

PUBLIC REVIEW DRAFT

YOSEMITE WEST SPECIAL PLAN

(This document has been recommended by the Mariposa County Planning Commission for approval by the Mariposa County Board of Supervisors. Additions made by the Planning Commission to the original text approved by the Yosemite West Planning Advisory Committee are shown in ***bold, italicized, and underlined*** type. Deletions are shown in ~~double-strikethrough~~ type.)

(Planning staff has proposed further changes based upon the adoption of the Mariposa County General Plan and the time that has elapsed from when the Planning Commission reviewed the project. The proposed additions are shown in **Courier New** text. Deletions are shown in ~~double-strikethrough~~ and bold text

YOSEMITE WEST SPECIAL PLAN

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YOSEMITE WEST SPECIAL PLAN

1 INTRODUCTION

1.1 LOCATION AND GEOGRAPHIC SCOPE OF PLAN

Yosemite West is located in eastern Mariposa County adjoining Yosemite National Park. Access to the area is from Wawona Road, which is a National Park service road extending from California Highway 41, at the Park's south entrance, to Yosemite Valley. Yosemite West is not part of Yosemite National Park, but the only paved road access is through Yosemite National Park.

This Special Plan applies only to Yosemite West Unit 1, the existing single family residential lot subdivision as shown on Records of Survey 1511 and 1599, and Yosemite West Unit 2, the existing condominiums, as shown on Record of Survey 1835. (See Figure 1 on Page I-3). References in this Special Plan to "Yosemite West" mean Yosemite West Units 1 and 2 as so described. No other areas, whether or not formally or informally referred to in other contexts as "Yosemite West," are governed by this Special Plan. (THE YOSEMITE WEST SPECIAL PLANNING AREA ENCOMPASSES AREAS OUTSIDE OF UNITS 1 AND 2. THOSE AREAS TOTAL 62 ACRES, 59 OF WHICH ARE PRIVATELY HELD AND ARE UNDEVELOPED AT THE TIME OF ADOPTION OF THE SPECIAL PLAN.)

1.2 RELATIONSHIP TO GENERAL PLAN

The Yosemite West Special Plan is a component of the Mariposa County General Plan. The County's General Plan includes the seven mandatory elements as required by California Government Code Section 65302; Land Use, Circulation, Housing, Conservation, Open Space, Noise, and Safety.

This Special Plan is intended to identify and implement policies and goals to meet the localized needs of Yosemite West. The Special Plan creates policies which differ from, but complement, the Mariposa County General Plan. Where the Special Plan is more restrictive than the General Plan, the difference reflects intentional policy decisions, and the Special Plan overrides the Mariposa County General Plan. No variances, waivers or exceptions are intended to be allowed from the Special Plan on the basis the Mariposa County General Plan is less restrictive. If the Mariposa County General Plan is more restrictive, then it is the applicable policy document.

(THE YOSEMITE WEST SPECIAL PLAN WAS PREPARED AND ADOPTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5.3.01.E. OF THE MARIPOSA COUNTY GENERAL PLAN. THIS SPECIAL PLAN, ONCE ADOPTED, WILL BECOME PART OF VOLUME II - AREA PLANS AND INTERIM LAND USE PLANS OF THE MARIPOSA COUNTY GENERAL PLAN.)

YOSEMITE WEST IS A SPECIAL PLANNING AREA AS SO DESCRIBED IN SECTION 5.3.01.E(1) OF THE GENERAL PLAN.) THE OVERALL LAND USE CLASSIFICATION FOR YOSEMITE WEST IS "YOSEMITE WEST SPECIAL PLANNING AREA."

1.3 HISTORY OF YOSEMITE WEST

Yosemite West was established in approximately 1965. The County created a special district, the Yosemite West Maintenance District, to collect fees from the property owners to cover the costs of maintaining the water, sewage and road systems. Acting through its Public Works Department, Mariposa County manages the Yosemite West Maintenance District.

The original Yosemite West development plans were extensive. Unit 1 was a residential development consisting of approximately 294 lots, with an average lot size of approximately ¼ acre. Two condominium buildings having a total of 48 units were also built on Unit 2. Paved roads, water system, a sewer system and underground utilities were initially installed. Underground phone lines were added in 1992. Daily mail service began in 1993.

Unit 1 was sold to the public as vacant lots, leaving it to individual property owners to build homes. By 1980, about 40 homes had been built. By 1990, there were about 85 homes, and by 2000 there were about 114 homes. The Yosemite West area is zoned Rural Residential as of the adoption of this Special Plan.

