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MARIPOSA COUNTY ORDINANCE NO. 862

AN ORDINANCE AMENDING TITLE 17 ENTITLED "ZONING ORDINANCE"

WHEREAS, the Mariposa County Board of Supervisors adopted Resolution No. 93-201 thereby initiating the public review and hearing process to amend the Mariposa County Zoning Ordinance; and

WHEREAS, environmental review has been conducted on the amendments in accordance with the California Environmental Quality Act and the Mariposa County Environmental Review Policies and Procedures adopted pursuant thereto, and an addendum to the Mariposa TPA Specific Plan Environmental Impact Report has been certified; and

WHEREAS, the Mariposa County Planning Commission and Board of Supervisors have held duly noticed public hearings on the amendments in accordance with State law and County Code; and

WHEREAS, said amendments are consistent with the Mariposa County General Plan and Mariposa TPA Specific Plan.

NOW, THEREFORE, the Mariposa County Board of Supervisors, a political subdivision of the State of California, does hereby ordain as follows:

SECTION I

Title 17 entitled "Zoning Ordinance" of the Mariposa County Code is hereby amended as set forth in Exhibit "A" attached hereto and incorporated herein.

SECTION II

This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

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PASSED AND ADOPTED by the Mariposa County Board of Supervisors on this 9th day of November, 1993 by the following vote:


AYES: BAGGETT, ERICKSON, PARKER

NOES: NONE

ABSTAINED: BALMAIN, TABER

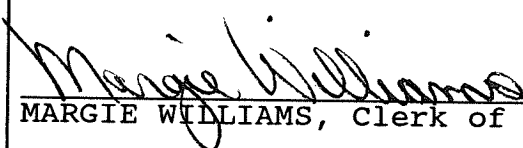
EXCUSED: NONE

NOT VOTING: NONE



ERIC J. ERICKSON, Chairman
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN, County Counsel

EXHIBIT "A"

A) Section 17.108.130 amended to read as follows:

17.108.130 Structure location.

Unless otherwise prescribed, the following setback standards shall apply to all buildings with roof area exceeding one hundred twenty (120) square feet, all structures except as permitted by Subsection D, and all uses set forth in Subsection E. Additions to existing buildings, structures, or uses set forth in Subsection E, where such building, structure, or use encroaches into a setback area, shall not be closer to the property boundary than one-half (1/2) the width of the set back requirement or closer to the property boundary than any part of the existing building, structure, or use, whichever constitutes the lesser encroachment.

A. Public street and front yard setback: The front yard setback shall be a minimum of twenty-five (25) feet from the nearest point on the front property line or edge of any public street, public easement, or easement or right-of-way offered for dedication, and a minimum of fifty-five (55) feet from the center line of said street, easement or right-of-way.

B. Side yard setback: The side yard setback shall be a minimum of twenty-five (25) feet or ten percent (10%) of the lot width, whichever is less, from a side property line or parcel boundary line. For the purposes of this section, the lot width shall be the average distance between the side property lines as measured through the building envelope.

C. Rear yard setback: The rear yard setback shall be a minimum of twenty-five (25) feet or ten percent (10%) of the lot depth, whichever is less, from a rear property line or parcel boundary line. For the purposes of this section, the lot depth shall be the average distance between the rear property line and the front property line as measured through the building envelope.

D. Uses permitted in setback areas: The following uses shall be permitted in all setback areas:

1. Wells, highway and traffic signs, signs, rural mail boxes, fences, gates, propane tanks, uncovered walkways, driveways, and underground utilities and appurtenant above-ground structures

2. Livestock loading structures can be located within the front setback of a parcel of land in the AEZs, MPZs, IMZs and GFZs, and may be located in the front setback of other land use zones, subject to planning department review and approval.

3. Garages, carports, sheltered parking, and covered walkways may be constructed in front yards areas providing:

(a) The subject site is above four thousand (4,000) feet in elevation;

(b) Carports shall have no enclosing walls higher than three (3) feet above ground level;

(c) Garages may be considered providing sight distance standards are satisfied, and the location is approved by the road division of the public works department. A variance to these standards shall not be approved;

(d) The structure is located no closer than five (5) feet from the property line or the edge of the street easement or right of way offered for dedication;

(e) The structure is for the exclusive use of the property owner or resident for the purpose of vehicular parking, and/or pedestrian access.

E. Uses prohibited in setback areas: The following uses shall be prohibited in the setback areas:

1. Septic systems unless approved through the variance process.

2. Stables or pens used for the raising or keeping of small animals.

3. Covered walkways except as permitted by Section 17.108.130(D)(3).

F. Projections in Setback Areas: Architectural projections including eaves, canopies, and balconies; deck and porch overhangs; and signs attached to a building shall not project more than three (3) feet into a required setback area.

B) Chapter 17.148 amended and definitions added to read as follows:

Appurtenant Use or Structure:

A use of land or structure subordinate to the primary use or structure of the land and customarily incidental to the primary use or structure occurring on that land.

Bed and Breakfast or Transient Rental:

A single family structure, a residential unit of a duplex, a residential condominium unit, or an apartment unit within a commercial structure with only one such unit, or a portion of such residential units, rented or leased for periods of 30 or less days and complying with the standards contained herein.

