trucks hauling chips from Sierra National Forest via CA-140 or CA-49, this is a reduction of 75 miles or more each way. This project could therefore result in downstream benefits at higher-volume segments and intersections along CA-49.

12. The Board of Supervisors finds the Planning Commission's evaluation and conclusions for the project's overall impact on fire protection services to be adequately documented. The Initial Study concluded there is a less than significant impact on fire protection services with incorporation of mitigation; however potential impacts requiring mitigation are related to placement of facilities at the time of project construction, not ongoing operations. The Planning Commission adopted the following mitigation measure to address impacts on fire protection services.

Mitigation Measure 14.a.1: Prior to grading or building permit issuance the Project plans shall include all details necessary to meet County Fire Department and CALFIRE requirements as applicable for fire protection including access, storage tank, hydrant location and a fire flow to meet applicable code requirements. Approval verification letters by County Fire and CALFIRE to Planning Director shall be required prior to grading and or building permit issuance.

Planning Commission Resolution No. 2018-066 included Conditions 17-20 which require County Fire Department and CALFIRE requirements are met. Any OSHA required confined space management required of the project through existing regulatory frameworks would be enforced by OSHA.

BE IT FURTHER RESOLVED THAT, the Board of Supervisors' actions, interpretations and determinations are based on Mariposa Planning Commission Resolution No. 2018-006, which is hereby incorporated into this resolution by reference.

BE IT FURTHER RESOLVED THAT, this action on Appeal No. 2018-051 is based upon the discussion of Appeal Issues as contained in the Staff Report to the Board of Supervisors, which is hereby incorporated into this resolution by reference.

BE IT FURTHER RESOLVED THAT, the custodian of the record of the proceedings is the Clerk of the Board of Supervisors.

BE IT FINALLY RESOLVED THAT, if any section, subsection, sentence, clause, word, phrase or finding of this resolution is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this resolution. The Board of Supervisors hereby declares each section, subsection, sentence, clause, word, phrase or finding is severable.

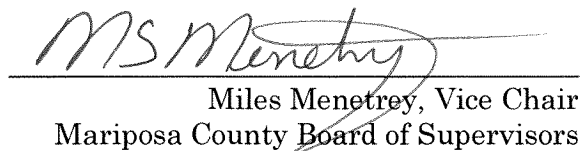
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ON MOTION BY Supervisor Cann, seconded by Supervisor Long, this resolution is duly passed and adopted this 17th day of July 2018 by the following vote:

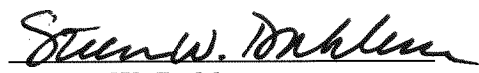
AYES: LONG, CANN, MENETREY
 NOES: JONES
 EXCUSED:
 ABSTAIN: SMALLCOMBE


 Miles Menetrey, Vice Chair
 Mariposa County Board of Supervisors

Attest:


 René LaRoche,
 Clerk of the Board of Supervisors

Approved as to Form:


 Steven W. Dahlem
 County Counsel

Attachment: Attachment B- CUP Approval BOS RES 2018-357 (2021-PCRES-11 : Time Extension No. 2021-057, Mariposa Biomass Project, Jay

EXHIBIT 1

PROJECT CONDITIONS AND MITIGATION MEASURES

Project Conditions and Mitigation Measures Conditional Use Permit No. 2017-117.

General

1. The Use Permit is approved for development and operation of the Mariposa Biomass plans dated January 19, 2018 (Staff Report Attachment B- Project Plans) and the project description as follows:
 - The construction of a 2.4 MW community based bioenergy facility and woodchip storage yard.
 - The facility will include several new structures including a gasification plant, engine generator enclosure, fire water tank, ash storage bin, feed system, electrical equipment enclosure and control room (8,600 square feet of new structures).
 - Feedstock storage is proposed to occur on Parcel 3, while the biomass facilities will be located on Parcel 4.
 - Access is proposed from Highway 49 No. to Gold Leaf Road, onto Copper Leaf Drive and driveway encroachments on Copper Leaf Drive.
 - Access for the delivery trucks will be a new driveway on Parcel 3 six days a week.
 - Truck deliveries will be limited to 7am to 5pm, 6 days per week.
 - Estimated to receive 3-4 chip trailer deliveries in addition to 8 to 10 small dump truck deliveries per day. The site is not proposed to be a public dump site. There will be no residential drop off of materials at the site.
 - The facility will operate 24 hours a day, 7 days a week.
 - 8 employees are proposed, although up to 10 employees may be required.
 - Water for the project is proposed by a shared well that produced 20 gpm at time of installation. The project applicant states that the project's water use will be 1.5 gpm.
 - 60 pounds per day of sludge will be generated by the facility which is proposed to be disposed of at the landfill.
 - 1.2 tons per day of dry ash will be generated by the facility and is proposed to be disposed of at the landfill.
 - The project will establish a bond for the life of the project that would cover the costs associated with the removal of all equipment and buildings, if those structures become a nuisance, are abandoned, or the project has failed. The bond amount will be based on the costs estimated for such removal, subject to County Counsel approval.

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The facility will utilize approximately 12,000 bdt (bone dry tons) per year of sustainably harvested forest biomass in a gasification process to produce a syngas. The syngas will be used to fuel two gas engine generators to produce electricity. (Additional project details may also be found in the attached Initial Study).

After the effective date of the Planning Commission approval of Conditional Use Permit No. 2017-117, the Mariposa Biomass Project shall be constructed in substantial conformance with the approved site plan, building elevations and project description as approved by the Planning Commission. Minor changes in the site plan and increase in project square footages up to 10%, may be considered and approved by the Planning Director if a finding is made that the changes would not necessitate a change in the Project environmental determination. Any substantial modification of the site plan requires additional public review.

2. No changes to the approved site plan, exterior design, color, or materials of any structure or landscaping shall be permitted without review by and written approval of the Planning Director pursuant to applicable conditions for the project.
3. Any representations the public hearing by the applicant or agents speaking on the applicant's behalf shall be reduced to writing and added as conditions of project approval.
4. The conditional use permit (CUP) shall be activated by the issuance of the first building or grading permit within 36 months from the effective date of Planning Commission approval of the project. Should activation of the permit(s) be delayed by any moratorium or excessive delays by a permitting agency over which the County of Mariposa does not exercise control, or should a lawsuit involving the approval of the CUP or related entitlements be pending in a court of competent jurisdiction, the 36 month clock shall be tolled until such time the court action or other delay has concluded. However, if the remaining time is less than 120 days, the permit shall be valid for 120 days following the termination of the moratorium or other event triggering the tolling of the period. The tolling period shall be initiated upon written notice by the applicant to the Planning Department setting forth the facts and circumstances justifying the tolling, and shall be immediately effective unless a written notice of rejection is issued by the Planning Director within 14 days of receipt of applicant's notice.
5. The applicant may request of the Planning Commission one 18-month time extension of the CUP initial time frame (as identified in condition no. 4 above) between the effective date of the approval of the CUP and the start of construction (building permit or grading permit issuance). The application must be made at least 90 calendar days prior to the initial approval expiration date.

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The Planning Commission may impose any conditions and/or requirements it finds necessary to guarantee compliance with the project approval findings.

Any tolling provisions provided for by conditions of approval for the use permit shall remain in full effect. Time extension request provisions of this condition do not change any approved applicable tolling provisions.

6. An updated project development schedule shall be submitted to the Planning Director prior to issuance of a grading and/or building permit for the project. The Project schedule shall at a minimum include:
 - Outside agency permitting application estimated submittal timeline
 - Projected overall construction schedule
 - Estimated completion
7. No site disturbance activities shall commence without the issuance of a building or grading permit. Should there be no code requirement for such a permit, a letter authorizing site disturbance activities shall be issued by the Planning Director upon request and upon proof of relevant condition completion.
8. Prior to the issuance of any site disturbance, building or grading permits, the permit holder shall submit final site and construction plans. The final plans shall clearly be labeled to match the approved site plans except as necessary to comply with the project conditions or as allowed by 1. All physical construction for the project shall be in substantial conformance with the approved plans.

Botanical/Wildlife

9. Prior to the commencement of site disturbance activities of any kind, the Planning Director shall receive a detailed preconstruction survey clearly identifying areas which are proposed to be retained in natural vegetation (e.g. grasses, shrubs, trees and riparian vegetation). Accompanying the preconstruction survey shall be a construction management plan identifying how "non-disturbance areas" are to be physically protected during construction activities. Physical protection measures shall be in place prior to site disturbance.
10. Mitigation Measure 4.a.1.: A pre-construction survey based on CDFW protocols and survey periods for special-status species shall be performed by a qualified biologist to ensure that special-status species are not present. If any listed species are detected, construction shall be delayed, and the appropriate wildlife agency (CDFW and/or USFWS) shall be consulted and project impacts and mitigation reassessed and applied in conformance with biologist, CDFW and/or USFWS protocols. A verification letter from the CDFW that the survey was completed and protocols met shall be submitted to the Mariposa County Planning Department and

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approved by the Planning Director prior to grading or building permit issuance.