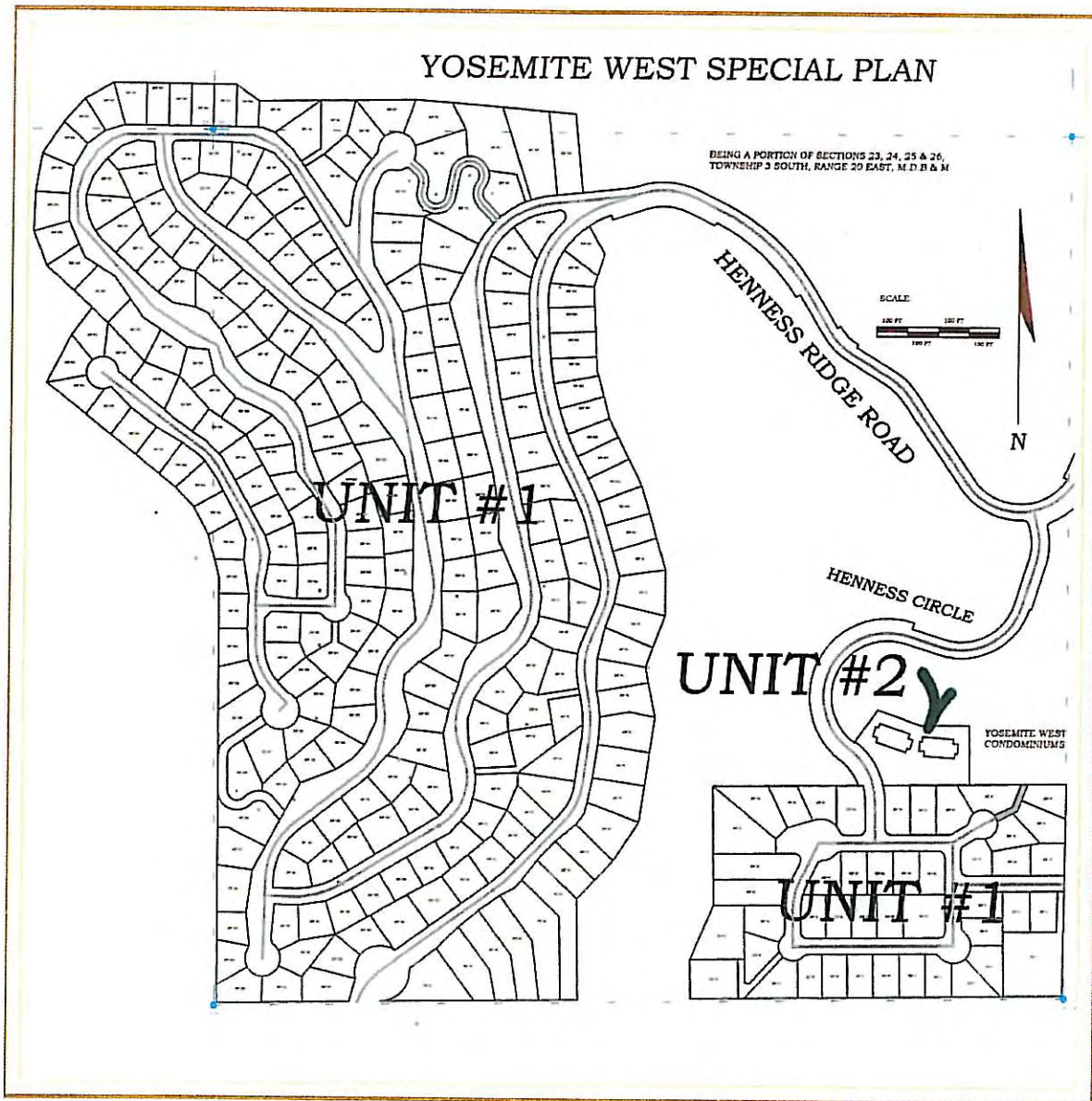
In 1978 Mariposa County declared the Yosemite West water and sewer systems to be inadequate, and a building moratorium was in effect for about 2 years. A lawsuit against the original developers ensued. The lawsuit was settled, with the settlement including a monetary payment to the Maintenance District and the installation of new water wells, pumps and a second storage tank.

In 1988 the Mariposa County Code was amended to require transient rental¹ permits and a transient occupancy tax was imposed. As of 2004, about one-third of the Yosemite West homes have ~~transient~~ (VACATION) rental permits allowing them to provide overnight rentals.

The Yosemite West sewer system suffered a major failure in May, 1998, and a building moratorium was immediately imposed. Emergency temporary improvements were completed. The Public Works Department proposed a substantial sewer upgrade project to be financed through the issuance of a bond, and a vote of Yosemite West property owners approved the measure in 2004. Construction began in the summer of 2004. The building moratorium ~~is expected to be~~ was lifted, ~~upon the approval of~~ by regulatory agencies in 2006, ~~when the upgrade of the sewer system is complete and the system can treat additional sewage flows~~ upon completion and approval of the new system.

¹ Vacation Rental has the meaning of the term Transient Rental and will replace this term in the remainder of this document.

Figure 1



2 GUIDING PRINCIPLES

2.1 YOSEMITE WEST SPECIAL PLAN GUIDING PRINCIPLES

Yosemite West's altitude, topography and unique location (which is adjacent to, but intimately intertwined with, Yosemite National Park) gives it a special and unique character and atmosphere. Yosemite West also has special, localized challenges from its unique combination of land uses, ownerships, and residencies. The Guiding Principles, more fully discussed in Sections 2.2 and 2.3 are simply:

1. To preserve the rural and rustic nature of Yosemite West.
2. To manage vacation rental impacts on owners and residents.

2.2 PRESERVATION OF THE RURAL AND RUSTIC NATURE OF YOSEMITE WEST

Yosemite West was created as a retreat and respite from the pressures, density, and routine of daily life in an urban setting. Although subdivided with lots similar in size to suburban tracts, Yosemite West's location on steep forested hillsides adjoining Yosemite National Park creates a unique and special environment. The Special Plan recognizes that without appropriate growth management, Yosemite West could become simply another suburban subdivision -- albeit one that is located far from services and in a rural setting. The Special Plan is founded on the critical necessity that future development patterns ensure preservation of the rural character and rustic nature of Yosemite West. Yosemite West is a neighborhood within the gates of Yosemite National Park with 48 condominium units and a growing number of permanent residences, second homes, and vacation rentals.

This Guiding Principle enables the Plan to include standards for land use intensity, building scale and size, site design criteria, management tools for land use and occupancy, and non-conforming uses and structures.

Pursuant to this Guiding Principle, this Special Plan makes a priority of bringing all properties out of conformance with regulations existing prior to the adoption of the Special Plan into legal conformance.

2.3 MANAGEMENT OF IMPACTS ON OWNERS AND RESIDENTS

Over the years, vacation usage in Yosemite West has included a mixture of those who live in the subdivision throughout the year, maintain a second home for their personal use, use their homes

for bed and breakfast or vacation rental purposes, and provide check-in and management services to vacation rental operators. This mix of uses creates potential conflict even though the land use is the same -- residential. The potential for conflict arises when vacation rental service businesses, such as those checking-in guests and providing other management functions for multiple vacation rentals, are not seen as compatible with the lifestyles of Yosemite West residents adjoining or located near these businesses. Problems are created where these types of uses diverge and appropriate land use management is required in order to ensure that the Special Plan area's residential character is maintained.

This Guiding Principle enables the Special Plan to incorporate findings, goals, policies, implementation measures and standards relating to site development and use which will result in regulations on aspects of land use related to maintaining compatibility between competing uses.

