



# MARIPOSA PLANNING

COUNTY OF MARIPOSA

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TO: Planning Commission

FROM: Alvaro Arias, Senior Planner 

DATE: December 2, 2016

RE: Public Comments Received on Certificates of Compliance No. 2016-158,  
Yosemite West Associates

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Below are staff's response to public comments received on the project to date.

A comment letter was received on the project. This letter was included in the staff report packet. The following is a list of the comments included in that letter and staff's responses:

**COMMENT 1:** Since Parcel B&C are not part of the current YW Maintenance District (YWMD), the property taxes from these lots are not yet contributing to the Mariposa Public Works budgets for services (roads, water, sewer).

***STAFF RESPONSE:** This is an accurate statement. As a proposed condition of approval, the parcels will be required to pay fees for road maintenance and snow removal. This is a service the parcels currently receive but do not pay for. The parcels do not currently receive and are not eligible to receive water or sewer services from the District, therefore there is no legal mechanism and no justification to require that they pay fees for water and sewer services. Unless, the parcels join the maintenance district, they will not receive any water or sewer services and are not required to pay fees. It is unlikely that the parcels will join the maintenance district for water and sewer services based on current facility limitations.*

**COMMENT 2:** Development on Parcel B&C might require a separate well and septic system, which would pollute groundwater and compete in extraction from the same aquifers supplying the rest of Yosemite West.

***STAFF RESPONSE:** Wells and septic systems for residential development may currently be developed within the areas of Parcels B & C.*

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*Septic systems may only be installed under permitting requirements of the Health Department. These requirements are in place to prevent groundwater contamination from septic systems. Conditions are being placed on the Certificates of Compliance to ensure that there is adequate area and soils to support the installation of on-site sewage disposal systems. Based on existing zoning and upon completion of the conditions being placed on the Conditional Certificates of Compliance Parcel B and C would be permitted to develop a maximum of two homes per parcel. The Public Works Department which is responsible for the Yosemite West Maintenance District expressed no concern with this application, nor did the Health Department. Additionally, groundwater in this area is not located in an aquifer, but instead in hard-rock fractures. Hard-rock fracture water systems vary greatly in connectivity.*

**COMMENT 3:** Development on these lots might attempt to construct residences larger than the standard "1 EDU" residence (3 Bedroom), which is now the rule for all Yosemite West development.

***STAFF RESPONSE:** The parcels are not located within the Yosemite West Maintenance District, nor are they provided water and sewer services, therefore there is no legal ability to or justification with applying the "1 EDU" limits to these parcels.*

**COMMENT 4:** Any future proposed zoning changes for commercial development could attempt additional road construction near/through Azalea Lane, and would increase traffic and congestion adjoining my property. My expectation when purchasing was/remains that Henness Circle and Azalea Lane would never be expanded to through-traffic.

***STAFF RESPONSE:** Staff is not aware of any project that would propose to change the zoning on these parcels, nor has an application been submitted for commercial development.*

The comment letter suggests the following condition be applied to the Certificate of Compliance:

**COMMENT 5:** Future requests from re-zoning the parcels shall be forbidden.

***STAFF RESPONSE:** There is no legal ability to prevent any parcel from submitting a zoning amendment application. Any application would be reviewed and a recommendation made on the ability to make the necessary findings.*

**COMMENT 6:** Parcels B&C must be added to the Yosemite West Maintenance District, by:

- a. Proving that YWMD has sufficient capacity.

***STAFF RESPONSE:** There is no legal ability at this time to require the parcels join the Yosemite West Maintenance District.*

- b. Paying the upfront ASSESSMENT equivalent to the EDU lien placed on all other properties in YWMD.

***STAFF RESPONSE:** There is no legal ability at this time to require the parcels to join the Yosemite West Maintenance District or pay an assessment fee. They currently do not receive any water or sewer services from the district.*

**COMMENT 7:** Parcels B&C adhere to the same rules and pay the same taxes, fees and county utility rates as other development within Yosemite West and YWMD.

***STAFF RESPONSE:** Both parcels will be subject to the same zoning regulations that are applied to the Yosemite West subdivision. There is no legal ability at this time to require the parcels to join the Yosemite West Maintenance District. The parcels will be required to pay the fees, assessments, and utility rates to which these parcels are subject to, which may be different from the parcels located in the Yosemite West subdivision. There are infrastructure limitations associated with current district facilities which would be a disincentive to allowing additional connections.*

Additional comments were received via telephone:

1. One caller was in opposition to the project.
2. Another comment was regarding the site plan provided by the applicant showing a dashed line across APN 006-150-007 (a county owned parcel). Their understanding was that this is showing an easement across county property that was only temporary and was concerned that the use of this site plan for this project would legitimize this easement as more than temporary.

