RECOMMENDED ACTION AND JUSTIFICATION:

1) Adopt a resolution:

a) Finding that the project is exempt from environmental review,
b) Approving Zoning Amendment No. 2008-197 with findings as recommended by the Planning Commission.

2) Waive the first reading and introduce an ordinance amending the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008-197.

Recommended action is based upon the Planning Commission’s recommendations.
Further justification is provided in the Staff Report to Board of Supervisors from Mariposa Planning.

BACKGROUND AND CONTEXT OF BOARD ACTIONS: The Mariposa County Board of Supervisors approved an application to establish an agricultural preserve and execute a Land Conservation Act contract on a 160 acre portion of the 165.90 acre property on December 2, 2008 and the contract was recorded December 19, 2008.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: A denial of the requested zoning amendment would mean that the property remains in the Mountain Transition Zoning District and out of compliance with Resolution 77-157 which implemented the Land Conservation Act of 1965 in the County of Mariposa. This resolution states that “The parcel wishing to contract shall within one (1) year of the effective date of the contract be restricted by zoning of said parcel to agricultural use...”

Financial Impact? ( ) Yes (X) No Current FY Cost: $  Annual Recurring Cost: $
Budgeted in Current FY? (X) Yes ( ) No ( ) Partially Funded
Amount in Budget: $  Staff Report to the Board with Attachments (as listed on Page 1 of Staff Report)
Additional Funding Needed: $  
Source:  
Transfer Between Funds  4/5’s vote
Contingency  4/5’s vote

CLERK’S USE ONLY:  
Vote – Ayes:  Noes:  
Absent:  
Approved  
Minute Order Attached  ( ) No Action Necessary

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

COUNTY ADMINISTRATIVE OFFICER:  
Requested Action Recommended  
No Opinion  
Comments:  

CAO:  

Revised Dec. 2002
TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2008-197. Action Includes Adopting a Resolution Approving the Project, Finding that the Project is Exempt from Environmental Review, Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map. The Zoning Amendment Proposes to Amend the Zoning Map by Rezoning 165.9 Acres of Land Currently in the Mountain Transition Zone (20 Acre Minimum) to the Agriculture Exclusive Zone (160 Acre Minimum) on APN 012-010-031. The Property was Recently Entered into a Land Conservation Act Contract and the Agriculture Exclusive Zoning is the Required Zoning for Lands under Land Conservation Act Contract. Carla Kelly: Project Applicant

RESOLUTION 09-428

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on August 25, 2009

ACTION AND VOTE:

10:02 a.m. Kris Schenk, Planning Director; PUBLIC HEARING to Consider Zoning Amendment No. 2008-197. Action Includes Adopting a Resolution Approving the Project, Finding that the Project is Exempt from Environmental Review, Waiving the First Reading and Introducing an Ordinance Amending the Zoning Map. The Zoning Amendment Proposes to Amend the Zoning Map by Rezoning 165.9 Acres of Land Currently in the Mountain Transition Zone (20 Acre Minimum) to the Agriculture Exclusive Zone (160 Acre Minimum) on APN 012-010-031. The Property was Recently Entered into a Land Conservation Act Contract and the Agriculture Exclusive Zoning is the Required Zoning for Lands under Land Conservation Act Contract. Carla Kelly: Project Applicant

BOARD ACTION: Alvaro Arias, Associate Planner, presented the staff report; and he advised that the map on circle pages 25 and 30 will be replaced with a clearer map for publication purposes. Kris Schenk and Alvaro Arias responded to questions from the Board as to review of this application by the Agricultural Advisory Committee, whether any global warming issues have been raised, and relative to a recent decision issued by the State Department of Conservation concerning the horse issues. The public portion of the hearing was opened and there was no input. The public portion of the hearing was closed and the Board commenced with deliberations. (M)Allen, (S)Turpin, Res. 09-428 was adopted finding that the project is exempt from environmental review and approving Zoning Amendment No. 2008-197 with findings as recommended by the Planning Commission/Ayes: Unanimous. (M)Bibby, (S)Turpin, the first reading was waived and the Ordinance introduced amending the zoning map of
Mariposa County pursuant to Zoning Amendment No. 2008-197. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Unanimous. The hearing was closed.