Building:

Any structure having a roof supported by columns and/or by walls and intended for the shelter, housing, and/or enclosure of any person, animal or personal property or equipment; example: residence, mobile home, garage, barn. Any structure which is appurtenant to and attached to the building shall be considered part of the building; example: deck, staircase, balcony, awning, porch.

Building Envelope: The area of a lot covered by a building or structure, including allowed projecting eaves, balconies, and similar features.

Easement:

The right of a person, the public at-large, a government agency, or a public utility company to use public or private land owned by another for a specific purpose.

Easement, Access or Road:

An easement which grants access to the public, an entity, or a person(s) over property owned by another and allows for the improvement of that property for access or road purposes. For the purposes of Subtitle 17.300, an access or road easement need only encompass those improvements for travel lanes, parking lanes, curbs, gutters, and adjacent pedestrian pathways.

Easement, Drainage:

An easement, the purpose of which is to limit development in order to retain natural drainage channels predominantly in their natural condition, to maintain the water-carrying capacity of natural drainage channels, and to ensure safe and unobstructed flows of stormwater runoff.

Easement, Slope:

An easement, the purpose of which is to encompass cuts and fills associated with grading for road construction and to allow for maintenance of such cuts and fills.

Local Street:

A local street shall mean a public street as defined by this Title, an unimproved County street right-of-way, a dedicated public right of way as defined by this Title, or a private road or access easement which serves five (5) or more parcels.

Lot Coverage:

The area of a lot or parcel covered by buildings or structures, excluding allowed projecting eaves, balconies, and similar features.

Parcel, Flag-shaped:

A parcel with access provided to the bulk of the parcel by means of a narrow corridor from a local street or State Highway and which is shaped and designed so that the main building site area is setback from the local street or State Highway on which it fronts.

Parcel, Interior:

A parcel which does not have parallel frontage along a local street or State Highway.

Service Station:

Any premises where gasoline and/or other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall include convenience stores or mini-marts where gasoline is sold. Service stations shall not

Ordinance No. 862, Exhibit "A"

include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

Setback:

The required minimum horizontal distance between a property line, edge of access easement, and street centerline and the nearest vertical structural support or wall of a building or structure or the nearest edge of a use.

Structure:

That which is built or constructed, a building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Yard, Front:

A yard or open area extending across the full width of the parcel between a front property line or edge of access right-of-way or easement and the vertical structural support or wall of a building or structure. The front yard is established parallel or concentric to the front property line. A front property line is a property line abutting a local street or State Highway. For flag-shaped parcels, a front property line is the interior property line most parallel to and nearest the street or easement from which access is obtained. For interior parcels, a front property line is the property line which abuts the easement or driveway from which access is obtained.

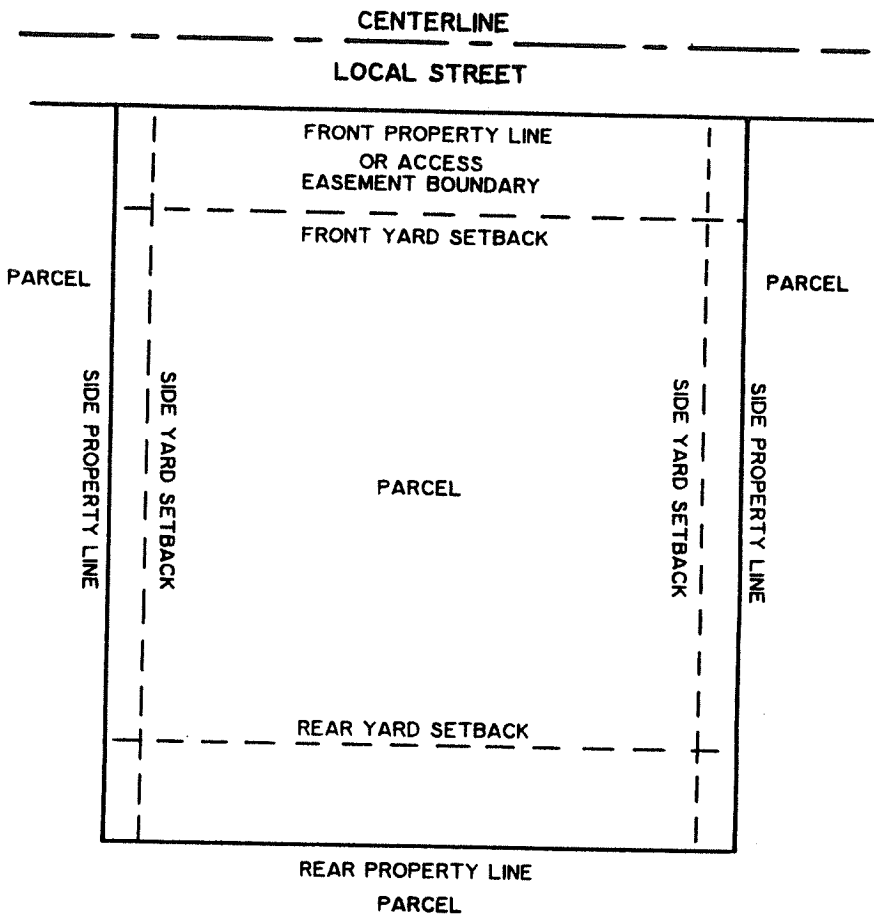
Yard, Rear:

A yard or open space opposite to and most distant from a front yard. A parcel which has only three (3) property lines (e.g. a triangular shaped parcel) will not have a rear yard.