3 LAND USE

3.1 SUMMARY OF MAJOR FINDINGS

The community of Yosemite West means different things to different people. Property owners have varying expectations regarding the use of property in the community. Some property owners look upon Yosemite West's alpine setting and proximity to Yosemite National Park as an ideal place to construct a second home or even a primary residence. Other property owners look upon these same attributes and see an opportunity to use their property to provide accommodation services to visitors to the area in the form of vacation rentals and bed and breakfast facilities. These disparate property owner expectations create land use conflicts in the community and cause contention over issues such as the amount of traffic on community roadways. It is acknowledged that these conflicts and issues need to be addressed.

One of the main purposes of this Special Plan is to bring a land use balance to the community through which residents, property owners, and visitors, can enjoy the "quality of life" aspects of Yosemite West.

This purpose can be realized through the establishment of (A LAND USE SUB-CLASSIFICATION FOR YOSEMITE WEST UNITS 1 AND 2² AND ESTABLISHING ALLOWABLE) land uses classifications and standards (FOR THOSE USES) that reduce potential conflicts between disparate property owner expectations. Effective land use guidelines can ensure that rural residential character is maintained while allowing property owners the opportunity to derive an economic benefit from their property.

3.2 LAND USE SUB-CLASSIFICATION

(THE LAND USE SUB-CLASSIFICATION FOR YOSEMITE WEST UNITS 1 AND 2 IS "YOSEMITE WEST RESIDENTIAL".

(PURPOSE

THE PURPOSE OF THIS SUB-CLASSIFICATION IS TO GENERALLY DESCRIBE THE EXISTING STRUCTURES AND DEVELOPMENT AND LAND USE PATTERN WITHIN YOSEMITE WEST UNITS 1 AND 2 - SINGLE FAMILY RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL, RESPECTIVELY. THE PURPOSE IS ALSO TO DEFINE AND DESCRIBE USES OF PROPERTY THAT ARE COMPATIBLE WITH THE RESIDENTIAL LAND USE AND TO REGULATE, IF NECESSARY, USES THAT ARE NOT CONSIDERED COMPATIBLE WITH RESIDENTIAL USE.

² Additional land use sub-classifications may be identified within the Yosemite West Special Planning Area as the Plan is expanded to cover additional property outside of Units 1 and 2.

EXTENT OF USES

THE PRIMARY USES FOR THIS SUB-CLASSIFICATION, BASED UPON THE NATURE OF THE APPROVED SUBDIVISIONS AND TYPES OF HOUSING CONSTRUCTED, ARE SINGLE-FAMILY AND MULTI-FAMILY. SOME OF THESE RESIDENTIAL STRUCTURES HAVE AND WILL CONTINUE TO BE USED TO PROVIDE VISITOR ACCOMMODATIONS. THESE USES ARE FURTHER DESCRIBED IN THE REMAINDER OF THIS CHAPTER.)

3.3 LAND USE ~~CLASSIFICATION~~ GOAL, POLICY AND IMPLEMENTATION MEASURE

Goal 3-1 Maintain the rural, rustic character of Yosemite West while allowing the use of property for limited business purposes.

Policy 3-1 (THIS SPECIAL PLAN SHALL ESTABLISH) ~~land uses classifications~~ shall describe the A range of ~~land~~ (PROPERTY) uses allowable in ~~the community~~ (THE YOSEMITE WEST RESIDENTIAL LAND USE SUB-CLASSIFICATION AND SHALL ESTABLISH STANDARDS AND REGULATIONS FOR THOSE USES).

Implementation Measure 3-1: (IN ADDITION TO HOME OFFICE AND HOME ENTERPRISE USES MEETING THE STANDARDS OF THE MARIPOSA COUNTY GENERAL PLAN AND TITLE 17 four ~~land~~ uses OF PROPERTY SHALL BE ALLOWED IN YOSEMITE WEST.) ~~classifications and The land use classifications in Yosemite West are~~ THOSE USES ARE AS FOLLOWS :)

1. Single Family Residential³
2. Vacation Rental
3. Bed and Breakfast
4. Multi-Family Residential⁴

Standards and regulations for the classifications (USES) are established in Yosemite West in this Chapter of this Special Plan⁵

3.4 SINGLE FAMILY RESIDENTIAL LAND USE

3.4.01 PURPOSE

The primary use (PURPOSE) of the Single Family Residential land use classification is, as the name implies, for residential use by single families. Subject in each case to all state laws and regulations, county ordinances, and provisions of this Special Plan, accessory uses include:

³ Applies only to Yosemite West Unit #1.

⁴ Applies only to Yosemite West Unit #2.

⁵ This Special Plan does not establish specific standards for the multi-family land use classification. Multi-family uses are subject to applicable standards contained in the remaining sections of the Special Plan.

- a. garages and carports;
- b. storage sheds not intended for human habitation;
- c. vacation rentals and bed and breakfast establishments; and
- d. accessory dwelling units as allowed by state law.

3.4.02 STANDARDS

Residential development standards are set forth in Section 5, captioned “Site Use Regulations And Standards.” Additional standards relating to parking and lighting are set forth in Sections 5 and 6, respectively.

3.5 VACATION RENTAL ~~LAND~~ USE

3.5.01 PURPOSE

A vacation rental ~~land-use classification~~ (IS A PERMITTED) ~~permits the~~ use within Yosemite West Unit 1 ~~of~~ (IN) a single family home or an accessory dwelling unit or a condominium unit within Yosemite West Unit 2 to be rented for occasional use on a short-term basis.

3.5.02 GENERALLY APPLICABLE STANDARDS

The following standards are applicable to all Vacation Rentals, whether existing as of, or created after, the adoption of this Special Plan.

1. A Vacation Rental facility requires a permit from the County.
2. A Vacation Rental shall be comprised of not more than one dwelling unit. No more than three (3) bedrooms shall be available for occupancy by transients. Lofts count as bedrooms when determining the number of rooms rented. If a house operating under a vacation rental permit has more than three bedrooms, the extra bedrooms shall be locked or otherwise be made unavailable for occupancy by transients.
3. There shall be no minimum length-of-stay requirement imposed upon a Vacation Rental.
4. Every Vacation Rental shall have one off-street parking space for each bedroom or loft that is available for rent and all such parking spaces shall be available for use by renters.
5. The County shall conduct inspections of Vacation Rentals once every other year for conformance to standards contained in Title 17, Mariposa County Zoning Ordinance, as well as the provisions of this Special Plan.