Cc: File
MARIPOSA COUNTY RESOLUTION NO. 2009-428

A RESOLUTION APPROVING ZONING AMENDMENT NO. 2008-197

WHEREAS an application for Zoning Amendment No. 2008-197 was received on November 13, 2008 from Carla Kelly for a property located at 5752 French Camp Road, also known as Assessor Parcel Numbers 012-010-031; and

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

WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory Committee meeting of March 4th, 2009; and

WHEREAS a Staff Report to the Agricultural Advisory Committee was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Agricultural Advisory Committee did hold their meeting on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and their own knowledge of county-wide agricultural operations; and

WHEREAS based on the fact that the property was recently entered into a Land Conservation Act Contract and similar findings had to be made, and the current agricultural use of the property, the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors approve Zoning Amendment No. 2008-197; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for the 8th of May 2009; and

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

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, and the comments of the applicant’s agent; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 2009-008 recommending that the project be found to be exempt from environmental review pursuant to CEQA and approval of the project with findings; and
WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 25th day of August 2009; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

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

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant and agent.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Zoning Amendment No. 2008-197.

BE IT THEREFORE FURTHER RESOLVED THAT the recommendation for project approval are based upon findings set forth in Exhibit 1.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to the zoning of the parcel shown in Record of Survey 2174 in Exhibit 2 and as shown in Exhibit 3 will modify the zoning designation from Mountain Transition (MT) to Agriculture Exclusive (AE).

BE IT THEREFORE FINALLY RESOLVED THAT the effective date of this resolution shall be the effective date of the ordinance adopted in conjunction with this action.

ON MOTION BY Supervisor Allen, seconded by Supervisor Turpin, this resolution is duly passed and adopted this 25th day of August 2009 by the following vote:

AYES: ABOURN, TURPIN, BIBBY, CANN, ALLEN

NOES: NONE

EXCUSED: NONE

ABSTAIN: NONE

Brad Aborn, Chairman
Mariposa County Board of Supervisors
Attest:

Margie Williams, Clerk of the Board
Mariposa County Board of Supervisors

Approved as to Form:

Steven W. Dahlem
County Counsel
EXHIBIT 1 – FINDINGS OF APPROVAL

Pursuant to the Mariposa County Zoning Ordinance, section 17.128.050, the following findings must be made before a zoning amendment may be approved.

1. FINDING: That such an amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare;

EVIDENCE:

a. Through the Land Conservation Act (Williamson Act), the State of California encourages commercial agricultural to occupy lands suited to such enterprises in order to maintain and enhance this type of economic resource of the state.

b. Commercial agricultural uses are common in Mariposa County and permitted to occur on most land use designations.

c. The Agriculture Exclusive zoning district includes provisions that require discretionary review for certain uses that by their nature may require measures to reduce impacts to less than significant.

2. FINDING: That such an amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long term guide for county development and a short-term basis for day-to-day decision making;

EVIDENCE:

a. The zoning designation of Agriculture Exclusive is necessary to allow for the property to be placed under a rolling 20-year contract with the County for agricultural uses. This improves the plan by providing long-term guidance on the use of the property in a manner consistent with the desired land use of the area.
b. The requested zoning designation will also provide guidance with respect to day-
today decision-making. The AE zone is the appropriate zone for a Williamson Act
contracted parcel based on contract restrictions.

3. **FINDING:** That such an amendment conforms to the requirements of state law and
   county policy;

   **EVIDENCE:** With respect to notice, hearings and findings requirements, the
   project was reviewed in accordance with state law and county policy.

4. **FINDING:** That such an amendment is consistent with other guiding policies, goals,
   policies, and standards of the Mariposa County general plan;

   **EVIDENCE:** The Land Conservation Act promotes the preservation and
development of agricultural lands, as encouraged by the Agriculture Element
and its emphasis on preserving agricultural lands (Section 10.1.01 of The
General Plan), and maintaining the rural character of the county (Section
10.1.04 of The General Plan). The Conservation and Open Space Element
confirms the importance of maintaining the open space nature of the county.
One hundred sixty (160) acres of this parcel are in a Land Conservation Act
contract, which is a 20 year commitment to agriculture and open space uses for
the site. The preserve is consistent with the General Plan. The current and
past use of the property is for agricultural purposes. This finding is made in
accordance with Section 51234 of Government Code.