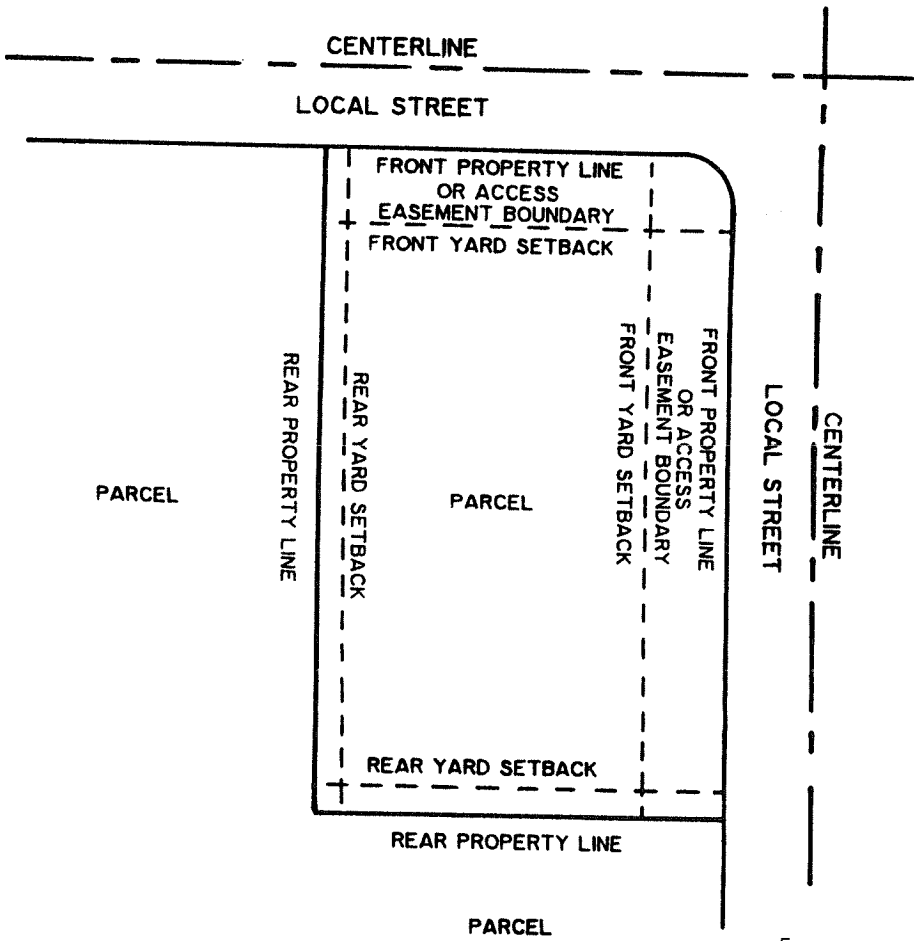
Yard, Side:

Any yard or open space other than a front yard or rear yard.

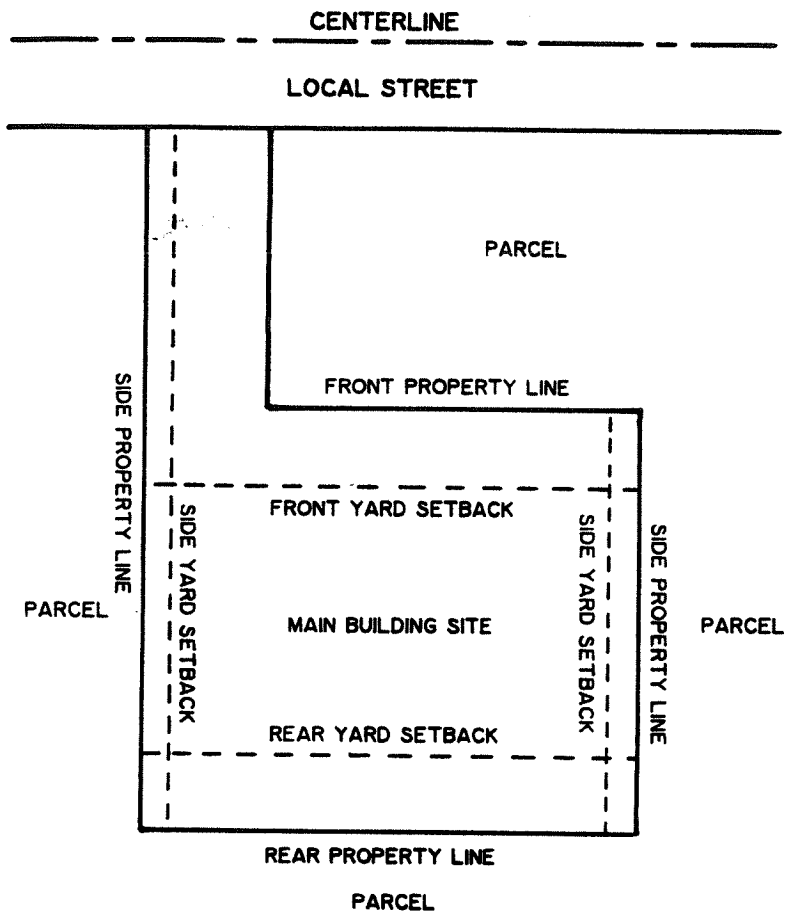
C) Graphic drawings to be added to end of Chapter 17.148 as follows:



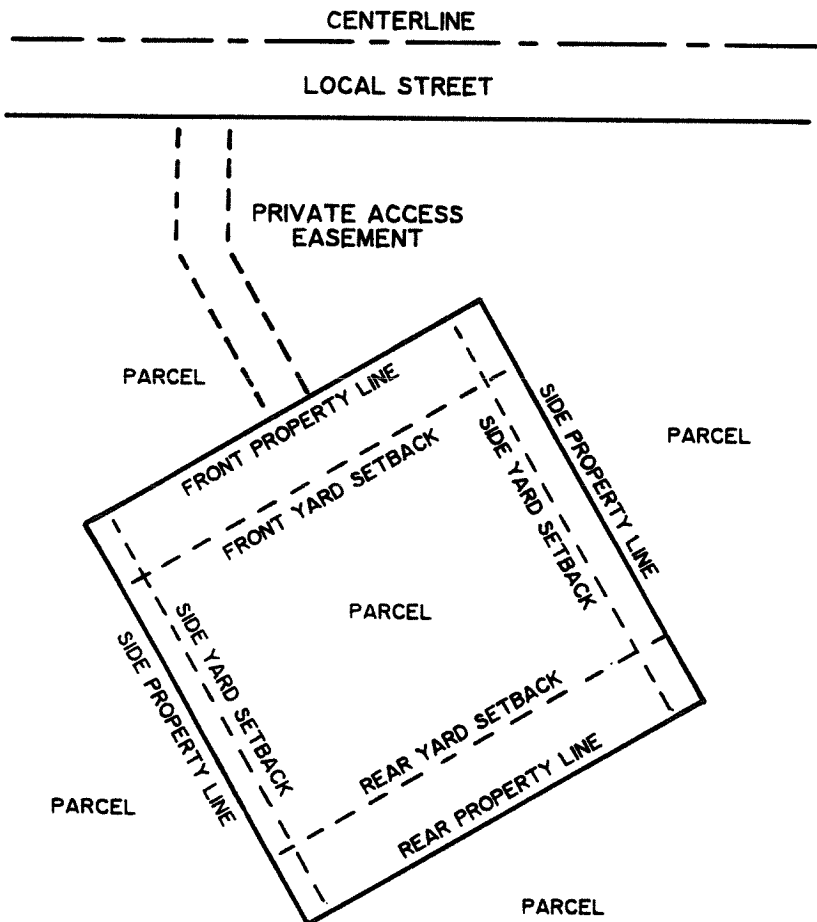
SETBACK EXAMPLE:
 SETBACKS (TYPICAL)
 (NOT TO SCALE)



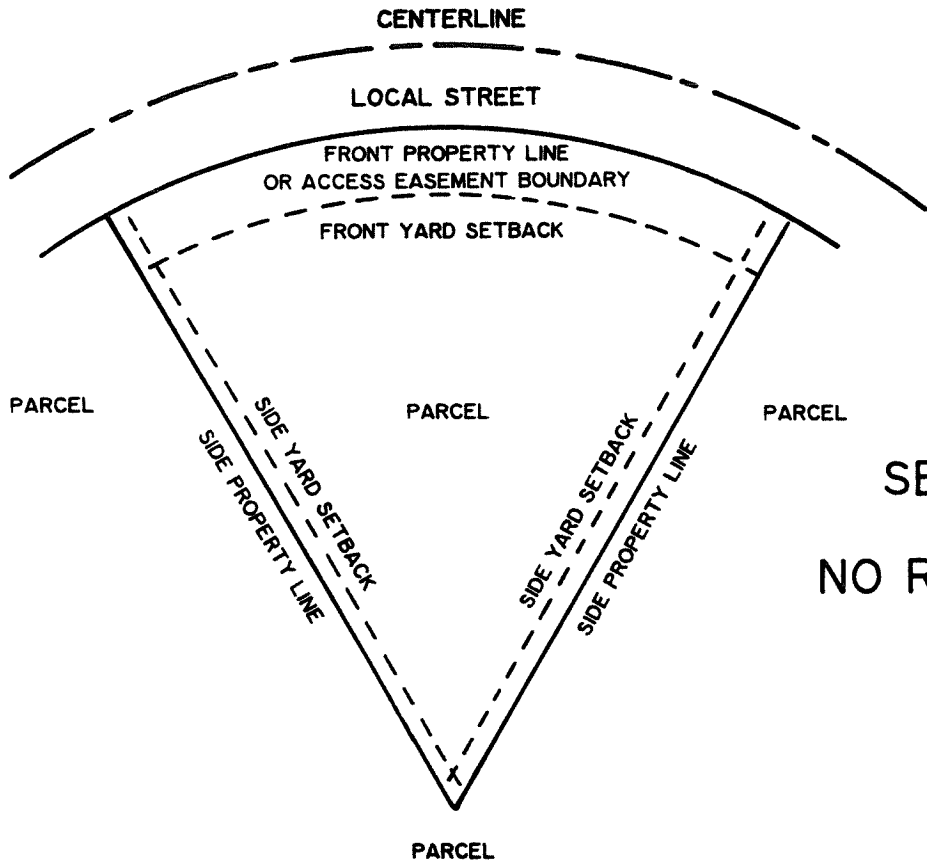
SETBACK EXAMPLE:
 CORNER PARCEL
 (NOT TO SCALE)