11. Mitigation Measure 4.c.1: A 10 foot setback shall be in place from the centerline of the onsite ephemeral drainage channel identified within the project Biological Study for protection during construction and operation: there will be no modification of stream banks or adjoining vegetation within the 10 foot setback either during construction or during operation. The construction site and grading plans prepared by a licensed engineer shall show the setback. Setback areas shall be flagged in the field and physically protected prior to and during construction activities.
12. Mitigation Measure 4.d.1. : If construction activities will occur during the nesting season (usually March to September), pre-construction surveys for the presence of special-status bird species or any nesting bird species should be conducted by a qualified biologist within 500 feet of proposed construction areas. If active nests are identified in these areas, CDFW should be consulted to develop measures to avoid "take" of active nests prior to the initiation of any construction activities. Avoidance measures may include establishment of a buffer zone using construction fencing or the postponement of vegetation removal until after the nesting season, or until after a qualified biologist has determined the young have fledged and are independent of the nest site.
13. Mitigation Measure 4.e.1.: There shall be no grading, leveling, soil compaction from the use of heavy equipment, or digging within the root zone of oaks identified in a pre-construction oak tree survey. During construction of onsite improvements, all such oaks located in the area of construction activity identified as not to be removed, shall have erected around the root zone-which is 1 ½ times the drip line of the oak tree crown or 15' whichever is greater-environmentally sensitive area fencing. This fencing shall remain installed, visible, and in good condition until all road construction, grading activities and other soil disturbance activities are completed. At the time of inspection of the completed improvements by the Building Department, Planning Director authorization for removal of the environmentally sensitive area fencing may be granted.
14. Prior to the commencement of construction activities, a tree removal and replacement plan for mature trees shall be prepared by a licensed landscape architect based upon accepted industry practice for approval by the Planning Director. The Plan shall incorporate appropriate measures to be taken to minimize the spread of non-native vegetation.
15. Conceptual landscaping plans are required prior to grading permit issuance and final landscape plans are required prior to building permit issuance; both of which require Planning Director approval. Landscaping plans shall provide vegetative screening of the site from streets, Hwy 49 and adjacent properties where possible as determined by the County. The applicant/operator shall plant a visual screen

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that effectively screens the visibility of the site improvements from streets, Hwy 49 and adjacent properties where possible in conformance with PDZ 87-1 standards. A planting plan shall be prepared by a landscape architect and be approved by the County; it shall use low water use trees and vegetation and shall identify the sizes of plantings. Plantings shall be irrigated and monitored for establishment for five (5) years, or as recommended by the landscape architect. If plantings die, they shall be replaced on a one-to-one ratio until established. Irrigation shall meet the 2015 Model Water Efficient Landscape Ordinance (CCR Title 23, Chapter 2.7), as certified by the project landscape architect.

16. Prior to the issuance of any building or grading permits, the permit holder shall submit to the Mariposa County Agricultural Commissioner copies of the construction management plan identifying how the permit holder will take steps to prevent the transport of noxious weeds to the site. Approval by the Agricultural Commissioner of such program shall be transmitted to the Planning Director.

Public Services

17. Prior to the issuance of any building or grading permits, the County Fire Chief and CALFIRE shall provide the Planning Director with a letter certifying that the design of the onsite accesses are of adequate width, grade, surfacing, and construction design to meet the requirements of the fire protection agencies.
18. The Project will construct a 110,000 gallon tank and achieve all fire flow requirements. Fire hydrants will be placed on the property as required by the local Fire agencies. The project will comply with state law relating to the storage of wood chips. All applicable CALFIRE FireSafe standards must be met and will be reviewed by County Fire and CALFIRE at the time of construction permit review and prior to Certificate of Occupancy.
19. Mitigation Measure 14.a.1: Prior to grading or building permit issuance the Project plans shall include all details necessary to show compliance with County Fire Department and CALFIRE requirements for fire protection including access, storage tank, hydrant location and fire flow. Approval letters by County Fire and CALFIRE to Planning Director shall be required prior to grading and or building permit issuance.
20. Prior to the issuance of any building or grading permits, the Planning Director shall receive a letter from the CALFIRE indicating the final project design meets the requirements for the Fire Protection State Responsibility Area Firesafe Requirements for driveway standards, gate standards, road standards, emergency water supply standards, fire hydrant standards, defensible space standards, as may be applicable and as otherwise specified in 14 CCR§1270 et. seq.

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21. Prior to the issuance of any grading permits, the permit holder shall submit restoration surety in a form satisfactory to the County Counsel. The amount of surety shall be equal to an engineer's estimate of the cost of site preparation and grading, whichever is greater plus a 50% contingency. This amount of the surety is to be confirmed by the Department of Public Works and guaranteed by an appropriate agreement with the County. Upon completion of the grading final approval by the County, the required security shall be returned to the permit holder.
22. All Completed Unified Program Consolidated Forms and Materials Release Response Plan (Business Plan) shall be submitted to the County Environmental Health Department for review approval prior to the final Certificate of Occupancy of the project. (Ongoing compliance shall be required or conditional use permit revocation may occur). A Letter from the Health Department to the Planning Director Confirming that this condition has been met shall be required prior to Planning approval of the final Certificate of Occupancy for the project.
23. A project solid waste/material output plan is required for submittal, review and approval by the County Environmental Health Division-Local Enforcement Agent and the Public Works Director prior to grading permit issuance and a final plan approval must occur prior to Certificate of Occupancy for the project. The County shall have the authority to disallow disposal of solid waste from this project at the landfill at any time.
24. Based on its proximity to the Mariposa-Yosemite Airport, the project shall be designed in compliance with all applicable Federal Aviation Administration (FAA) and State Division of Aeronautics requirements. The applicant shall submit plans to the Public Works Department for review and approval pursuant to this condition. Written confirmation that this condition has been met shall be submitted to the Planning Department by the Public Works Department prior to grading and/or building permit issuance.

Hydrology, Water and Wastewater

25. Mitigation Measure 18 e.1.: Prior to grading or building permit issuance, the relocation of the septic easement as shown on the grading plan and site plan must be completed and recorded to the satisfaction of the County Health Department-Environmental Health Division, County Surveyor and Planning Director.
26. The Project water well system shall meet all applicable local and state requirements including but not limited to State Division of Drinking Water requirements. The Planning Director shall receive verification from the County Health Department and State Water Resources Control Board, Division of Drinking Water that this condition has been met prior to the Certificate of Occupancy for the project.

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27. The project shall install and maintain onsite pollutant control measures during project construction and operation as required ensuring NPDES compliance. The permit holder shall provide the Planning Director with a copy of its approved State Water Resources Control Board Construction Activity Storm Water Permit and or any operational storm water permit for industrial activities prior to grading and/or building permit issuance.
28. The project shall install and maintain onsite runoff attenuation facilities with sufficient capacity to reduce 100-year project stormwater runoff rates to those currently generated by the project site. The project engineered grading plans shall include these facilities. County Engineer approval the plan is required prior to grading permit issuance.

Air Quality/Greenhouse Gas Emissions

29. Project shall be designed to meet all County Air Pollution Control District (APCD) requirements and the Air Pollution Control Officer shall approve the project plans and contract specifications prior to the issuance building or grading permits as applicable.
30. All facilities operations, collection and transmission facilities shall incorporate appropriate equipment and design so that odors cannot be detected and that dust control protocols are in place. The Environmental Health Division Director shall approve the project plans prior to the issuance of construction permits, occupancy or facility operation as deemed appropriate by the Environmental Health Division Director.
31. Mitigation Measure Air Quality 3 (e) 1: An operational management plan that includes 1) odor control activities and 2) methods for the project operations that demonstrate industry standard protocols for any nuisance odor and 3) best management practices shall be prepared by an appropriately licensed air quality professional and approved by the MCAPCO prior to building permit issuance.
32. The project must obtain an "Authority to Construct" permit prior to building permit issuance for the project from the Mariposa County Air Pollution Control District (MCAPCD). Mariposa County Air Pollution Control District (MCAPCD) verification that this condition has been met shall be required prior to building permit issuance.

Traffic, Access and Circulation

33. Mitigation Measure 16.b.1.: Gold Leaf Drive approach improvements shall be improved to meet minimum road surface requirements for the intersection approach prior to Certificate of Occupancy for the project. CALTRANS and/or County

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Encroachment Permits shall be required as applicable prior to grading or building permit issuance.