5. **FINDING:** In the case of an amendment to the zoning classification on an
   individual parcel or General Plan Land Use Map:

   a. the subject parcel is physically suitable (including, but not limited to access,
   provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use
designation and the anticipated land use development; and
EVIDENCE: The proposal meets the minimum dimensional requirements of the Agriculture Exclusive zone, has access to French Camp Road, has been used over the last three years for commercial agricultural use and is compatible with adjacent uses and land use designations (Mountain Transition; 20 acre minimum). The Agriculture Exclusive zoning district is considered to be consistent with the Residential land use classification, per Section 5.3.02.C of the County of Mariposa General Plan.

b. the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).

EVIDENCE: The proposal is to maintain commercial agricultural uses on the property for a minimum period of 20-years, which is extended automatically each year until the property owner notifies the county and state of his/her intent to terminate the contract after 20-years. The proposed zoning designation is logical, based upon existing “development” on-site, infrastructure investments made on-site (for the vineyard and cattle grazing) and past use of the site.
EXHIBIT 3

Zoning Amendment No. 2008-197

012-010-031
(+/- 165.90 Acres)
Rezoned from
Mountain Transition (MT)
to Agriculture Exclusive (AE)

MAP DATE: August 2009
DATA SOURCE: Assessor Parcel Map Update June 2009
MAP CREATED BY: E.E. Meriam
Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.

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

Site Location
APN 012-010-031
Assessor Parcel Map
Roads
Area of Detail
BOARD OF SUPERVISORS MEETING AUGUST 25, 2009

SUMMARY AND RECOMMENDATIONS

Project: ZONING AMENDMENT 2008-197
Proposal: Amend the Zoning Designation of the property from Mountain Transition (MT) to Agriculture Exclusive (AE).
Location: The property is located at 5752 French Camp Road in Mariposa (APN: 012-010-031).
Applicants: Carla Kelly
Action: The Agricultural Advisory Committee and Planning Commission recommend that the Board of Supervisors adopt a Resolution:

a) finding that the project is exempt from environmental review and approving Zoning Amendment Application No. 2008-197 with Findings.
b) Waive the first reading and introduce an ordinance amending the zoning map pursuant to Zoning Amendment Application No. 2008-197 with Findings.


Prepared by,

[Signature]
Javaro Arias
Associate Planner
BACKGROUND

Existing Zoning: Mountain Transition Zone (20 acre minimum).

General Plan: Residential Land Use within the Expanded Mariposa Town Planning Area

Current Land Use: 165.9-acres with a single-family home located on the site. Twelve (12) to fourteen (14) acres are used as a vineyard, the rest are used for cattle grazing. A 160-acre portion was entered into a Land Conservation Act Contract (No. 2008-115).

Adjacent Zoning: North Mountain Transition
East Mountain Transition/Open Watershed Overlay
South Mountain Transition
West Mountain Transition

ANALYSIS

Reason for Project: In December 2008, the Mariposa County Board of Supervisors, upon recommendation of the Agricultural Advisory Committee and the Planning Commission, approved the applicant’s request to enter into a Williamson Contract for a 160 acre portion of the 165.9 acre parcel. The contract has been executed and recorded with the Mariposa County Recorder’s Office.

The Board’s conditional approval required the applicant to submit a complete application to change the zoning of APN 012-010-031 to Agricultural Exclusive, prior to recordation of the contract. The AE zoning is the required zoning for lands under Williamson Act Contract.

Agency Comments: Requests for comments were sent to County Fire Department, Resource Conservation District (RCD), Public Works, Environmental Health, Assessor’s Office, and Cal Fire. Only Public Works and Cal Fire responded by stating that they had no comment. No agencies stated opposition to the project.
Agricultural Advisory Committee: Pursuant to Section 17.40.B, County Code:

"As part of the review of an application for rezoning to place property into or remove property from the Agricultural Exclusive Zoning district, the planning director shall refer the application to the agricultural advisory committee. The committee shall review each action described above and may, if necessary, inspect the property in question to determine if the property is bona fide agricultural land appropriate for the Agricultural Exclusive Zoning district and if such action is consistent with the general plan. The committee shall forward their recommendation for action on the rezoning application to the planning commission."

The Agricultural Advisory Committee met and discussed this project on Wednesday, March 4th, 2009. The AAC voted unanimously to recommend approval for this application. A copy of the minutes is attached.

General Plan: The subject property lies within the Residential Land Use within the Proposed Expanded Mariposa Town Planning Area. Section 5.3.02.C, of the County of Mariposa General Plan lists those zoning districts which are consistent with the Residential land use classification. Agricultural Exclusive is listed as a zoning district that is consistent with the Residential land use, therefore no General Plan Amendment is necessary for the zoning amendment to be consistent with the General Plan.