SETBACK EXAMPLE:
 FLAG-SHAPED PARCEL
 (NOT TO SCALE)

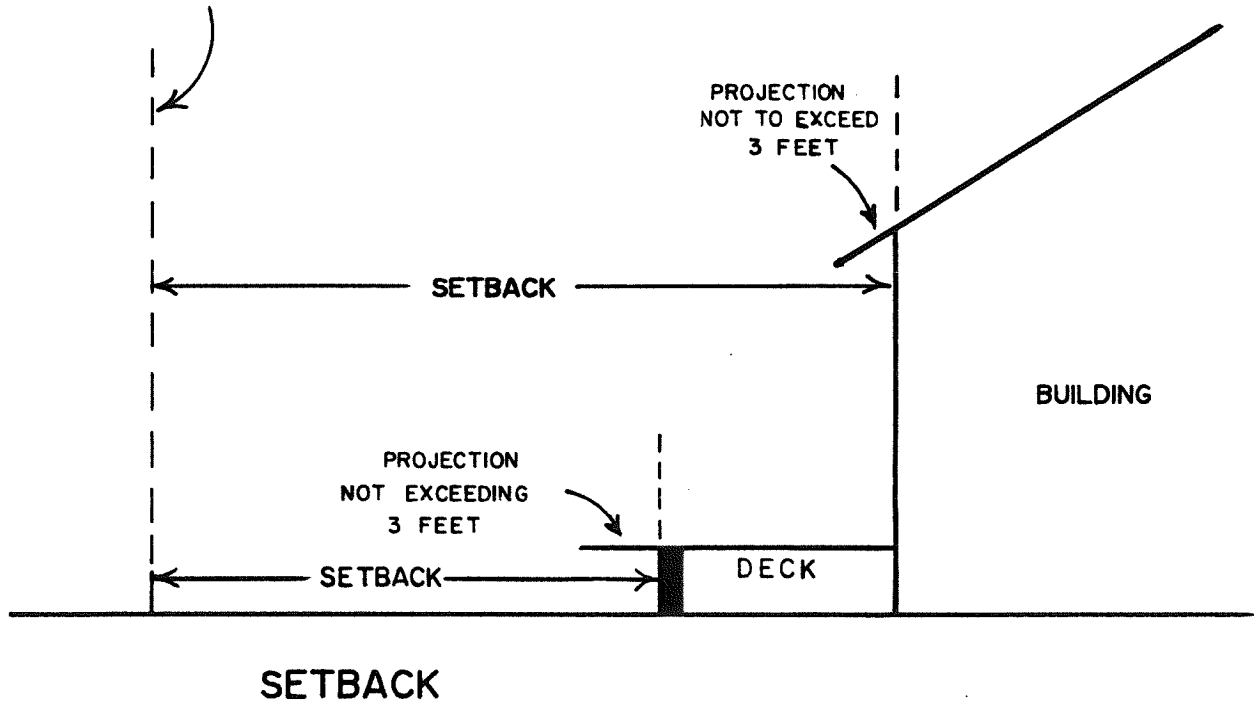


SETBACK EXAMPLE:
 INTERIOR PARCEL
 (NOT TO SCALE)



**SETBACK EXAMPLE:
NO REAR YARD SETBACK
(NOT TO SCALE)**

**ACCESS EASEMENT
BOUNDARY OR
PROPERTY LINE**



D) Chapter 17.325 added to read as follows:

CHAPTER 17.325

SCENIC RESOURCE-5 ACRE ZONE (SR-5)

Sections:

- 17.325.010 Scenic resource-5 acre zone (SR-5).
- 17.325.020 Development standards for SR-5.

17.325.010 Scenic resource-5 acre zone (SR-5).

This zoning classification identifies an area of land whose potential use for building sites is limited to very steep slopes which offer adverse conditions for road building, surface drainage, septic systems, and especially road and site grading. This classification is applied to the steep hillside areas surrounding the community and generally outside of the service area for community water and sewer, and to parcels in existence at the time the zoning district is applied which are less than 20 acres in size.