3.5.03 STANDARDS APPLICABLE TO TRANSFERS

Vacation rental permits shall be automatically transferable to new property owners (*i.e.*, shall “run with the land”), provided that:

1. The transfer is subject to conformance with applicable zoning and permit regulations.
2. The transfer may trigger inspections or required upgrades of building, health, fire, safety or other County or state codes or standards. Nothing in this provision is intended to relieve the new property owner from compliance with such inspections or upgrades.

3.5.04 STANDARDS APPLICABLE TO NEW APPLICATIONS

In addition to the standards set forth above in Section 3.4.03 and all other requirements which may be established in Title 17 of the Mariposa County Code, the following standards shall apply for all applications for a Vacation Rental after the date of adoption of this Special Plan:

1. A lot owner is entitled to one Vacation Rental permit per lot. Where a lot has both a primary and accessory dwelling unit, only one of those units shall be available for vacation rental use.
2. In no case shall a dwelling unit be rented to more than eight people, which is the maximum rental occupancy allowed.
3. If the Vacation Rental approval is granted, the use shall be initiated within the time limits specified in Title 17, Mariposa County Code, Zoning, or the approval shall be withdrawn.
4. **A Vacation Rental permit shall not be issued for a property that contains a Bed and Breakfast facility.**

3.5.05 STANDARDS FOR THE ESTABLISHMENT OF NEW VACATION RENTAL CHECK-IN AND VACATION RENTAL MANAGEMENT OPERATIONS

1. All new businesses providing check-in and/or management services to vacation rental units in the Yosemite West Special Plan area shall meet Home Enterprise standards contained in the Mariposa County General Plan and Zoning Code.
2. In addition to meeting all Home Enterprise standards, a new business providing check-in and/or management services to two, three, or four separate vacation rental ~~properties~~ **units** shall be required to obtain a conditional use permit.
3. All vacation rental check-in and management service businesses shall be subject to an annual administrative review to determine if the business is operating in accordance with Home Enterprise standards and conditional use permit conditions of approval, if applicable.

4. New check-in and/or management facilities providing services to five or more separate vacation rental ~~properties~~ units shall not be allowed in Yosemite West.

3.5.06 APPLICABILITY TO NON-CONFORMING VACATION RESIDENCE RENTALS

Vacation Rentals for which permits were not issued prior to the adoption of this Plan shall be treated as new Vacation Rentals subject to the provisions of Section 3.4.02, 3.4.03 and 3.4.05.

3.6 BED AND BREAKFAST LAND USE

3.6.01 PURPOSE

The Bed and Breakfast ~~land use classification~~ ~~permits the operation of a Bed and Breakfast~~, as defined, (IS PERMITTED) subject to standards set forth in Section 3.6.

3.6.02 GENERALLY APPLICABLE STANDARDS

The following standards are applicable to all Bed and Breakfasts in Yosemite West, whether existing as of, or created after, the adoption of this Special Plan.

1. A bed and breakfast shall be limited to a maximum of three rented bedrooms.

3.6.03 STANDARDS FOR NEW APPLICATIONS

In addition to the standards set forth above in Section 3.5.02 and all other requirements which may be established in Title 17 of the Mariposa County Code, the following standards shall apply for all new applications for a Bed and Breakfast:

1. A Bed and Breakfast facility requires a permit from the County.
2. A Bed and Breakfast facility shall be located within the primary single family dwelling, which shall also be the principal residence of the owner or manager.
3. A property owner shall be entitled to one Bed and Breakfast permit per lot.
4. ~~An accessory dwelling unit shall not be permitted to be constructed on property for which a bed and breakfast permit has been issued.~~ A Bed and Breakfast permit shall not be issued for a property that contains an accessory dwelling unit.

5. The maximum rental occupancy of a bed and breakfast shall be limited to eight persons.⁶

3.6.04 STANDARDS FOR CONFORMING/NON-CONFORMING BED AND BREAKFASTS

1. ~~A bed and breakfast co-located with a vacation rental permit shall surrender the vacation rental permit.~~ An accessory dwelling co-located on the same property with a bed and breakfast facility shall be permitted to remain an accessory dwelling unit, but shall not be permitted for use as a Vacation Rental.
2. *The construction of an accessory dwelling unit subsequent to the establishment of a Bed and Breakfast facility on a property shall require the surrender of the Bed and Breakfast permit prior to the issuance of a Certificate of Occupancy for the accessory dwelling unit.*
3. Any bed and breakfast established in violation of the provisions of Title 17, Mariposa County Code, Zoning shall be required to obtain a permit in conformance with subsections 3.5.02 and 3.5.03 of this section.

3.7 CONSISTENT ZONING

(THE YOSEMITE WEST RESIDENTIAL LAND USE SUB-CLASSIFICATION) AND the Single Family Residential, Vacation Rental, and Bed and Breakfast ~~land uses~~ **classifications** are consistent with the Rural Residential (RR) zone. The Multi-Family Residential ~~land use~~ **classification** is allowable in the Rural Residential zone subject to approval as a planned or cluster residential development as defined in the Mariposa County Zoning Code. The condominium units in Yosemite West Unit #2 were approved prior to the adoption of existing zoning and planned or cluster residential development requirements. (THEY ARE A LEGALLY EXISTING, NON-CONFORMING USE AS OF THE DATE OF ADOPTION OF THIS SPECIAL PLAN.)

3.8 POPULATION DENSITY

The average population density (IN THE YOSEMITE WEST RESIDENTIAL LAND USE SUB-CLASSIFICATION) is approximately 9.50 persons per acre of gross land area in Yosemite West Unit 1, the area for which the Single-Family, Vacation Rental and Bed and Breakfast ~~land uses~~ **classifications** are established, and approximately 80 persons per acre of gross land area in Yosemite West Unit 2, the area for which the Multi-family, Vacation Rental, and Bed and Breakfast ~~classifications~~ **(USES)** are established.