34. Mitigation Measure 16.d.1.: Gold Leaf Drive shall be improved to meet CALTRANS radius requirements for the intersection approach prior to Certificate of Occupancy for the project. A CALTRANS Encroachment Permit shall be required prior to grading or building permit issuance. All encroachment improvements shall be completed prior to issuance of a Certificate of Occupancy for the facility.
35. The proposed Copper Leaf Drive driveway encroachments shall meet County standards. County Engineer approval of the encroachment design shall be required prior to grading permit issuance and improvements shall be approved prior to building permit final.
36. Proposed internal driveways, operational roads, truck turnaround and employee parking area shall be designed by the project engineer. Paving shall be required for dust and erosion control.
37. The Project access road from Copper Leaf Drive shall be completely on Parcel 4 unless an easement on the adjacent parcel (APN 012-050-068) for a portion of the access is obtained. IF easement is not obtained, all driveway improvements shall be on the Project Parcel 4 in the same general location as proposed, with increased width all encompassed on the project Parcel 4. Public Works Department, County Surveyor and/or County Engineer approval is required prior to grading permit issuance.
38. 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.
39. A parking plan that meets PDZ 87-1 Section V. On-site Parking Standards must be submitted to, and approved by, the County Planning Director prior to grading and/or building permit issuance.

Aesthetics

40. All on-site lighting fixtures shall be designed to be in compliance with the model lighting code developed by the International Dark Sky Association and shall be shown on the building permit plans and approved by the Planning Director prior to the installation of any fixtures. The Director may require plan review by a lighting specialist to ensure condition compliance. Applicant shall pay all costs associated with this review.

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41. Plans shall be designed to be in compliance with PDZ 87-1 Section III. Improvement Standards, Section IV. Signs and Advertising Displays, Section V. On-site Parking Standards, Section VII. Activity Standards, Section VIII. Design Standards. Elements including, but not limited to, architectural elevations, material types and paint colors shall be included. Planning Director approval of the plans is required prior to grading permit, building permit and/or occupancy, permit issuance determined by the Planning Director.
42. A site security and signage program shall be required. Elements shall maintain compliance with PDZ 87-1 Section IV. Signs and Advertising Displays standards including but not limited to fencing, signage. Program shall be approved by the Planning Director prior to grading or building permit issuance.

Cultural and Historical Resources

43. Mitigation Cultural Resources 5.d.1 A Native American monitor shall be on-site for the duration of ground disturbance. During road grading, soil testing and/or construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and the Native American Heritage Commission shall be notified should human remains be discovered. If the remains are determined by the Native American Heritage Commission to be Native American, the NAHC guidelines shall be adhered to in treatment and disposition of the remains. Representatives of the Most Likely Descendant shall be requested to be on-site during disturbance and/or removal of human remains.

Noise

44. Mitigation Measure 12d.1: Within the facility start up and operational testing period and prior to building permit certificate of occupancy, noise testing shall be conducted and a noise monitoring report shall be submitted to the Planning Director for review and verification that project operating noise levels do not exceed limits established by PDZ 87-1 Section VII. Activity Standards, A. Noise. If the monitoring report finds that the noise thresholds are in exceedance of PDZ 87-1 allowances, then the report shall provide recommendations for appropriate noise reduction

Resolution No. 2018- 357

Appeal No. 2018-051 Ruth Sellers Et Al. Appellant,
Appeal of Planning Commission's Approval of CUP No. 2017-117, for the Mariposa Biomass Project
July 17, 2018

Page 19 of 20 pages

measures that reduce noise levels to meet the PDZ 87-1 standards and those recommendations shall be incorporated into the project. A certificate of occupancy shall not be issued until the noise monitoring concludes that the noise is below the PDZ 87-1 limits. The report shall be prepared by an appropriately licensed or qualified professional.

Additional Conditions

45. 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.

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.

46. Prior to issuance of permits, all fees associated with the County's processing of the map and filing of associated CEQA documents (applicable to the conditional use permit) shall be paid. The Department of Fish and Wildlife CEQA filing fee (\$2,280.75 as of January 1, 2018) and County Clerk fee (\$50 as of January 1, 2018) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, March 2, 2018, because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Friday, March 2, 2018 the environmental determination is not operative, vested, or final. (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of **\$2330.75** (effective January 1, 2018), and that it be in the form of a cashier's check or money order payable to "Mariposa County;" The County Clerk

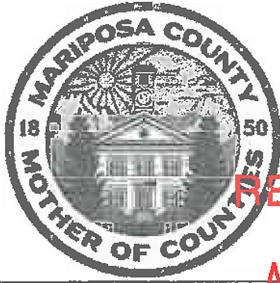
Resolution No. 2018- 357

Appeal No. 2018-051 Ruth Sellers Et Al. Appellant,
Appeal of Planning Commission's Approval of CUP No. 2017-117, for the Mariposa Biomass Project
July 17, 2018

Page 20 of 20 pages

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.

NOTE: The filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.



**TIME EXTENSION APPLICATION
(MAJOR SUBDIVISION, LAND DIVISION CONDITIONAL USE PERMIT)**

Mariposa County Planning Department
5100 Bullion Street, P.O. Box 2039
Mariposa, CA 95338
Telephone (209) 966-5151 FAX (209) 742-5024
www.mariposacounty.org planningdept@mariposacounty.org

RECEIVED**APR 08 2021**

FOR OFFICE USE ONLY			
Date Submitted	Mariposa County Planning Department	Received By	KC
Fees Paid \$	55 ⁰⁰	Receipt No.	317430
Application No.	201-057	Application Complete	
Final Action	Date		

Request is hereby made to extend the recordation deadline for:

2017-117 MARIPOSA BIOMASS PROJECT, INC.
 Application Number Applicant Name 559 580 5793

PO Box 2403 MARIPOSA, CA 95338
 Mailing Address Zip Telephone / E-Mail Address

The last date for ^{via my} recordation is now on 7-17-21
 An extension request is hereby made for 18 MONTHS days/months/years.
 The reason(s) for the requested extension is/are as follows: (use attachment if necessary)
SEE ATTACHED
02-050-067/000

☐ Payment of application fees as determined by Mariposa Planning. Additional fees maybe charged by other agencies or county offices, depending on the type of application.

Time Extension Application	\$213.00
Document Conversion	\$18.00
Public Noticing, Posted	\$55.00
Public Noticing, Affected Property Owners	\$55.00
Agency Review Fees:	
Public Works	\$134.00
County Fire	\$100.00
Total:	\$575.00
Note: Publication fees will be billed at cost to the applicant, as they are occurred.	

200501

REQUIRED SIGNATURE(S)

Affidavit

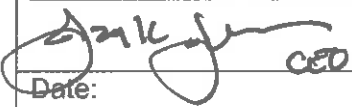
I/we, the undersigned (Property Owner and Applicant), agree to defend, indemnify, and hold harmless the County and its agents, officers and employees from any claim, action or proceeding against the County arising from the Property Owner and Applicant project.

I/we declare under the penalty of perjury that the statements and information submitted in this application are in all respects true and correct to the best of my/our knowledge.

I/we acknowledge that I/we have read and understand the information contained in the application package relating to the submittal and processing of this application.

I/we understand that the processing of the application will be delayed if any required information is incorrect, omitted, or illegible.

I/we declare that if an entity listed below is a Partnership, Limited Liability Corporation, Corporation or Trust the signer(s) below certifies that he/she is authorized by that entity to apply and sign the application attached herewithin.

<u>Property Owner (printed name):</u> MARIPOSA BIOMASS PROJECT	<u>2nd Property Owner (printed name):</u> 	<u>Applicant (printed name):</u>
<u>Property Owner (signature):</u> 	<u>2nd Property Owner (signature):</u> 	<u>Applicant (signature):</u>
<u>Date:</u> 4-7-21	<u>Date:</u> 	<u>Date:</u>

If there are more than two property owners, additional copies of this page shall be provided.

IMPORTANT: This page must be signed by all property owners and any authorized applicant.

IMPORTANT: Please note that if the property owner/s is/are authorizing someone other than themselves to act as the applicant or agent, the next page must also be signed.

IMPORTANT: Failure to have all necessary signatures will DELAY the commencement of processing the application. The application will be returned to the applicant to provide all necessary signatures.

200501

This page to be signed **IF** the property owner(s) is (are) authorizing someone to act as an agent or applicant for this application.

Affidavit

Applicant/Agent Authorization:

I/we, _____, Property Owner(s) hereby authorize _____ to act as a representative/Applicant and/or _____ as a representative/Applicant and/or _____ to act as a representative/Agent in all matters pertaining to the processing and approval of this application, including modifying the project, and agree to be bound by all representations and agreements made by the designated Applicant and/or Agent.