***STAFF RESPONSE:** The site plan is only to depict the area of the project and the parcels involved and does not legitimize or establish an easement. There is no labeling on the site plan to indicate that this is an easement or what its status is. The use of this site plan does not create an easement. The document or agreement that created this easement would dictate its use and lifetime.*

3. Another comment was about a resolution adopted by the Board of Supervisors in 1970 that covers the project area and that it should be included in the staff report packet. This is prior to the property being acquired by the current owners in 1971. There is handwriting on the attached map that refers to a 50 acre parcel.

***STAFF RESPONSE:** The resolution is included for your reference. The map attached to the resolution refers to a 50 acre parcel. The resolution refers to a 50 acre area. Since it is prior to the current property owners acquiring the project, staff does not find that this resolution affects any of the recommended findings. The deed listing the 3 parcels was not recorded until 1971, which is after the date of this resolution*

4. A comment was made about Condition No. 6 allowing the option for the parcels to connect to the Yosemite West Maintenance District community water and sewer services. Existing property owners that are part of the district have paid an assessment to ensure capacity of the sewer system for development. They should have senior rights to use that capacity prior to any new parcels joining and receiving services.

***STAFF RESPONSE:** In reviewing Condition No. 6, staff does not find that it is necessary to include the second paragraph of Condition No. 6. This project does not change any of the existing circumstances. There is no authority for the Planning Department to make any*

*determination about connections to the sewer or water systems. Condition No. 6 is recommended be amended as follows:*

The project applicant shall share in the costs for road maintenance and snow removal activities in Yosemite West. The applicant shall cause the project parcels to join or otherwise establish some method for legal participation in these Dependent Special District functions. All costs associated with compliance of this condition shall be the responsibility of the applicant.

~~The parcels are not required to connect to the Yosemite West community sewer and water services, although they may connect to one or both of the services if the special district has adequate capacity and approves the connections, and if all required processes are completed. All costs associated with connection and service, should the applicant elect to connect to the services, shall be the responsibility of the applicant.~~

*Clearly, the applicant for Yosemite West subdivision had to establish a mechanism for maintenance of the roads, sewer and water services, including snow removal. Because these parcels won't connect to the sewer and water services, the responsibility to share in maintenance costs lies just with road maintenance and snow removal. The condition is written with flexibility to enable the applicant to connect to the community systems if capacity is available.*

An additional written comment was received from the North Fork Rancheria of Mono Indians of California (attached). The tribe requested additional information when any ground disturbing work may occur on these lands. They stated that the area is culturally significant to the tribe's in the area, and they had a general concern at this time.

**STAFF RESPONSE:** *There are two ways to address these comments. Based on the level of logging/disturbance that has occurred on the project and a cultural resources survey prepared on the adjacent 15-acre parcel, which found that "...rarely are Native American sites situated in closed canopy forests with northern exposure such as characterizes much of the study area." Additionally, that survey did not find any surface evidence of Native American resources. This information, coupled with the current zoning and limited development permitted by that zoning, makes it unlikely that any resources would be impacted. Based on this, the staff recommended action would be to include a condition of approval and require that it also be placed on the face of the unconditional Certificates of Compliance when issued to address this concern:*

In the event human remains or artifacts are discovered during ground disturbance on the project site, 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 Native American Heritage Commission shall be notified should human remains be discovered. Representatives of any tribes that are contacted through the direction of the Native American Heritage Commission shall be requested to be on-site during disturbance and/or removal of human remains.

*The other option would be a condition as follows:*

The applicant shall submit a cultural resources survey (including consultation with local tribes) of the project site prepared by an appropriately qualified individual to the Planning Department. If any resources are found, the applicant shall implement and abide by the recommended resource protection measures or the item shall be scheduled and noticed for further Planning Commission review and action.

**Alvaro Arias**

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**From:** Barbara Beroza [REDACTED]  
**Sent:** Friday, December 02, 2016 7:50 AM  
**To:** Alvaro Arias  
**Subject:** Certificate of Compliance No. 2016-158

Current standards should be applied to these properties, rather than the 50 year old regulations in force at the time the subdivision was created. Whatever is done to this parcel will affect all residents and transient renters/owners in the development as well as Mariposa County, as it is placed at the entry to the development. Application of current standards would be most appropriate and would best protect the interests of all these parties.

Sincerely

Barbara Beroza  
7489 Henness Ridge Road  
Yosemite West, CA