⁶ *The maximum rental occupancy applies to guests only, not to residents of the dwelling unit. For example, a dwelling with two full-time residents can have eight guests at any one time in the dwelling unit. The two residents would not be factored in determining maximum rental occupancy.*

4 LEGALLY EXISTING NON-CONFORMING USES (“GRANDFATHERING”)

4.1 SUMMARY OF MAJOR FINDINGS

The Mariposa County General Plan and the Yosemite West Special Plan, and County implementation tools—the Land Development Code, the Mariposa County Code, and Specific Plans—regulate three major types of entitlements related to land:

- The use of land and structures -- assigned by zoning regulations or authorized through conditional use permits, or other permits;
- The density associated with subdivision of land -- parcel size, units per acre, number of dwelling units, and
- The construction of structures -- building standards, size, bulk, height, or location.

Adoption and amendment of the General Plan or the Special Plan may change any or all of these entitlements. Changes in the Special Plan land use map, revisions to implementation regulations, and changes in policy or land use entitlements may occur. As a result, changes generated by the Special Plan and subsequent implementation regulations may result in some inconsistencies between previously approved entitlements and entitlements permitted by subsequent Plan or implementation amendments. With the adoption or amendment of the General Plan, policies and regulations change, and thus a previously approved entitlement cannot be approved again on the same parcel.

Once a property owner builds a structure or begins using a property for a particular use in conformance with County regulations, the County generally honors that approval when there are subsequent changes in policy or property ownership. The County does this through a process recognizing “legally existing nonconformities.” The commonly used term for continuation of a legally existing nonconformity is “grandfathering.” This term and the applicable criteria are described in the glossary of this Special Plan.

An example of grandfathering as it applies to Yosemite West is in the area of ~~transient~~ (VACATION) rental permits. The Mariposa County zoning code permits the ownership of multiple rental units existing in Yosemite West for which permits were properly obtained. Regardless of the implementation of any new regulations addressing ~~transient~~ (VACATION) rental permits, Mariposa County recognizes the legitimacy of these permits and no policies are proposed to eliminate already obtained legally existing ~~transient~~ (VACATION) rental entitlements. They are “grandfathered.”

Likewise, legally existing nonconformities are the Yosemite West Condominiums -- which were approved prior to the County’s zoning regulations under a use permit -- and duplex units for which at the time of the adoption of this Special Plan there are legally existing ~~transient~~ (VACATION) rental certificates for both units.

In Yosemite West, the general deference accorded to prior uses must be balanced with the Special Plan's Guiding Principles, including the recognition stated in Section 2.3 that *"The potential for conflict arises when vacation rental service businesses, such as those checking in guests and providing other management functions for multiple vacation rentals, are not seen as compatible with the lifestyles of Yosemite West residents adjoining or located near these businesses."* In order to ensure that the Special Plan area's residential character is maintained, limits on the size and scale of vacation rental check-in and management facilities and the phasing out of those uses that are not consistent with this Plan's Guiding Principles are justified. As these facilities increase in size, they become less and less compatible with the nature of the community. For example, traffic impacts increase as these facilities grow in size.

4.2 NON-CONFORMITIES GOALS, POLICIES, AND IMPLEMENTATION MEASURES

Goal 4-1: Recognize investment-backed expectations involving legal non-conforming uses and structures that are consistent with the Guiding Principles of this Special Plan.

Policy 4-1: Legal non-conforming uses and structures developed and used in conformance with regulations and the Guiding Principles of this Special Plan shall be allowed to continue to operate.

Implementation measure 4-1: Standards shall be established to address legal non-conforming uses and structures and illegal non-conforming uses and structures.

Goal 4-2: Phase-out legal, non-conforming uses and structures that are not consistent with the Guiding Principles of this Special Plan.

Policy 4-2: Limitations on vacation rental check-in and management facilities shall maintain the rural and rustic nature of Yosemite West as stated in the Guiding Principles.

Implementation measure 4-2: Standards shall be established to address size, scale, and operational characteristics for uses and structures that are not consistent with the Plan's Guiding Principles.

4.3 STANDARDS FOR NON-CONFORMITIES

1. Except as provided in Sections 3.6.04.2 and 4.4 of this Special Plan neither amortization or closure of any legally existing non-conformity built with permits and inspections in conformance with codes in effect at the time of construction shall be required.
2. The County shall not amortize or revoke any vacation rental permit (or predecessor ~~transient~~ (VACATION) rental certification) which was lawfully issued and continuously used in accordance with the County code.
3. All illegal non-conforming uses shall be discontinued or prosecuted into closure.
4. All illegal non-conforming structures shall be made conforming or demolished.

4.4 PHASE-OUT OF LEGALLY EXISTING, NON-CONFORMING CHECK-IN AND MANAGEMENT FACILITIES

Any check-in or management facility which has been found to be legally existing and non-conforming to Home Enterprise standards may continue to operate for a period of five years from the adoption date of the Yosemite West Special Plan. Upon the fifth anniversary of the adoption date, the legally existing, non-conforming business shall obtain a conditional use permit if it serves two, three, or four vacation rental ~~properties~~ units or be relocated to a facility outside of the Yosemite West Special Plan area if it serves five or more vacation rental ~~properties~~ units.

Any check-in or management facility which represents four or fewer ~~properties~~ units and meets the standards of a Home Enterprise as defined in (THE MARIPOSA COUNTY GENERAL PLAN) and Title 17, Mariposa County Code, Zoning, in an owner-occupied dwelling unit, shall be permitted to continue operations from its current location.

Due to its unique characteristics and relative physical isolation from Yosemite West Unit 1, the legally existing, non-conforming vacation rental check-in/management facility located within Yosemite West Unit 2 shall not be subject to the standards of this section providing the facility serves the condominium units only. Should this office serve vacation rental units in Yosemite West Unit 1, the facility shall be required to obtain a conditional use permit.

5 SITE USE REGULATIONS AND STANDARDS

5.1 SUMMARY OF MAJOR FINDINGS

Yosemite West lots are small in relation to residential parcel sizes in other rural areas of Mariposa County. Due to this, residential development that might not be intrusive in an area of larger parcels may be so in Yosemite West. The potential exists for a property owner to construct a residence that impacts a neighbor from an aesthetics perspective, or to use the property in a manner that is inappropriate in a community such as Yosemite West, such as certain “camping” activities. Most Yosemite West property owners have an expectation that the rural, rustic character of the community will be maintained to the maximum extent possible, even as more residential development occurs.