I/we declare that if the Property Owner and/or Applicant is a Partnership, Limited Liability Corporation, Corporation or Trust, the individual(s) listed below certifies that he/she/they is/are authorized by that entity to execute the application form attached herewithin.

<u>Property Owner (printed name):</u>	<u>Applicant (printed name):</u>	<u>Agent (printed name):</u>
<u>Property Owner (signature):</u>	<u>Applicant (signature):</u>	<u>Agent (capacity/title):</u>
<u>Property Owner (capacity/title):</u>	<u>Applicant (capacity/title):</u>	
Date:	Date:	
<u>2nd Property Owner (printed name):</u>	<u>Co-Applicant (printed name):</u>	
<u>2nd Property Owner (signature):</u>	<u>Co-Applicant (signature):</u>	
Date:	Date:	

RE: Justification for Time Extension on Mariposa Biomass Project Application**CUP 2017-117**

- 1) **Technology Issues:** The project is on hold due to technology design issue with Cortus' demonstration project in Sweden. After months of troubleshooting, the Cortus team will need to redesign the system to solve the issue. This will significantly delay deliverable timelines and the project team must apply for another CEC extension. Cortus has made clear that until they can resolve the issue in their demonstration facility in Sweden, they will not be able to finance any aspect of MBP with the exception of land lease payments to ensure the project. MBP has sent a memo to Cortus about next steps, costs and what will be required to vest the CUP and CEC grant once Cortus unfreezes their budget.
- 2) **Land Use Issues:** The project team will need to determine the new plant layout will work on the land, and the height of the equipment located at various places on the property, the future of the existing septic and/or any potential septic easements could be resolved by purchase of the property.
- 3) **Financing Issues:** The Team continues to work on project financing and utilizing Investor Tax Credit (ITC) loans for gap financing. This federal tax credit program was nearing its sunset date towards the end of 2020, with little known about its potential to be continued due to the election year. While the program itself was highly useful in its previous years, 2020 had brought a series of limiting factors for investors to participate in the program. Namely, COVID and national instability. Furthermore, the process of entering into the ITC also requires the team to satisfy the "Safe Harbor Rule" which required the team to have invested 5% of the total project costs on equipment purchases. Given the technology issues mentioned above, the team was unable to maintain the financial schedule projected originally. However, ITCs have been reinstated and the team is well position to take full advantage of this financial strategy.
- 4) **COVID Issues:** COVID 19 impacted the project in several ways including the ability for Cortus to handle troubleshooting effectively and for new parts to be delivered to the demonstration plant in Sweden. The delays from COVID reverberated throughout the entire project's expected project timeline.

DRAFT

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2021 -

A resolution approving Time Extension Application No. 2021-057 for the Mariposa Biomass Project Conditional Use Permit No. 2017-117 Mariposa Biomass Project, Jay Johnson, applicant. Assessor Parcel Number 012-050-066 and 012-050-067.

WHEREAS, an application for Time Extension No. 2021-057 was received on the 8th day of April 2021 from Mariposa Biomass Project- Jay Johnson, for a property located at 5673 Copper Leaf Dr. Mariposa also known as Assessor Parcel Numbers 012-050-066 and 012-050-067; and

WHEREAS, Conditional Use Permit No. 2017-117 (Mariposa Biomass Project) was conditionally approved by the Mariposa County Planning Commission with findings conditions and mitigation measures on the 23rd day of February 2018 via Resolution No. 2018-006; and

WHEREAS, on the 17th day of July 2018 the Board of Supervisors adopted Resolution No. 2018-357, denying Appeal Application No. 2018-051, and upholding the Planning Commission's approval of CUP No. 2017-117. The adopted Board resolution included findings, amended conditions and mitigation measures; and

WHEREAS, the Planning Department circulated the Time Extension Application among pertinent responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS, a duly noticed public hearing was scheduled for the 9th day of July 2021; 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.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby find that the project is exempt from further environmental review and approves Time Extension Application No. 2021-057, granting an 18-month time extension for the approved tentative parcel map for Land Division Application No. 2017-090 from the 17th day of July 2021 to the 17th day of January 2023.

ON MOTION BY Commissioner _____, seconded by Commissioner _____, this resolution is duly passed and adopted this 9th day of June 2021 by the following vote:

AYES:

NOES:

EXCUSED:

ABSTAIN:

Ed Walls, Chair
Mariposa County Planning Commission

Attest:

Carol Suggs,
Clerk of the Mariposa County Planning Commission



Time Extension No. 2021-057

for Conditional Use Permit No. 2017-117
Mariposa Biomass Project

Planning Commission Public Hearing 7/9/21
Project Consideration and Action
Applicant: Mariposa Biomass Project- Jay Johnson

Project Description

- An 18-month Time Extension Request
- No project changes are proposed or would be authorized if approved
- Only extension of time to complete conditions of approval required before issuance of grading or building permit

Site Background

- Zoning- Planned Development Zone 87-1 (Mariposa Industrial Park), Mountain General and Airport Overlay Zone
- General Plan Land Use- Natural Resources, within the Expanded Mariposa Town Planning Study Area
- The Project site is located just southerly of the intersection of Highway 49 North and Gold Leaf Drive at 5673 and 5686 Copper Leaf Drive, Mariposa.
- APNs 012-050-066 (2.41 acres) and 012-050-067 (2.86 acres)
 - 5.27 acres total

Mariposa County Planning Department Project Vicinity Map

5.A.f



PROJECT TYPE: Time Extension 2021-057

APPLICANT/OWNER: Mariposa Biomass Project, Inc and Bill and Carolyn Hilton Trust

SITE ADDRESS: 5673 & 5686 Copper Leaf Drive, Mariposa

APN: 012-050-0670 & 012-050-0660

Coordinate System: NAD 1983 State Plane California III FIPS 0403 Feet

Date: Tuesday, April 13, 2021

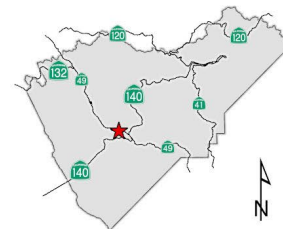
Data Source: Mariposa County Planning Department GIS;

Assessor's Parcel Map Update: 7/2020

Map Credit: J.W.



Mariposa County Planning Department
PO BOX 2039 5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposapanning@mariposacounty.org
<http://www.mariposacounty.org/planning>



Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data. Location in Mariposa County

Attachment: TE 2021-057 PC Presentation (2021-PCRES-11 : Time Extension No. 2021-057,



Approved Biomass Project CUP 2017-117

Summary

- A proposed 2.4 MW Bioenergy Facility with support buildings, parking, access and a woodchip storage yard located at the Mariposa Industrial Park.

- Applicant the Mariposa Biomass Project (MBP)
 - (MBP) is a 501(c) (3) nonprofit corporation
 - Cortus Energy is proposed to build, own and operate the facility. Cortus is based in Sweden.
 - Project Partner is the Mariposa County Resource Conservation District (RCD)

Site Pictures-



Approved Biomass Project CUP 2017-117 Summary

- February 23, 2018 – The Planning Commission adopted Resolution No. 2018-006 approving Conditional Use Permit (CUP) Application No. 2017-117 with applicable findings, conditions, and mitigation measures.
- The approval included adoption of a mitigated negative declaration for the California Environmental Quality Act (CEQA) determination.

Approved Biomass Project CUP 2017-117 Summary

- July 17, 2018 - The Board of Supervisors adopted Resolution No. 2018-357, denying Appeal Application No. 2018-051, and upholding the Planning Commission's approval of CUP No. 2017-117.
- The adopted Board resolution included findings, amended conditions and mitigation measures. Per the Board resolution, the approval date for CUP 2017-117 is **July 17, 2018**

Water Tank
and Storage

Parking

Operational Feedstock Road

Truck access, scale
and turnaround

Copper Leaf Drive- Access

Bioenergy Facility
Driveway Access

GENERAL NOTES

1. SITE ADDRESS IS:
5600 COPPER LEAF DRIVE
MARIPOSA, CA 95330
2. GRADED SLOPES SHALL NOT EXCEED A RATIO OF 2:1
3. ALL DISTURBED SLOPES SHALL BE STABILIZED AND
HYDROLOGICALLY RESTORED TO ORIGINAL OR
BETTER CONDITION. CARE SHOULD BE TAKEN WHEN GRADING IN AND
AROUND OVERHEAD POWER LINES
4. PARKING SURFACE SHALL BE GRAVEL OR DIRT.