California Environmental Quality Act (CEQA):

In order to approve a project, including this project, a CEQA or environmental determination would need to be made by the lead agency (the government agency which has action authority over the permit). For this application (the applicant has submitted the application to change the zoning for a 165.9 acre parcel), the lead agency is the Board of Supervisors.

The Planning Commission recommends that the Board of Supervisors adopt Notice of Exemption for this project based on the General Rule Exemption; Section 15061, CEQA Guidelines. It can
be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project will amend the zoning on the subject property from Mountain Transition to Agriculture Exclusive. The Agriculture Exclusive designation is much more restrictive (160 acre minimum) than the Mountain Transition designation (20 acre minimum).

RECOMMENDED FINDINGS TO BE MADE BY THE BOARD OF SUPERVISORS FOR ZONING AMENDMENT 2008-197

Pursuant to the Mariposa County Zoning Ordinance, section 17.128.050, the following findings must be made before a zoning amendment may be approved.

1. FINDING: That such an amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare;

   EVIDENCE:
   a. Through the Land Conservation Act (Williamson Act), the State of California encourages commercial agricultural to occupy lands suited to such enterprises in order to maintain and enhance this type of economic resource of the state.
   b. Commercial agricultural uses are common in Mariposa County and permitted to occur on most land use designations.
   c. The Agriculture Exclusive zoning district includes provisions that require discretionary review for certain uses that by their nature may require measures to reduce impacts to less than significant.

2. FINDING: That such an amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long-term guide for county development and a short-term basis for day-to-day decision-making;

   EVIDENCE:
   a. The zoning designation of Agriculture Exclusive is necessary to allow for the property to be placed under a rolling 20-year contract with the County for agricultural uses. This improves the plan by providing long-term guidance on the use of the property in a manner consistent with the desired land use of the area.
b. The requested zoning designation will also provide guidance with respect to
day-to-day decision-making. The AE zone is the appropriate zone for a Williamson
Act contracted parcel based on contract restrictions.

3. FINDING: That such an amendment conforms to the requirements of state law and
county policy;

EVIDENCE: With respect to notice, hearings and findings requirements, the
project was reviewed in accordance with state law and county policy.

4. FINDING: That such an amendment is consistent with other guiding policies, goals,
policies, and standards of the Mariposa County general plan;

EVIDENCE: The Land Conservation Act promotes the preservation and
development of agricultural lands, as encouraged by the Agriculture Element
and its emphasis on preserving agricultural lands (Section 10.1.01 of The
General Plan), and maintaining the rural character of the county (Section
10.1.04 of The General Plan). The Conservation and Open Space Element
confirms the importance of maintaining the open space nature of the county.
One hundred sixty (160) acres of this parcel are in a Land Conservation Act
contract, which is a 20 year commitment to agriculture and open space uses for
the site. The preserve is consistent with the General Plan. The current and past
use of the property is for agricultural purposes. This finding is made in
accordance with Section 51234 of Government Code.

5. FINDING: In the case of an amendment to the zoning classification on an
individual parcel or General Plan Land Use Map:

a. the subject parcel is physically suitable (including, but not limited to access,
provision of utilities and infrastructure, compatibility with adjoining land
uses, and absence of physical constraints) for the requested land use
designation and the anticipated land use development; and

EVIDENCE: The proposal meets the minimum dimensional requirements of
the Agriculture Exclusive zone, has access to French Camp Road, has been
used over the last three years for commercial agricultural use and is
compatible with adjacent uses and land use designations (Mountain
Transition-20 acre minimum). The Agriculture Exclusive zoning district is
considered to be consistent with the Residential land use classification, per
Section 5.3.02.C of the County of Mariposa General Plan.

b. the proposed zoning is logical and desirable to provide expanded employment
opportunities, or basic services to the immediate residential population or
touring public. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).
EVIDENCE: The proposal is to maintain commercial agricultural uses on the property for a minimum period of 20-years, which is extended automatically each year until the property owner notifies the county and state of his/her intent to terminate the contract after 20-years. The proposed zoning designation is logical, based upon existing "development" on-site, infrastructure investments made on-site (for the vineyard and cattle grazing) and past use of the site.
Attachment 1
PROJECT VICINITY MAP