17.325.020 Development standards for SR-5.

A. Uses:

1. Permitted Uses:

- a. One single family residence per parcel;
- b. Open space recreational uses including parks, recreational uses, hiking trails and similar non-intensive uses;
- c. Limited agricultural including grazing and the raising of crops;
- d. Timber harvesting conducted in accordance with the scenic highway overlay standards contained in Chapter 17.65 of this Title;
- e. One (1) secondary residence per parcel.

2. Conditional uses:

None.

3. Prohibited uses:

All uses not listed as permitted or conditional shall be prohibited.

B. Minimum lot size/density: Minimum lot area shall be five (5) acres. The maximum density shall be one (1) single family residence per parcel and a secondary residence as provided for in this section.

C. Special development standards for SR-5:

1. Grading:

a. No grading plans shall be approved and no grading shall occur except in conjunction with approved development plans (including subdivisions) associated with construction for a permitted use.

b. Grading shall be minimized by utilization of multiple parking areas and multiple or stepped buildings which conform to the natural topography; and by design of access and

interior roads or routes which conform to the natural topography and contours.

c. Natural features which contribute to the scenic quality of the hillsides, including vegetation, natural drainages, and existing topography or topographic features, shall be addressed in grading and development plans. These natural features shall be incorporated into the proposed grading and development where possible.

d. All earthmoving activities which expose soil surfaces shall be followed by application of soil stabilization and revegetation measures to prevent erosion and to revegetate exposed surfaces. Revegetation and soil stabilization methods in accordance with the recommendations or standards of the Soil Conservation Service or the Mariposa County Resource Conservation District shall be required.

2. Site Development:

a. Buildings and structures shall be designed so as to minimize their visual impact from State Highways 49 and 140 within the Mariposa TPA. The exterior of all buildings and structures shall be constructed of non-reflective, earth tone color materials.

b. A visual buffer area shall be required between State Highways 49 and 140 within the Mariposa TPA and all new buildings and structures to minimize the views of the buildings or structures from the highways. Use of natural topography, existing vegetation, and landscaping which is equally effective at all times of the year are appropriate to achieve this standard.

3. Exceptions: These special development standards shall not apply if the Planning Director determines the grading and/or structure is not visible from State Highways 49 and 140 within the Mariposa TPA.

E) Chapter 17.326 amended to read as follows:

CHAPTER 17.326

SCENIC RESOURCE-20 ACRE ZONE (SR-20)

Sections:

- 17.326.010 Scenic resource-20 acre zone (SR-20).
- 17.326.020 Development standards for SR-20.

17.326.010 Scenic resource-20 acre zone (SR-20).

This zoning classification identifies an area of land whose potential use for building sites is limited due to very steep slopes which offer adverse conditions for road building, surface drainage, septic systems, and especially road and site grading. This classification is applied to the steep hillside areas

surrounding the community and generally outside of the service area for community water and sewer.

17.326.020 Development standards for SR-20.

A. Uses:

1. Permitted Uses:

- a. One single family residence per parcel.
- b. Open space recreational uses including parks, recreational uses, hiking trails and similar non-intensive uses;
- c. Limited agricultural including grazing and the raising of crops;
- d. Timber harvesting conducted in accordance with the scenic highway overlay standards contained in Chapter 17.65 of this Title;
- e. One (1) secondary residence per parcel.

2. Conditional uses:

None.

3. Prohibited uses:

All uses not listed as permitted or conditional shall be prohibited.

B. Minimum lot size/density: Minimum lot area shall be twenty (20) acres. The maximum density shall be one (1) single family residence per parcel and a secondary residence as provided for in this section. The maximum density may be increased to one (1) residence per five (5) acres through the planned development process.

C. Special Development Standards for SR-20: The special development standards for the SR-20 Zone shall be as specified for the SR-5 Zone listed in Section 17.325.020(C) of this Title.

F) Section 17.328.030(A) amended to read as follows:

A. Approval of the plan: Applications shall be initiated by the owner or owners of the land. Applications for the establishment of a PUD must include a development plan as described herein. Applications for a subdivision or use permit may be submitted with a PUD application and may be processed, considered, and approved in conjunction with a PUD application. Subdivision and use permit applications considered in conjunction with a PUD application shall be approved by the Board of Supervisors following review and recommendation by the Planning Commission. The PUD approval shall be processed in the manner as provided for approval as described herein. Applications and development plans will be reviewed by the Planning Department prior to submission for review by the Planning Commission. The Planning Department's preliminary review shall consist of plan review with the applicant to gain a full understanding of the planned development proposal and environmental review consistent with adopted county policy. The Planning Commission may approve, disapprove, modify, or attach conditions to a development plan.

G) Section 17.336.010 amended as follows:

17.336.010 Setbacks from Property Lines and Streets.

Unless otherwise prescribed, the following setback standards shall apply to all buildings, structures except as permitted by Subsection C, and uses set forth in Subsection D. These setback standards shall also apply to additions to existing buildings, structures, or uses set forth in Subsection D.