EARTHWORK QUANTITIES

CUT (CU. YDS)	FILL (CU. YDS)	NET (CU. YDS)
9341	10376	1036 (FILL)

NOTES

1. QUANTITIES ARE UNADJUSTED NUMBERS
2. QUANTITIES ARE FOR GRADING
IMPROVEMENTS ACROSS PARCELS 3 AND 4

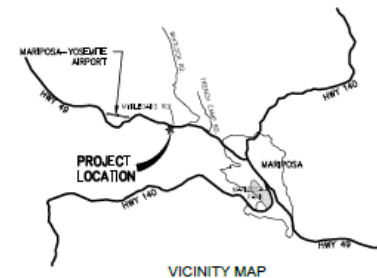
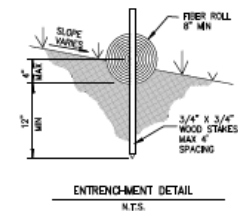
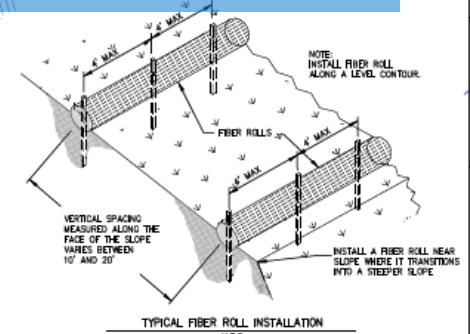
RUNOFF MITIGATION

PAVED AREA = 38,750 ± SF = 0.89 ACRES
STRUCTURES AREA = 8,000 ± SF = 0.20 ACRES
C = 0.3 FOR ASPHALT PAVED AREAS AND STRUCTURES
C = 0.8 FOR NATIVE GROUND (STEPPED TERRAIN)
TD = ASSUME 1-HOUR (CONSERVATIVE)
1" = 1-HOUR = 1.15 INCHES (100-YEAR EVENT)

ADDITIONAL RUNOFF = DELTA C 4 A + 100 YEAR PRECIPITATION @
TIME OF CONCENTRATION

THEREFORE STORAGE = 0.3 * 1.08 * 1.15/12 = 0.0313 ACRE-FEET

MITIGATION STORAGE = 1,365 CUBIC FEET



Time Extension Request- Basis

- CUP No. 2017-117 Condition No. 4
 - 36-months for the project to meet conditions and obtain a grading or building permit.
- The issuance of a grading or building permit “vests” the project under the CUP.
 - Timelines from that point would be subject to the grading and building permit construction time requirements.

Time Extension Request- Basis

- Condition No. 5, one 18-month time extension may be requested.
 - Request must be 90 days prior to the expiration date of the CUP.
 - The applicant submitted the request for extension application on April 8, 2021, 100 days prior to the expiration date of July 17, 2021.

Reasons for Request

- Applicant provided (4) Four primary reasons
 - Technology Issues
 - Land Use Issues
 - Financing Issues
 - COVID Issues

Agency Comments-

5.A.f

- Public Works, the EHU and Air Pollution Control District, had no objections or concerns regarding the extension.
 - Provided all other original CUP conditions remain unchanged.
- Public Works - constructive reminder that the applicants be sure to contact the Federal Aviation Administration (FAA) and CALTRANS Aeronautics to ensure the project design meets their requirements pursuant to the CUP conditions of approval.

Attachment: TE 2021-057 PC Presentation (2021-PCRES-11 : Time Extension No. 2021-057,

Project Public Comments-

5.A.f

- An Interested party, caretaker for Dora Reidel, who resides in Mykle Oaks (APN 012-050-001), called the Planning Department for additional information.
 - ❑ no objections were voiced
 - ❑ mentioned the project seemed interesting
- No other comments were received prior to completion of this presentation

Attachment: TE 2021-057 PC Presentation (2021-PCRES-11 : Time Extension No. 2021-057,

- CEQA review was conducted, and a mitigated negative declaration was adopted at the time of Approval of Conditional Use Permit No. 2017-117.
 - The request is only an allowance of an 18-month extension to implement the project. All CUP approval conditions, and mitigation remain the same.
 - The Time Extension Application is not a substantial change in the project that would require major revisions of the previous mitigated negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - The action to allow an additional 18-months, Time Extension Application No. 2021-057 does not require any further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162 and is exempt from environmental review, pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. It can be found with certainty that there is no possibility that the project will have a significant effect on the environment.

- The Time Extension Application is not a substantial change in the project that would require major revisions of the previous mitigated negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
- The action to allow an additional 18-months, Time Extension Application No. 2021-057 does not require any further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162 and is exempt from environmental review, pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. It can be found with certainty that there is no possibility that the project will have a significant effect on the environment.

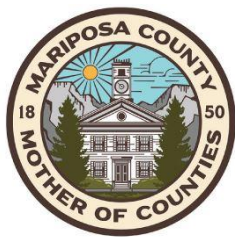
Conclusion and Recommendation

Staff recommends the Planning Commission adopt a resolution:

- Approving Time Extension Application No.2021-057 with findings, including a finding that the previously adopted Mitigated Negative Declaration for CUP No. 2017-117 satisfies the requirement for environmental review pursuant to CEQA and no further environmental review is required.

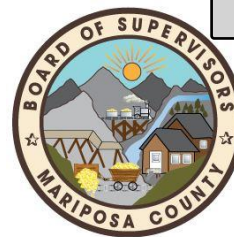
*New expiration date of January 17, 2023

- If the conditions of approval are not completed and the project is not fully implemented (grading or building permit issuance) by January 17, 2023, a new Conditional Use permit application may be required



MARIPOSA COUNTY

Planning Commission • 209-966-5151



5.B

MEETING: July 9, 2021

TO: The Mariposa County Planning Commission

FROM: Sarah Williams, Planning Director

RE: Amended Conditions No. 2021-111 for DR No. 2019-035; Self-Help Enterprises-Creekside Terrace

PUBLIC HEARING: Resolution Approving or Denying Amended Conditions No. 2021-111 for Design Review No. 2019-035; Self-Help Enterprises, Applicant. Project Proposes to Amend Condition No. 13 which limits the hours that construction can occur. Pursuant to Condition No. 13, no work can start prior to 7 a.m.. The applicant is requesting that this condition be modified to allow for construction to begin at 3 a.m. for no more than 5 days. This will allow for concrete pours for the project foundations to occur during the cooler temperatures in the day in July, to maintain the quality of the concrete and use the product to recommended specifications. Design Review No. 2019-035 is approved for a Multi-Family, 42 Unit, Affordable Housing Project. Project Site is Located at 5118 Fournier Road. APN 012-140-024

See Staff Report for additional information.

See attached draft resolution

ATTACHMENTS:

Staff Report (DOC)

Amended Condition PC Resolution Draft (DOC)

Information from Applicant-Creekside Terrace Concrete Pours (PDF)

Concrete Pouring Schedule Information from Applicant (DOCX)

RESULT: ADOPTED AS AMENDED [3 TO 1]

MOVER: Jack Wilmeth, District II Planning Commissioner

SECONDER: Deni Smith, District IV Planning Commissioner

AYES: Ed Walls, Jack Wilmeth, Deni Smith

NAYS: Mick Herman

EXCUSED: John McCamman



MARIPOSA PLANNING STAFF REPORT

From: Sarah Williams, Planning Director

Prepared By: Alvaro Arias, Deputy Director

Planning Commission Meeting Date: July 9, 2021

**SUPERVISORIAL
DISTRICT:**

District 4

PROJECT:

Amended Conditions No. 2021-111 for Design Review Application No. 2019-035

APPLICANT:

Self-Help Enterprises

NOTICING:

Gazette Ad: June 24, 2021

Mailed Notice: June 17, 2021

Posted Notice: June 21, 2021

**COMMISSION
ACTION:**

The Planning Commission can consider adopting a resolution:

A. Approving Amended Conditions Application No. 2021-111 with findings, including a finding that the previously adopted Mitigated Negative Declaration for Design Review No. 2019-035 satisfies the requirement for environmental review pursuant to the California Environmental Quality Act (CEQA) and no further environmental review is required.

-or-

B. Denying Amended Conditions Application No. 2021-111 with findings.

STAFF SUMMARY ANALYSIS:

In 2018/2019, Self-Help Enterprises proposed and were approved for a rezone and change in land use designation (GP/ZA) of a 2.39-acre parcel, APN 012-140-024, from Single-Family Residential-9,000 s.f. (SFR-9K) to Multi-Family Residential (MFR). The purpose was to allow for the development of a multi-family 42-unit, affordable housing project. The project includes a combination of one, two, and three bedrooms units, as well as a community building. The rezone and change in land use became effective in the summer of 2019.