012-010-031 (+/- 165.90 ACRES) TO BE REZONED FROM MOUNTAIN TRANSITION (MT) TO AGRICULTURE EXCLUSIVE (AE)

PROJECT TYPE: Zoning Amendment No. 2008-197
APPLICANT: Carla Kelly
APN: 012-010-031
PROJECT ADDRESS: 5752 French Camp Road Mariposa, CA 95338

MAP CREATED ON: AUGUST 12, 2009
DATA SOURCE: PARCEL MAP FROM MARISOSA COUNTY ASSESSOR'S MAP, JUNE 2009 UPDATE
MAP CREATED BY: EE MERIAM, GIS TECHNICIAN

MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2039 S106 BULLION STREET
MARIPOSA, CALIFORNIA 95338-2039
209.966.5151 FAX 209.742.5024
MARIPOSAPlANNING@MARISOSACOUNTY.ORG
HTTP://WWW.MARISOSACOUNTY.ORG/PLANNING

MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.
Attachment 2
Page 13: 6th paragraph change “sign” to “significant”. 7th paragraph change “Tips” to “trips”. 12th paragraph change “allows” to “allow”. 16th paragraph change “follow” to “following”.

Page 14: 3rd paragraph change “folk” to “folks”. Last paragraph, third sentence change the word “closed” to “executed”. Under item 2 in that same paragraph add “Planning Commission” after “Agricultural Advisory Committee”.

Motion by Toso to recommend approval of the minutes as amended. Motion seconded by Hubert.

Vote:

Ayes: 4
Noes: 0
Excused: 1 (Progner)

Motion passed.

Agenda Item 4 – Zoning Amendment 2008-197, Mike and Carla Kelly Applicants.

Alvaro Arias presented the project which requests changing the current zone of the property to comply with the Land Conservation Act that was approved in 2008 and stated that they are seeking a recommendation from the Agricultural Advisory Committee to the Planning Commission.

Discussion among the committee as they thought this had already been approved last year when the Land Conservation Act was approved. Arias explained that this was a condition of the approval of the Land Conservation Act, and that they are now ready to move forward with the zoning change to be in compliance.

On motion of Hubert, seconded by Meyer, the Agricultural Advisory Committee recommended that the Planning Commission consider and approve Zoning Amendment 2008-197.

Vote:

Ayes: 4
Noes: 0
Excused: 1 (Progner)

Motion passed.

Agenda Item 5 - Discussion and recommendation to the Planning Commission and the Board of Supervisors in regard to the Draft Rules of Procedure to Implement the California Land Conservation Act of 1965.

David Guy explained that the process today will be to go over the changes that were suggested at the previous meeting. Guy noted that the Department of Conservation (Pierce) called Guy and offered some editorial changes, but no changes in substance.
Williams added that the disclosure statement for Condition No. 29 would read “approved access for parcels A, B, C, D and remainder is from the approved road name from Buckeye Road.”

On motion of Commissioner Ross, seconded by Commissioner Tucker the Planning Commission adopted a resolution adopting a Mitigated Negative Declaration approving Lot Line Adjustment No. 2007-062 with the recommended findings and processing conditions and Land Division Application No. 2007-063 with the recommended findings and amended conditions and mitigated measures

Motion carried by the following vote:

AYES: 5 (Francisco, Ross, Rudzik, Marsden, Tucker)
NOES: 0

2 B. Zoning Amendment No. 2008-197, Carla Kelly, applicant.

Arias presented Zoning Amendment No. 2008-197 explaining that the amendment of the zoning designation is to change a 165.9 acre parcel (APN 012-010-031) from Mountain Transition (MT) to Agricultural Exclusive (AE).

The property is located at 5752 French Camp Road in Mariposa.

Arias concluded that it is staff’s recommendation that the Planning Commission adopt a resolution recommending that the Board of Supervisors adopt a Resolution finding that the project is exempt from environmental review and approving Zoning Amendment Application No. 2008-197 with Findings and recommending that the Board of Supervisors adopt an ordinance amending the zoning map pursuant to Zoning Amendment Application No. 2008-197 with Findings.

Clarifications: none

Public Portion of the Hearing: Opened.