There is desire in the community to allow property owners flexibility in constructing residences on their parcels. There is an equal desire to avoid, to the maximum extent feasible, the construction of homes that are too large for the lots and are out of scale with the community (sometimes referred to as “overbuilding of lots”). Making these two goals compatible can be achieved through the establishment of development standards, such as Floor Area Ratio, lot coverage and setback regulations, and structure height restrictions.

The purpose for establishing a Floor Area Ratio is to balance two potentially conflicting factors: (1) overbuilding of lots, and (2) the desire to not unduly restrict the size of homes.

Likewise, the purpose for establishing lot coverage and setback standards is necessary to balance two potentially conflicting factors: (1) the placement of structures that are in too close a proximity to neighboring structures, thereby creating privacy and fire transmission concerns, and (2) the desire to not unduly restrict the size of homes. In consideration of the unique Yosemite West topography, flexibility in permissible setbacks is warranted.

Finally, the establishment of structure height standards has as its purpose the balancing of two potentially conflicting factors (1) the construction of homes that are disproportionately tall for the size of the lots, and (2) the desire to allow property owners to adjust to the unique Yosemite West topography. In consideration of this unique topography, flexibility in permissible structure height limits is warranted.

5.2 SITE DEVELOPMENT GOAL, POLICY AND IMPLEMENTATION MEASURE

Goal 5-1: Maintain the rural, rustic character of Yosemite West while allowing individual property owners flexibility in developing lots.

Policy 5-1: Structures shall be constructed in accordance with aesthetical expectations of the community.

Implementation Measure 5-1: Site development standards shall be established that address building intensity, lot setting/structure setbacks, structure height, and camping on lots.

5.3 SITE DEVELOPMENT STANDARDS

5.3.01 BUILDING INTENSITY

Site use regulations and development standards are applicable to all new construction and additions to existing construction within all land use classifications. These standards are in addition to the County's regular zoning requirements.

Building intensity is established through implementation of floor area ratio, lot coverage, setback and structure height standards. Floor Area Ratio defines the total square footage of the primary single family dwelling permitted on a residential lot. Lot Coverage defines the total area of a lot over which a building footprint may cover. Height establishes how tall a structure may be. Additionally, Setbacks establish where on a lot structures may be built. Floor Area Ratio and Lot Coverage ~~and Height~~ are defined in the Glossary section. Setbacks and how structure height is measured are defined in the Mariposa County Zoning Code.

5.3.02 MAXIMUM BUILDING INTENSITY

1. The Floor Area Ratio shall not exceed thirty percent of the gross land area. There shall be a maximum of ~~3,000~~ 3,600 square feet allowed for the primary dwelling unit or 3,600 square feet total for a primary dwelling unit and secondary dwelling unit all dwelling units on any lot or parcel.
2. The maximum Lot Coverage shall be twenty-five percent.

5.3.03 STRUCTURE SETBACKS

Front: 25' from property line, and shall be reduced by one foot for each one percent of slope to not less than 5' from property line or 15' from edge of pavement whichever is greater. Slope is measured from front property line to back side of proposed house foundation.

Side: 10% of the average width of the lot

Rear: 25' from the property line

- Garages: 0' from the front property line providing the following conditions are met:
- a. The structure is located a minimum of five (5) feet from roadway surfacing, and
 - b. The 0' setback is approved by the Road Division of the Mariposa County Public Works Department.

5.3.04 BUILDING HEIGHT

Maximum building height is 35 feet; provided, however, on lots with a slope greater than 10%, the maximum height shall be increased by one foot for each one percent of slope over ten percent. The maximum height increase shall be limited to ten feet. ~~Slope is measured from the front property line to the side of the proposed house foundation furthest from the road.~~

5.4 CAMPING ON PROPERTY

A residential lot owner shall be allowed to camp on his or her lot only when residential construction is occurring under an active building permit issued by Mariposa County for that lot. Such camping shall occur in accordance with all Mariposa County ordinances and regulations, including those relating to health, safety and permitting.

5.5 OCCUPANCY

OWNER OCCUPIED VS. OWNER CONTROLLED

California law allows for the construction of a secondary or accessory dwelling unit on residential parcels. Many jurisdictions limit the use of a secondary or accessory dwelling to owner occupied housing. In Yosemite West, it is recognized that an owner occupancy limitation may not be practical. This recognizes the seasonal use focus of the subdivision, its isolation from employment opportunities, and the number of units already constructed without such limitation.

The construction of two single family dwelling units on single family lots in Yosemite West has resulted in the creation of de-facto duplex structures which have been turned into multiple lodging units. The Special Plan recognizes the right as mandated by state law to construct secondary dwellings which can become de-facto duplexes on single family lands. However, only one of the units shall be available for transient occupancy.

The primary one dwelling unit is to be "owner controlled." The concept is that the primary one dwelling unit is for the use and enjoyment of the property owner(s). Owner control does not limit tenancy solely to the property owner, but rental of the property shall meet long-term rental requirements.

6 CIRCULATION AND PARKING

6.1 SUMMARY OF MAJOR FINDINGS

Yosemite West subdivision roads are narrower than many urban and suburban areas with similar sized residential lots. As a result of terrain, the roads are winding, limiting maneuverability and visibility. Maneuvering room is further reduced when vehicles are parked within the right-of-way -- particularly when parked on the road. As a vacation destination, many arriving guests are not used to the lack of paved parking areas parallel to the road. As a result, vehicles are often parked on the road, blocking it or reducing access to normal and emergency traffic.

At night, visibility is also substantially reduced due to the absence of street lights. Parked vehicles on the road also limit site distance for vehicles turning from driveways onto the road.

As a vacation destination, Yosemite West accommodates guests within properly permitted residential dwellings. Sleeping in vehicles, including recreation vehicles, is not appropriate in Yosemite West. Overnight parking detracts from the subdivision's rural character as the vehicles create a "streetscape" similar to urban settings as opposed to the open rural character expected in a community adjoining Yosemite National Park. Precluding overnight parking assists in maintaining the overall rural mountain character within the subdivision.

Some portions of Yosemite West exceed 6,000 feet in elevation, and all portions of Yosemite West receive significant snow in the winter. Snow plows are frequently on the roads during the winter. Safety of snow plow operators and the public is enhanced when vehicles are not parked on the road during snow removal operations. It is difficult to predict when or how much snow will fall. Major accumulations can occur overnight notwithstanding clear skies at sundown. Due to size and terrain conditions, snow plows need room to maneuver. Snow, when cleared, needs physical land area on which to be stored. The road rights-of-way and shoulders are intended, in part, for this purpose.