A. Residential Uses:

1. **Street and Front Yard:** The front yard setback shall be a minimum of 50 feet from the centerline of a local street or State Highway and a minimum of 20 feet from the nearest point on a front property line or edge of any right-of-way boundary of a local street or State Highway. The front yard setback is established parallel or concentric to the front property line. Fences, three (3) feet or less in height, shall be allowed within the front yard setback.

2. **Side Yard:** The side yard setback shall be a minimum of five (5) feet from a side property line. Fences, six (6) feet or less in height, shall be allowed within the side yard setback.

3. **Rear Yard:** The rear yard setback shall be a minimum of 20 feet from a rear property line. For parcels with two or more front yards, the rear yard setback shall be a minimum of five (5) feet from a rear property line. Fences, six (6) feet or less in height, shall be allowed within the rear yard setback.

4. **Subdivisions:** Setbacks which vary from the setback standards contained herein may be established for parcels created through the subdivision process. The setbacks shall be established by the Planning Commission through the subdivision review process and shall be shown on the final/parcel map.

B. Commercial, Institutional, and Industrial Uses:

1. **Street and Front Yard:** The front yard setback shall be a minimum of 30 feet from the centerline of a local street or ten (10) feet from the nearest point on the edge of a right-of-way boundary of a State Highway. The front yard setback is established parallel or concentric to the front property line. Off-street parking spaces and parking aisles shall not be allowed within the front yard setback.

2. **Side and Rear Yard:** There shall be no mandatory side and rear yard setbacks. Appropriate setbacks shall be determined based upon design review considerations, circulation, and loading/unloading needs.

C. Uses Permitted in Setback Areas:

The following uses shall be permitted in setback areas:

1. Septic systems.
2. Wells.
3. Residential propane storage tanks except in the front yard setback.
4. Mail boxes.
5. Retaining walls not part of a building or structure.
6. Underground utilities and appurtenant above-ground structures.

7. Uncovered walkways.
8. Driveways.

D. Uses Prohibited in Setback Areas:

The following uses shall be prohibited in setback areas:

1. Free-standing and monument signs.
2. Above ground fuel storage tanks or non-residential propane storage tanks.
3. Signs attached to a building or structure which extend more than one (1) foot from the face of the building or structure.
4. Refuse storage areas, outdoor storage areas, and outdoor work areas for commercial, institutional, or industrial uses.
5. Decks and porches.
6. Pools.

E. Projections in Setback Areas: Architectural projections including eaves, canopies, and balconies; deck and porch overhangs; and signs attached to a building shall not project more than three (3) feet into a required setback area.

H) Section 17.336.010(C) renumbered to Section 17.336.015 and amended as follows:

17.336.015 Setbacks from Drainage Ways:

Unless otherwise prescribed, the following setback standards shall apply to all buildings, fill placements, and uses set forth in Subsections C and D. These setback standards shall also apply to additions to existing buildings, fill placements, and uses.

A. Major Drainages: The setback from major drainages shall be a minimum of 50 feet from the apparent centerline of Mariposa and Stockton Creeks and in no case shall buildings, fill placements, and uses set forth in Subsections D be placed within the 100-year floodway as established by the Flood Insurance Rate Maps on file in the Mariposa County Planning Department. The uses set forth in Subsection C may be approved by the Planning Director in the setback area when it is determined that the use will not result in any increase to flood levels and will not alter the flow of floodwaters on upstream and downstream properties during the occurrence of the 100-year base flood discharge. The Planning Director may require any information, including an engineerd study, necessary to determine the impact on the flow of floodwaters.

B. Minor Drainages: The setback from minor drainages shall be a minimum of 25 feet from the apparent centerline of minor drainages as identified in Exhibit 7 of the Mariposa Town Planning Area Specific Plan. Lesser setbacks from minor drainages, the uses set forth in Subsection C, and replacement of natural drainages with stormwater drainage facilities may be approved by the Planning Director when it is determined that the drainage will not be adversely affected. The Planning Director may require any information, including an engineered study, necessary to determine the impact on the flow of floodwaters.

Engineered studies shall analyze the entire watershed of the minor drainage based upon planned buildout.

C. Uses Permitted in Setback Areas Subject to Special Standards:

1. Bridges and other types of creek crossings, pedestrian and vehicular, and appurtenant fill materials. Fill materials shall be protected from scouring and erosion. An engineered study shall be required.

2. Pedestrian and vehicular access improvements and appurtenant fill materials. Fill materials shall be protected from scouring and erosion.

3. Underground utilities, appurtenant above-ground structures, and appurtenant fill materials. Fill materials shall be protected from scouring and erosion.

D. Uses Prohibited in Setback Areas:

The following uses shall be prohibited in the setback area except as permitted by Subsection C:

1. Buildings.
2. Fill placements.
3. Above ground fuel storage tanks.
4. Residential or commercial propane storage tanks.

I) Section 17.336.017 added as follows:

17.336.017 Highway 49 North Right-of-Way.

Unless otherwise prescribed, the following standards shall apply to all buildings, structures except as permitted by Subsection C, and uses set forth in Section 17.336.010(D). These standards shall also apply to additions to existing buildings, structures, or uses set forth in Section 17.336.010(D).