Public Portion of the Hearing: Closed.
Deliberations: None

On motion of Commissioner Francisco, seconded by Commissioner Ross the Planning Commission adopted a resolution recommending that the Board of Supervisors adopt a Resolution finding that the project is exempt from environmental review and approving Zoning Amendment Application No. 2008-197 with Findings and recommending that the Board of Supervisors adopt an ordinance amending the zoning map pursuant to Zoning Amendment Application No. 2008-197 with Findings.

Motion carried by the following vote:

AYES: 5 (Francisco, Ross, Rudzik, Marsden, Tucker)
NOES: 0

Francisco thanked the applicants for following through.
Attachment 4
MARIPOSA COUNTY
NOTICE OF EXEMPTION

TO: County Clerk, County of Mariposa
P.O. Box 247
Mariposa, CA 95338

FROM: Mariposa County
Board of Supervisors
P.O. Box 784
Mariposa, CA 95338

Project Title: Zoning Amendment Application No. 2008-197

Project Location: Amendment affects APN 012-010-031 located at 5752 French Camp Road in Mariposa.

Description of Project: Amendment to zoning designation of APN 012-010-031. This amendment will change the zoning from Mountain Transition to Agriculture Exclusive for the project site.

Name of Public Agency Approving Project: Mariposa County Board of Supervisors

Name of Person/Agency Carrying Out Project: Carla Kelly

Exempt Status: General Rule Exemption; Section 15061, CEQA Guidelines.

Reason Why Project Is Exempt: Zoning Amendment No. 2008-197 is exempt from environmental review pursuant to §15061, CEQA Guidelines, the General Rule Exemption. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project will amend the zoning designation from Mountain Transition (MT, 20 acre minimum) to the more restrictive Agriculture Exclusive (AE, 160 acre minimum).

Lead Agency Contact Person: Alvaro Arias, Associate Planner

Phone Number: (209) 742-1218

Kris Schenk
Planning Director

Date
Attachment 5
MARIPOSA COUNTY RESOLUTION NO. 2009-
A RESOLUTION APPROVING ZONING AMENDMENT NO. 2008-197

WHEREAS an application for Zoning Amendment No. 2008-197 was received on November
13, 2008 from Carla Kelly for a property located at 5752 French Camp Road, also
known as Assessor Parcel Numbers 012-010-031; and

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

WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory
Committee meeting of March 4th, 2009; and

WHEREAS a Staff Report to the Agricultural Advisory Committee was prepared pursuant
to the California Government Code, Mariposa County Code, and local administrative
procedures; and

WHEREAS the Agricultural Advisory Committee did hold their meeting on the noticed date
and considered all of the information in the public record, including the Staff Report,
testimony presented by the public concerning the application, and their own
knowledge of county-wide agricultural operations; and

WHEREAS based on the fact that the property was recently entered into a Land
Conservation Act Contract and similar findings had to be made, and the current
agricultural use of the property, the Agricultural Advisory Committee recommended
that the Planning Commission recommend that the Board of Supervisors approve
Zoning Amendment No. 2008-197; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for the 8th of
May 2009; and

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

WHEREAS the Planning Commission did hold a public hearing on the noticed date and
considered all of the information in the public record, including the Staff Report, and
the comments of the applicant's agent; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 2009-
008 recommending that the project be found to be exempt from environmental review
pursuant to CEQA and approval of the project with findings; and
WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 25th day of August 2009; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

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

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant and agent.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Zoning Amendment No. 2008-197.

BE IT THEREFORE FURTHER RESOLVED THAT the recommendation for project approval are based upon findings set forth in Exhibit 1.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to the zoning of the parcel shown in Record of Survey 2174 in Exhibit 2 and as shown in Exhibit 3 will modify the zoning designation from Mountain Transition (MT) to Agriculture Exclusive (AE).

BE IT THEREFORE FINALLY RESOLVED THAT the effective date of this resolution shall be the effective date of the ordinance adopted in conjunction with this action.

ON MOTION BY Supervisor _______, seconded by Supervisor ________, this resolution is duly passed and adopted this 25th day of August 2009 by the following vote:

AYES:

NOES:

EXCUSED:

ABSTAIN:
APN 012-016-031  August 25, 2009
Page 3 of 8 pages

Attest:

__________________________
Brad Aborn, Chairman
Mariposa County Board of Supervisors

Margie Williams, Clerk of the Board
Mariposa County Board of Supervisors

Approved as to Legal Form:

__________________________
Steven W. Dahlem
County Counsel
EXHIBIT 1 – FINDINGS OF APPROVAL

Pursuant to the Mariposa County Zoning Ordinance, section 17.128.050, the following findings must be made before a zoning amendment may be approved.