The duration of snow season varies from year to year, but a parking ban during a fixed time frame is less difficult to administer than a parking ban based on other criteria. In general, the period from November 1 through April 15 approximately coincides with snow season in Yosemite West.

To accomplish Special Plan goals related to maintaining rural character, safely accessible roads, and ensuring places to park, adequate off-road parking is necessary. In consideration of the number of vacation rentals in Yosemite West, off-street parking needs to be part of the plan for new home construction -- not only for the basic residential use, but also for the vacation rental occupancies.

The presence of Commercial Vehicles and Construction Equipment is generally inconsistent with the rural and rustic nature of Yosemite West. It is recognized that they may be necessary and appropriate in limited circumstances such as during periods of active construction, but there is no general intent to allow Commercial Vehicles or Construction Equipment to be parked or stored in residential areas of Yosemite West.

6.2 CIRCULATION AND PARKING GOAL, POLICY, AND IMPLEMENTATION MEASURE

Goal 6-1: To maintain safe use of the Yosemite West road system by managing parking within rights-of-way and maintain community aesthetics.

Policy 6-1: Parking shall be regulated within Yosemite West.

Implementation Measure 6-1: Standards shall be established for regulating parking within Yosemite West rights-of-way and individual lots to maintain safety on roadways and to maintain community aesthetics.

6.3 CIRCULATION AND PARKING STANDARDS

1. Throughout the entire calendar year, parking is not permitted on any Road at any time between 1:00 a.m. and 5:00 a.m.
2. During the period from October 15 through April 15 and anytime outside of this period that snow conditions exist, parking shall not be permitted on the Road or its shoulders at any time unless the parking occurs in an area covered by a valid encroachment permit.
3. All new residential construction shall provide at least two paved off-road parking spaces per dwelling.
4. Commercial Vehicles and Construction Equipment shall not be parked on residential property or the public right-of-way except as follows:
 - a. Commercial Vehicles and Construction Equipment may be parked on a lot for which a building permit has been issued while the construction is underway. No certificate-of-occupancy for such construction shall be issued until all such Commercial Vehicles and Construction Equipment have been removed.
 - b. Commercial Vehicles making deliveries or providing onsite services may park in the right-of-way in front of a lot or home to which they are making deliveries or conducting repairs, provided they may safely do so.

7 EXTERIOR LIGHTING

7.1 SUMMARY OF MAJOR FINDINGS

Yosemite West is an area that is dark, and artificial illumination is an intrusion into the rural and rustic setting of Yosemite West that potentially degrades its character. Thus, there is an essential need to ensure that the ambient nighttime character of Yosemite West is preserved while simultaneously allowing for safety and security concerns to be addressed.

These lighting provisions accomplish three objectives: (1) they allow for adequate light levels consistent with reasonable safety concerns; (2) they prevent glare and reflection into the eyes of neighbors, passers-by and drivers; and (3) they alleviate “light pollution” by protecting the darkness of the night sky so that the stars and moon can be seen and enjoyed. Brightness limitations and lighting curfews are among the acceptable means of meeting these objectives.

7.2 LIGHTING GOAL, POLICY AND IMPLEMENTATION MEASURE

Goal 7-1: To maintain a dark sky and eliminate lighting glare to protect the Yosemite experience.

Policy 7-1: Exterior lighting shall be regulated within Yosemite West.

Implementation Measure 7-1: Standards shall be established to reduce the impact of exterior lighting on community aesthetics.

7.3 LIGHTING STANDARDS

The lighting standards in this Special Plan apply to both existing structures and to new construction, and shall be effective six months after that adoption of this Special Plan.

1. All exterior lights, except for “Malibu” style walkway lights, shall be fully shielded, focused, or set with a lens so that the light is directed only onto the area to be lighted and not onto any other properties or into the sky. The shielding of light shall be achieved through the use of visors, opaque reflectors, “shoe boxes”, cylinders, and cans or other similar devices that achieve the purpose of this measure.
2. Industrial style lights, such as sodium vapor lights, shall be prohibited on all parcels.
3. Internally lit signs and neon signs shall be prohibited. This measure does not apply to internally lit address signs on structures provided that the address sign does not exceed one square foot in size.

4. All exterior lights shall be extinguished between 11:00 p.m. and sunrise, except when late arriving guests are expected.
5. Lighting on exterior signs need not be controlled by a motion-sensitive device provided that the following criteria are met:
 - a. All lights illuminating exterior signs shall be fully shielded, focused, or set with a lens to ensure that the light is directed only on the sign and not onto any other properties or into the sky. The shielding of light shall be achieved through the use of visors, opaque reflectors, "shoe boxes", cylinders and cans or similar devices that achieve the purpose of this measure.
 - b. No more than one exterior sign per lot shall be illuminated.
 - c. Illuminated exterior signs are permitted only on lots containing habitable structures.

8 SPECIAL PLAN GLOSSARY

8.1 DEFINED TERMS

Words used in the Special Plan have their normal dictionary meanings unless they are specially defined in Section 8.2 or in the Mariposa County General Plan. Words defined in Section 8.2 are defined for the purposes used in the Special Plan only. These words have the specific meaning stated, unless the context in the Special Plan clearly suggests another meaning.

8.1.01 “SHALL” AND “MAY”

“Shall” is mandatory. The word “shall” means that the directives or requirements are mandatory and cannot be waived or modified. “May” is permissive. The word “may” means that the directives or requirements are permissive or selective and are imposed at the option of the decision-maker.

8.1.02 SOURCES OF DEFINITIONS

It is not feasible to incorporate all possible definitions within the Special Plan. Words which are not defined in the Special Plan but are defined within the General Plan shall have the meaning as assigned in the General Plan, unless the context of the sentence in which the term is used clearly intends other meaning.

Words not defined within the Special Plan or General Plan, and which are defined in other County planning documents, such as the Regional Transportation Plan, Airport Land Use Plan, or the Mariposa County Code shall have the meanings as established within the cited document. In the event a word is defined in both the Special Plan and other official County documents, the definition within the Special Plan shall apply to word usage within the Special Plan.