A. Setbacks: The setback from the proposed right-of-way boundary for Highway 49 North as determined by CalTrans shall be a minimum of ten (10) feet. Commercial and multi-family residential parking areas required to meet the requirements of this Title shall not be permitted in the setback area.

B. Uses Allowed Within Proposed Right-of-Way:

1. Buildings, structures except as permitted by Subsection C, and uses set forth in Section 17.336.010(D) shall not be permitted in the proposed right-of-way for Highway 49 North unless the following standards are met:

a. The right-of-way necessary to construct the Highway 49 North improvement project is reduced by utilization of retaining walls or other similar improvements and/or execution of drainage and maintenance agreements and such improvements and/or agreements are approved by the Planning Director upon consultation with the California Department of Transportation.

b. The building, structure, use, or parking area is setback a minimum of ten (10) feet from the reduced right-of-way boundary.

c. A cooperative agreement between the property owners, the County, and the California Department of Transportation if necessary is executed whereby any improvements

will be constructed prior to or concurrently with the Highway 49 North improvement project.

2. The property owner shall be responsible for initiating this process; preparing all necessary studies, plans (including engineering), and agreements; and all associated costs including the costs of the improvements.

C. Uses Permitted in Proposed Right-of-Way and Setback Areas:

The following uses shall be permitted in the proposed right-of-way and setback areas:

1. Mail boxes.
2. Retaining Walls not part of a building or structure.
3. Underground utilities and appurtenant above-ground structures.
4. Uncovered walkways.
5. Driveways.
6. Parking areas not required to meet the requirements of this Title.

D. Proposed Right-of-Way Boundaries: The boundaries of the proposed right-of-way boundary for Highway 49 North shall be as determined by the California Department of Transportation and as shown on the right-of-way map on file in the Mariposa County Planning Department.

J) Section 17.336.030(C)(4) amended as follows:

4. Parking Lot and Access Surface:

(a) Except as provided for by subsection b, all areas used for parking and access to such parking areas shall be completely paved with asphalt or concrete surfacing, or such other alternative materials as approved by the Planning Director. Further, all parking areas and accesses shall be provided with adequate drainage as approved by the Planning Director. Any portion of the parking area not paved shall be landscaped.

(b) All areas used for parking and access to such parking areas for single family residences constructed on parcels greater than one (1) acre (net) may be surfaced with a minimum of two (2) inches of aggregate road base or equivalent with adequate drainage as approved by Planning Director.

K) Section 17.336.040(A) and (B) amended as follows:

17.336.040 Hillside Development.

These standards shall regulate all new construction, including residential construction, on parcels or construction areas with an average slope in excess of 20% as determined by the Planning Director.

A. Building Design: All structures shall be designed and constructed using stepped foundations to reduce required cut and fill. Conventional monolithic slabs shall be prohibited on such

slopes. This requirement may be waived where it can be shown to the satisfaction of the Planning Director that the proposed building site has a natural grade of less than 10%.

B. Grading and Foundation Standards:

1. All grading shall be based upon engineered plans prepared in accordance with the standards in the Grading Ordinance and based upon a specific building design. The grading plans shall include soil stabilization and revegetation measures based upon Soil Conservation Service or comparable standards. The grading plan shall include gutter and down spout locations.

2. All building footings shall have a minimum depth of 18 inches below undisturbed native ground and a minimum width of 12 inches unless a reduction to the depth and/or width of the footings is allowed by specific geotechnical analysis. All footings shall be inspected by a soils engineer prior to concrete placement unless inspection is waived by the Building Official.

3. Cut slopes less than 5 feet high shall not be steeper than 1 to 1. Cut slopes higher than 5 feet shall not be steeper than 1 1/2 to 1. Cut slopes greater than 10 vertical feet (aggregate total) shall be prohibited. If retaining walls are utilized, the height of cut banks shall be measured from the top of the retaining wall. Cut slopes within building areas shall not exceed 2 to 1 unless specifically engineered. Fill placements greater than 10 vertical feet (aggregate total) shall be prohibited. Fill slopes shall not be steeper than 2 to 1. All cut and fill slopes shall be restabilized and revegetated.

4. No grading plans shall be approved and no grading shall occur except in conjunction with approved building plans for residential construction or approved road plans based on an approved tentative map.

L) Section 17.336.070(A)(9) added as follows:

9. Notwithstanding the setback standards as contained in Section 17.336.010, awnings, canopies, covered walkways, and other similar structures may be permitted in the front yard setback if reviewed and approved as part of the overall design plan of the building.

M) Section 17.336.075 added as follows:

17.336.075 Architectural Theme and Development Guidelines for Historic Buildings and Structures.

A. Application: These standards shall apply to all exterior modifications and demolitions of buildings and structures designated as historic as shown in Appendix C of the Mariposa Town Planning Area Specific Plan.

B. Development Standards and Plan Review Requirements: The development standards, plan review requirements, plan processing procedures, and demolition permit and review standards

for this section shall be as set forth in Chapter 17.332
(Historic Design Review Overlay Zone) and Section 17.336.070
(Architectoral Theme and Development Guidelines for HDRO) of this
Title.