Self-Help Enterprises submitted a 9% Low-Income Housing Tax Credit application and was awarded the funding. Based on that funding construction was required to begin by April 26, 2021. Additional funding sources include, but are not limited to: No Place Like Home (NPLH), Low-Income Housing Tax Credits, HOME, CDBG, Project-Based Section 8 and other HUD vouchers, Continuum of Care funding, National Housing Trust Fund (NHTF) and other State/Federal resources.

The site plan and design information submitted with the GP/ZA application were conceptual and further detailed information was required as part of the conditions of approval. Both the Planning Commission and Board of Supervisors requested that the Design Review application be brought back for review once more detailed information was available.

During project design, it was determined that additional land was needed for the project. General Plan/Zoning/Area Plan Amendment (GP/ZA) No. 2020-167 proposed to amend the designation of an approximately 0.50-acre portion of APN 012-140-023 (legal with 012-140-022) from Single-Family Residential – 9000 sq ft to Multi-Family. The area is proposed to be developed with a stormwater drainage basin and a

Amended Conditions No. 2021-111 for Design Review Application No. 2019-035

Applicant: Self-Help Enterprises

Planning Commission Hearing of July 9, 2021

Page 2 of 5

basketball court associated with the project. The area was added to APN 012-140-024 (the project site) through a lot line adjustment. The amendment was necessary to allow uses/improvements that are associated with and needed for the multi-family housing project.

Earlier this year, the Planning Commission and Board of Supervisors found that the site plan and design details submitted were in conformance with the previous Board of Supervisors' approval of Design Review No. 2019-035.

The applicant has recently commenced construction of the project. The applicant is now requesting a modification to Condition No. 13 which limits the hours that construction can occur. Pursuant to Condition No. 13, no work can start prior to 7 a.m. The applicant is requesting that this condition be modified to allow for construction to begin at 3 a.m. for no more than 5 days. This will allow for concrete pours for the project foundations to occur in July, during the cooler temperatures in the day, to maintain the quality of the concrete and use the product to recommended specifications.

AMENDED CONDITION REQUEST:

On June 17, 2021 the applicant submitted an application to request an amendment to the Conditions of Approval for Design Review No. 2019-035. The condition being requested for amendment is Condition No. 13, which reads as follows:

Construction activities occurring outdoors shall not commence prior to the hours of 7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturdays. All construction activities occurring outdoors shall cease by sunset Monday through Saturday. No outdoor construction shall be permitted on Sundays. The Planning Department shall monitor noise through complaints by the neighbors.

The suggested language based on the applicant's request, if the Planning Commission approves the amendment, is as follows (additions in *italics*):

Construction activities occurring outdoors shall not commence prior to the hours of 7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturdays, *except as noted below*. All construction activities occurring outdoors shall cease by sunset Monday through Saturday. No outdoor construction shall be permitted on Sundays. The Planning Department shall monitor noise through complaints by the neighbors.

For a period not to exceed five (5) total days, either consecutive or separate, start times may be adjusted to no earlier than 3 a.m. to accommodate concrete pours during the earlier cooler hours of the day. No early start times will be allowed on Saturdays. The Planning Department shall be notified a minimum of 24 hours before the intended early start time days. Notification must occur on a workday (not a holiday), Monday through Friday. If requested by any potentially impacted property owner or agency, the project proponent or their designee shall provide a minimum of 24 hours-notice prior to the intended start time of an early concrete pour. Notification shall be in writing, which may be by email. Additional verbal or telephone notification may be provided. The project proponent and their designee shall take all reasonable actions to limit noise and light impacts on neighboring parcels and any parcels along the route to the site on the early start time days.

The basis for the applicant's request is related to issues that would be encountered by pouring concrete foundations in the high temperatures that are prevalent during the summer months. Pouring and working the concrete in higher temperatures increases the potential for issues with the structure foundations. The applicant has provided information regarding the issues that can be encountered when pouring and working concrete in higher temperatures and that information is attached to this staff report.

Amended Conditions No. 2021-111 for Design Review Application No. 2019-035

Applicant: Self-Help Enterprises

Planning Commission Hearing of July 9, 2021

Page 3 of 5

Pouring and working concrete in higher temperatures can increase the likelihood of cracks, reduced workability, and creates a situation where the concrete sets much more quickly. As temperatures increase, the amount of time concrete takes to set decreases exponentially. Given that the project has larger foundations, the potential for problems increases. Per the applicant, sourcing the material from a local source does not negate the need to start the pours in the earlier and cooler parts of the day.

Additional information outlining the concrete work schedule for the early start time days is also attached to this staff report packet. The Planning Commission should note that the process outlined (from the 7/2/21 email) has some activity starting before the requested early start time, at 2 a.m. This is not what was applied for or noticed. If the Planning Commission approves a 3 a.m. start time as originally requested, it is important to note that no activity would be allowed to start prior to that start time, including the setup time for the concrete boom truck.

STAFF RECOMMENDATION:

Staff has not prepared a firm recommendation on the requested amendments. This is not typical for a project processed and scheduled for Planning Commission action, and is based on several factors:

- Compressed timeline. The request was submitted on June 17, 2021, with a desired Planning Commission hearing date of July 9, 2021, due to the project proponent's construction schedule and concrete work commencing in mid-July 2021. This provided a significantly reduced timeline to prepare notices (notices had to be sent out June 17, the date the request was submitted), to review the project, and to prepare the necessary staff report.
- The request helps an affordable and much needed housing project in Mariposa, which is widely supported in the community. There is a desire by the county, including staff, to provide support for the successful development of the housing project.
- This is an unusual request, which wouldn't normally be supported as there is potential for the request to impact surrounding property owners.
- This is a limited request; early construction hours will only occur on a maximum of 5 days.
- For longevity and durability, it is critically important that the concrete work for the project be installed correctly; the current summer season has been unusually warm. July and August are historically the warmest months of the year.
- The project's funding allows for a short construction time period; it isn't possible to delay the concrete work.
- A decision should take into account the project proponents request and justification, and any public input received. To date, no public input has been received.

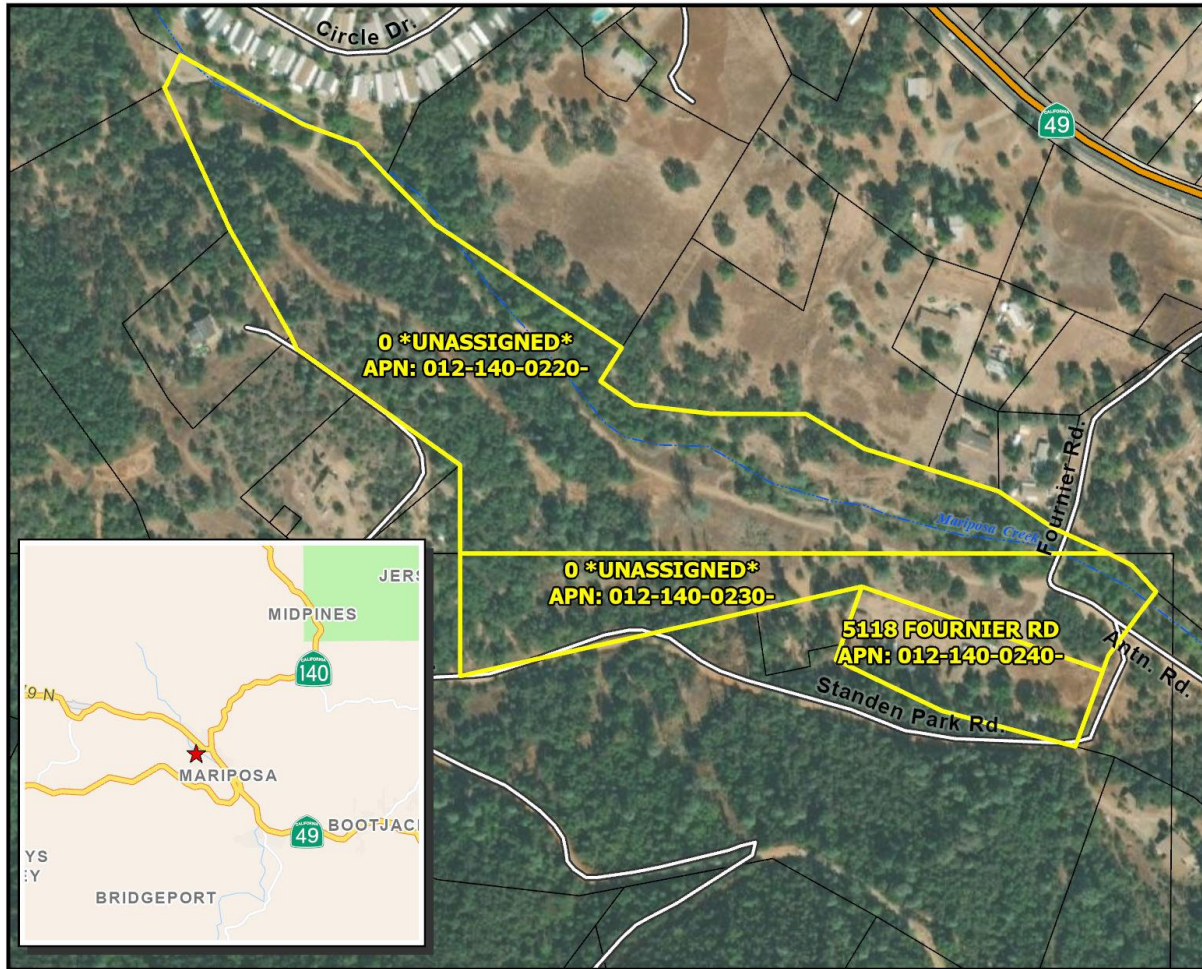
Amended Conditions No. 2021-111 for Design Review Application No. 2019-035