For words not defined in the Special Plan or other official County documents, the Special Plan shall first use the meaning contained within The New Illustrated Book of Development Definitions, by Moskowitz and Lindbloom, published by the Center for Urban Policy Research of Rutgers University, Piscataway, New Jersey; 1995 edition or most current edition.

8.2 GLOSSARY DEFINITIONS

The following words shall have the meaning assigned for use within the Yosemite West Special Plan.

1. **Bed and Breakfast.** “Bed and Breakfast” means a single family dwelling in which there is a full time, permanent resident, which operates the business of renting a ~~limited number of~~ (MAXIMUM OF THREE [3]) bedrooms in the dwelling. These bedrooms are rented as

transient occupancies to different guests, and breakfast is prepared each day in a kitchen appropriately permitted by the Health Department.

2. **“Camp” and “Camping.”** “Camp” and “Camping” mean to establish or maintain at any time a temporary or permanent place for cooking and/or sleeping:
 - a. Outdoors, with or without the use of a tent or any other shelter;
 - b. In, or under any structure for which a certificate of occupancy has not been issued;
 - c. In, or under any parked vehicle, including an automobile, bus, truck, camper, trailer or recreational vehicle.

3. **Check-in/Management Facility.** Check-in/management facility means any business that provides any of the following services to vacation rentals located on any other property in Yosemite West.
 - a. Guest check-in and/or check-out, or key distribution;
 - b. The in-person payment of bills or settlement of charges; or
 - c. A base for the coordination or direction of the cleaning or the supplying of vacation rentals.

4. **Commercial Vehicle.** “Commercial vehicle” means:
 - a. a motor vehicle for which a commercial vehicle registration is required by the State of California; or
 - b. which is not defined as a “passenger vehicle” or “pickup truck⁷” by the Department of Motor Vehicles or California Highway Patrol; or
 - c. a motor vehicle or trailer registered as special mobile equipment as required by the State of California (e.g., oil drilling rig); or
 - d. a lightweight truck, van, taxi, or rental limousine (including charter-party carriers operating limousines that pick up and deliver airport passengers), if the vehicle's gross operating weight is 10,000 pounds or more.

5. **Construction Equipment.** “Construction Equipment” means vehicular equipment or mobile equipment such as trailers and does not include hand tools and similar items used in the construction process, [or equipment used primarily for snow removal.

6. **Floor Area Ratio.** “Floor Area Ratio” means the gross floor area of dwelling(s) within structures divided by the gross lot area. Total square footage within the gross floor area is calculated from the perimeter wall or foundation. Decks and porches, even if covered, and base-

⁷ For example, California law defines a pickup truck as a motor truck with a manufacture's gross vehicle weight rating of less than 11,500 pounds, with an unladen weight of less than 8,001 pounds, and which is equipped with an open box-type bed not exceeding nine feet in length.

ments or storage areas underneath the living space with no method of heating, do not count as gross floor area for purposes of calculating floor area ratio. Accessory dwelling units, as permitted by California law and the Mariposa County General Plan, are included in the calculation to determine floor area ratio.

7. **Grandfathering.** A “Grandfathered” use or structure is a legally existing non-conformity that meets the following criteria:
 1. There is documentation defining when the entitlement was established and the length of time it has been in place. Licenses, tax records, building permits, rent receipts, or prior County approvals are all acceptable as such proof.
 2. It can be shown that the use predates current regulations and has been in full, continuous compliance with prior regulations.
 3. Neighbors, business owners, realtors, and disinterested parties can testify that the use has continuously occurred and was never abandoned for a code-specified period of time. A use building, or parcel established illegally – meaning that the regulations in effect when the use first started would not have allowed its occurrence – cannot be “grandfathered” unless it meets all applicable current General Plan and development standards.

~~8. **Height.** “Height” means the distance a structure stands above the ground as measured in conformance with the Uniform Building Code.~~

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Diagram

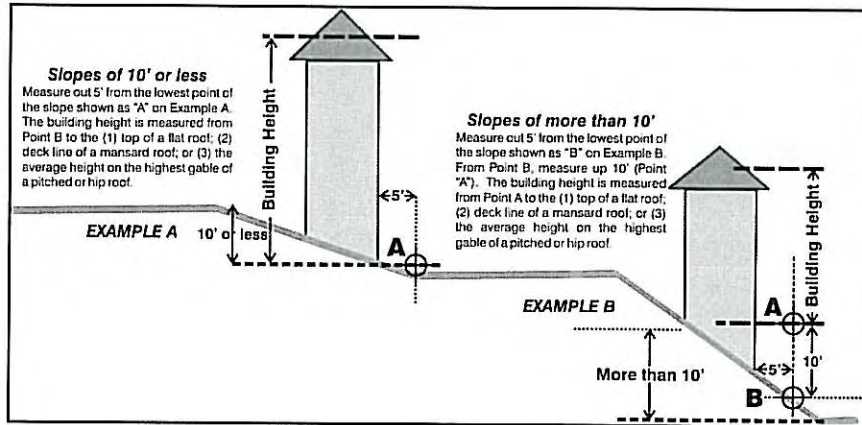


Figure 8-1: Height calculation

9. **Lot Coverage.** “Lot coverage” defines the total area of a lot over which a building footprint may cover. Dwellings, garages, carports and other covered structures are included in the calculation of lot coverage. Uncovered decks and porches are not included in the calculation of lot coverage.
10. **Road.** “Road” means the paved portion of the County’s right-of-way on publicly maintained roads within Yosemite West Special Plan Area. On lots upon which a home has been con-

structed, "road" does not include a driveway or turnout within the County's right of way for which a valid encroachment permit has been obtained.

11. **Vacation Rental.** ~~"Vacation Rental" has the meaning, and is subject to the standards contained in the Mariposa County General Plan and zoning ordinance for "transient rentals"~~²². (MEANS THE COMMERCIAL RENTAL OF A MAXIMUM OF THREE [3] BEDROOMS IN A SINGLE OR MULTI-FAMILY DWELLING FOR SHORT-TERM PERIODS OF LESS THAN THIRTY-ONE [31] DAYS.)