Applicant: Self-Help Enterprises

Planning Commission Hearing of July 9, 2021

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Mariposa County Planning Department Project Vicinity Map



0 400 800 Feet
1:4,132

PROJECT TYPE: GPZA 2020-167

APPLICANT: Self-Help Enterprises

APN: 012-140-0240 ; 012-140-0220; 012-140-0230

SITE ADDRESS: 5118-5121 Fournier Road, Mariposa, CA, 95338; Unassigned

Coordinate System: NAD 1983 State Plane California III FIPS 0403 Feet

Date: Friday, November 20, 2020

Data Source: Mariposa County Planning Department GIS;

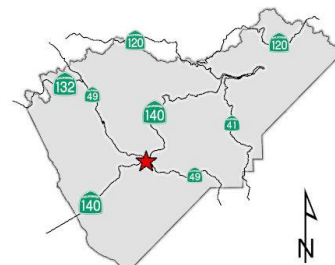
Assessor's Parcel Map Update: 7/2020

Map Credit: J.W.



Mariposa County Planning Department
PO BOX 2039 5100 Bullion Street
Mariposa, California 95338-2039
209.966.5151 FAX 209.742.5024
mariposaplanning@mariposacounty.org
<http://www.mariposacounty.org/planning>

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data. Location in Mariposa County



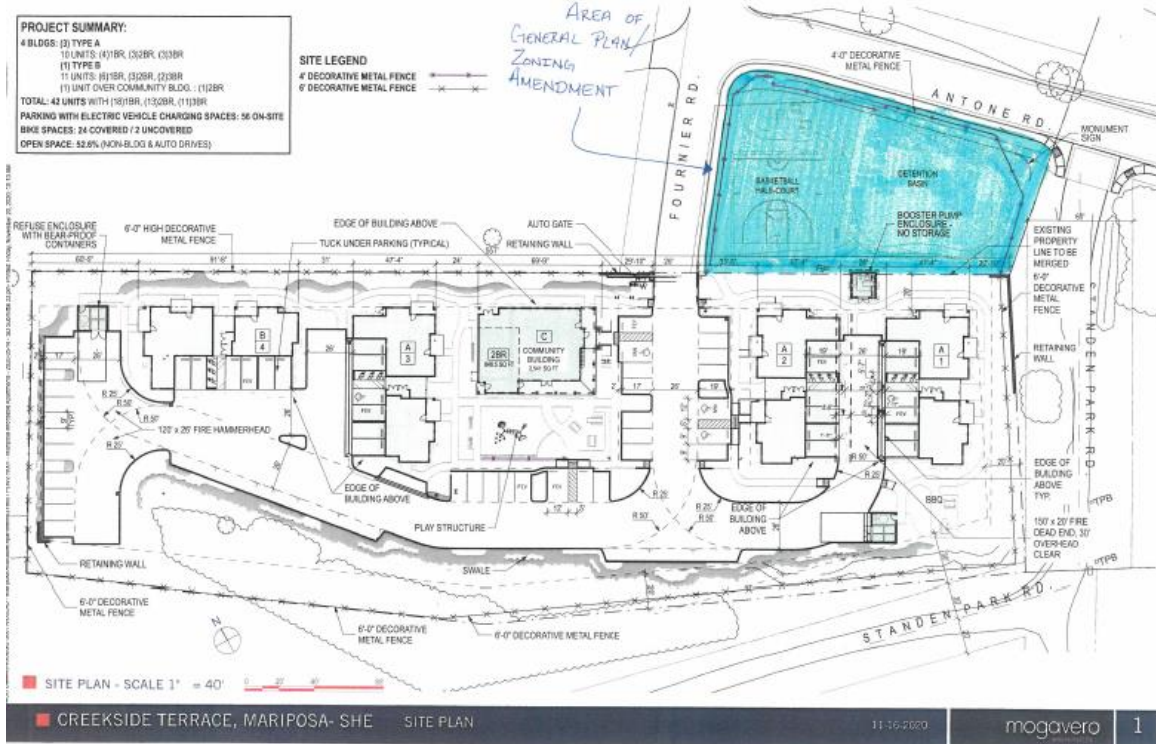
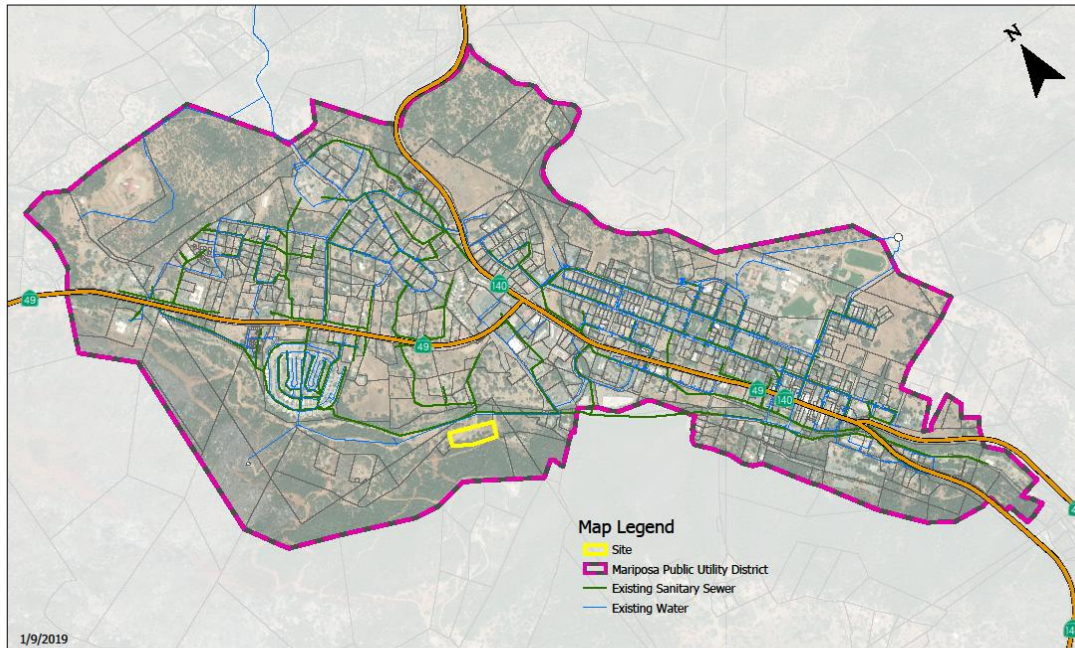
Amended Conditions No. 2021-111 for Design Review Application No. 2019-035

Applicant: Self-Help Enterprises

Planning Commission Hearing of July 9, 2021

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SITE EXHIBIT 2



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

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

Resolution
 No. 2021-

**A resolution amending conditions of approval for Design
 Review No. 2019-035; Creekside Terrace, Self-Help Enterprises.
 Assessor Parcel Number 012-140-024**

WHEREAS, an application requesting to amend the conditions of approval for Design Review No. 2019-035 was received on the 17th day of June 2021 from Self-Help Enterprises for a property located at 5118 Fournier Road, Mariposa CA, Assessor Parcel Number 012-140-024; and

WHEREAS, the application is titled Amended Conditions No. 2021-111; and

WHEREAS, the project proposes to modify Condition No. 13, which limits the hours that construction can occur. Pursuant to Condition No. 13, no work can start prior to 7 a.m. The applicant is requesting that this condition be modified to allow for construction to begin at 3 a.m. for no more than 5 days.; and

WHEREAS, the site plan and conditions of approval for Design Review No. 2019-035 allowed for the development of a 42-unit multi-family housing project; and

WHEREAS, a duly noticed public hearing was scheduled for the 9th day of July 2021; and

WHEREAS, a previously adopted Mitigated Negative Declaration for Design Review No. 2019-035 satisfies the requirement for environmental review pursuant to the California Environmental Quality Act and no further environmental review is required; and

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

OPTION 1: APPROVAL BY THE PLANNING COMMISSION:

NOW THEREFORE BE IT RESOLVED THAT the Planning Commission does hereby approve Amended Conditions Application No. 2021-111 and Condition No. 13 is modified to read as follows:

13. Construction activities occurring outdoors shall not commence prior to the hours of 7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturdays, *except as noted below*. All construction activities occurring outdoors shall cease by sunset Monday through Saturday. No outdoor

Attachment: Amended Condition PC Resolution Draft [Revision 1] (2021-PCRES-12 : Amended Conditions No. 2021-111 for DR No. 2019-035;

construction shall be permitted on Sundays. The Planning Department shall monitor noise through complaints by the neighbors.

For a period not to exceed five (5) total days, either consecutive or separate, start times may be adjusted to no earlier than 3 a.m. to accommodate concrete pours during the earlier cooler hours of the day. No early start times will be allowed on Saturdays. The Planning Department shall be notified a minimum of 24 hours before the intended early start time days. Notification must occur on a workday (not a holiday), Monday through Friday. If requested by any potentially impacted property owner or agency, the project proponent or their designee shall provide a minimum of 24 hours-notice prior to the intended start time of an early concrete pour. Notification shall be in writing, which may be by email. Additional verbal or telephone notification may be provided. The project proponent and their designee shall take all reasonable actions to limit noise and light impacts on neighboring parcels and any parcels along the route to the site on the early start time days.

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the following findings:

1. The modification to allow for earlier construction start time for a period not to exceed 5 days is due to the higher temperatures during the summer, which are not conducive to concrete hauling and pouring. The cooler temperatures in the early morning hours will help maintain the quality of the concrete and ensure the product is used in accordance with recommended specifications.
2. The impacts associated with earlier construction start times will be limited to a maximum of 5 total days, which will create limited, temporary impacts.
3. The request helps an affordable and much needed housing project in Mariposa, which is widely supported in the community. This request provides support for the successful development of the project.
4. For longevity and durability, it is critically important that the concrete work for the project be installed correctly; the current summer season has been unusually warm. July and August are historically the warmest months of the year.
5. The project's funding allows for a short construction time period; it isn't possible to delay the concrete work.

OPTION 2: DENIAL BY THE PLANNING COMMISSION:

NOW THEREFORE BE IT RESOLVED THAT the Planning Commission does hereby deny Amended Conditions Application No. 2021-111; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is denied based upon the following findings:

Insert findings as discussed, developed and approved by the Planning Commission

Resolution No. 2021- Amended Conditions No. 2021-111, Self-Help Enterprises, applicant.

APN: 012-140-024

July 9, 2021 Page 3 of 9 pages

ON MOTION BY Commissioner , seconded by Commissioner , this resolution is duly passed and adopted on the 9th day of July 2021 by the following vote:

AYES:

NOES:

EXCUSED:

ABSTAIN:

Edward Walls, Chair
Mariposa County Planning Commission

Attest:

Carol Suggs, Secretary to the
Mariposa County Planning Commission

Attachment: Amended Condition PC Resolution Draft [Revision 1] (2021-PCRES-12 : Amended Conditions No. 2021-111 for DR No. 2019-035;

Atten: Mariposa Building Department
From: Self-Help, Quiring General
Date: 6/29/2021

A large concrete pour is planned for mid-July and due to the reactive nature of the concrete material, it is necessary to pour the material in the cool hours of the day. This ensures that we are able to maintain the quality of the concrete and use the product to recommended specifications. Neighborhood outreach will be conducted prior to the concrete pour to ensure community awareness of any noise that may take place during these few days. The work is not intended to extend more than five mornings.

Below, you can find the Structural Engineers on Record responses, and direction for the purpose of concrete pours starting before 7am on behalf of Quiring General, LLC and Self-Help Enterprises. Please let us know if you have any other questions or concerns we can assist with.

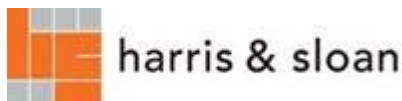
I did finish digging through the concrete code ACI 305 and wanted to provide the following bits of information if any additional support is needed:

- In addition to the potential for shrinkage cracks, hot weather will tend to cause concrete to lose slump (workability) and set much more quickly. The typical amount of time it takes concrete to set will decrease exponentially as the ambient temperature increases.
- Additionally, steel rebar will get much hotter at the higher temperatures and becomes harder to work with, and also causes concrete around the rebar to dry up leading to increased cracking. The potentially for cracking in this situation is even more likely due to a 4" thick mat slab.
- Lastly, pouring concrete in hot weather can lead to special mix design requirements. These can be difficult to obtain, as well as difficult to ensure that the concrete meets the requirements for the hotter temperature.

Hopefully this helps, but please do let me know if there is anything further I can provide.

Thank you,

Naranjan Purewal



Structural | Mechanical | Electrical | Plumbing | Energy

harrisandsloan.com | npurewal@harrisandsloan.com | 

Direct: (916) 250-3453 | **Office:** (916) 921-2441

Sacramento | San Ramon | Aliso Viejo | Reno

If you would like to reference the specific code and section within your response to the county that information is provided below. I also clipped in the section for ease of reference.

Code: ACI305R-20
Chapter 3, Section 3.1

CHAPTER 3—POTENTIAL PROBLEMS AND PRACTICES

3.1—Potential problems in hot weather

Potential problems for concrete in the freshly mixed state include:

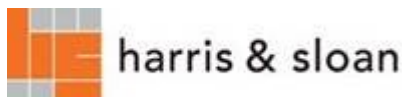
- a) Increased water demand
- b) Increased rate of slump loss and corresponding tendency to add water at the job site
- c) Increased rate of setting, resulting in greater difficulty with handling, compacting, and finishing, and a greater risk of cold joints
- d) Increased tendency for plastic shrinkage and thermal cracking
- e) Increased difficulty in controlling entrained air content

Damage to concrete caused by hot weather can never be fully alleviated. Potential deficiencies to concrete in the hardened state can include:

- a) Decreased strengths resulting from adding water to satisfy the higher water demand
- b) Increased tendency for drying shrinkage if additional water was added to the concrete
- c) Thermal cracking from either cooling of the overall structure, or from temperature differentials within the cross section of the member
- d) Decreased durability resulting from cracking
- e) Greater variability of surface appearance, such as cold joints or color differences, due to different rates of hydration or different water-cementitious materials ratios (w/cm)

Thank you,

Naranjan Purewal



Structural | Mechanical | Electrical | Plumbing | Energy

harrisandsloan.com | npurewal@harrisandsloan.com | 

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Sacramento | San Ramon | Aliso Viejo | Reno

Sincerely,

Quiring General, LLC, Self-Help Enterprises.

CONCRETE POURING SCHEDULE

(from email received by Mariposa Planning on 7/2/21)

See below for info on the concrete transport and pouring process:

- Concrete plant is in Chowchilla (CVC concrete). This was chosen by our awarded subcontractor who is performing the concrete pours. Currently this plant is located 50 minutes away which meets all project specifications. The concrete mix design from CVC was approved from the design team as well. If we were to use a local plant the concern is still pouring temperature in warm weather after 7am and the effects it can have.
- Noises:
 - Boom truck will arrive around 2 a.m.** You can expect a diesel engine noise arriving on-site.
 - Concrete boom truck will start priming after it has been set up at its location around 2:30 a.m. Priming the concrete boom truck will have loud noises. You can expect a loud engine rev with a sudden blast of air compression. This will be the loudest activity.
 - 3am concrete trucks will roll into the jobsite. Noises will consist of common concrete trucks mixing in their barrels, and pouring from the chute. Not very noisy...
 - Concrete boom truck will pour from 3am to around 430am. Noises consist of diesel engines and light towers, as well as concrete trucks coming and leaving our site.
 - Once the pour is complete and the boom truck washes out around 5am, noises will be minimal while we wait for the concrete to set up.
 - After 5 a.m. there will be no loud noises or distance from the jobsite
- We are planning for 5 days of pours but subject to change if we could pour more than one slab at a time. If that is the case, you can expect the same amount of setup time and noises, the pour times will just double (3 a.m. to 6 a.m.). In that case it would potentially be 3 mornings rather than 5.
- Crews will be done prior to 4 p.m. finish time.

****STAFF NOTE: A 2 a.m. start time is NOT what was applied for or originally requested. This is NOT what was noticed.**