1. FINDING: That such an amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare;

EVIDENCE:

a. Through the Land Conservation Act (Williamson Act), the State of California encourages commercial agricultural to occupy lands suited to such enterprises in order to maintain and enhance this type of economic resource of the state.

b. Commercial agricultural uses are common in Mariposa County and permitted to occur on most land use designations.

c. The Agriculture Exclusive zoning district includes provisions that require discretionary review for certain uses that by their nature may require measures to reduce impacts to less than significant.

2. FINDING: That such an amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long-term guide for county development and a short-term basis for day-to-day decision-making;

EVIDENCE:

a. The zoning designation of Agriculture Exclusive is necessary to allow for the property to be placed under a rolling 20-year contract with the County for agricultural uses. This improves the plan by providing long-term guidance on the use of the property in a manner consistent with the desired land use of the area.
b. The requested zoning designation will also provide guidance with respect to day-today decision-making. The AE zone is the appropriate zone for a Williamson Act contracted parcel based on contract restrictions.

3. **FINDING:** That such an amendment conforms to the requirements of state law and county policy;

**EVIDENCE:** With respect to notice, hearings and findings requirements, the project was reviewed in accordance with state law and county policy.

4. **FINDING:** That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan;

**EVIDENCE:** The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agriculture Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining the open space nature of the county. One hundred sixty (160) acres of this parcel are in a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

5. **FINDING:** In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map:

a. the subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development; and
EVIDENCE: The proposal meets the minimum dimensional requirements of the Agriculture Exclusive zone, has access to French Camp Road, has been used over the last three years for commercial agricultural use and is compatible with adjacent uses and land use designations (Mountain Transition-20 acre minimum). The Agriculture Exclusive zoning district is considered to be consistent with the Residential land use classification, per Section 5.3.02.C of the County of Mariposa General Plan.

b. the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).

EVIDENCE: The proposal is to maintain commercial agricultural uses on the property for a minimum period of 20-years, which is extended automatically each year until the property owner notifies the county and state of his/her intent to terminate the contract after 20-years. The proposed zoning designation is logical, based upon existing “development” on-site, infrastructure investments made on-site (for the vineyard and cattle grazing) and past use of the site.
EXHIBIT 2 – RECORD OF SURVEY 2174

[Diagram of survey record]
EXHIBIT 3

ZONING AMENDMENT NO. 2008-197

PROJECT LOCATION

ASSESSOR PARCEL MAP

ROADS

PROJECT TYPE: Zoning Amendment No. 2008-197
APPLICANT: Carla Kelly
APN: 012-010-031
PROJECT ADDRESS: 5752 French Camp Road Mariposa, CA 95338

MAP CREATED ON: AUGUST 12, 2009
DATA SOURCE: PARCEL MAP FROM MARIPOSA COUNTY ASSESSOR'S MAP;
JUNE 2009 UPDATE
MAP CREATED BY: EE MERIAM, GIS TECHNICIAN

MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2039 5100 BULLION STREET
MARIPOSA, CALIFORNIA 95338-2039
209.966.5151 FAX 209.742.5024
MARIPOSA@MARIPOSACOUNTY.ORG
HTTP://WWW.MARIPOSACOUNTY.ORG/PLANNING

MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.
Attachment 6
MARIPOSA COUNTY ORDINANCE NO. ____
(Not to be Codified)

AN ORDINANCE AMENDING THE ZONING MAP OF MARIPOSA COUNTY

WHEREAS, a proposal to amend the zoning map for Mariposa County was initiated by Carla Kelly on November 13, 2008, and

WHEREAS the application is known as Zoning Amendment No. 2008-197. The application proposes to modify the zoning designation of Assessor’s Parcel Number 012-010-031 from Mountain Transition (MT) to Agriculture Exclusive (AE); and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment No. 2008-197 on the 8th day of May 2009, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment No. 2008-197 on the 25th day of August 2009, in accordance with State Law and County Code; and

WHEREAS, Zoning Amendment No. 2008-197 has been found to be exempt from the provisions of the California Environmental Quality Act.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend the zoning map of Mariposa County pursuant to Zoning Amendment No. 2008-197. The amendment to the zoning of the parcel shown in Record of Survey 2174 in Exhibit 1 and as shown in Exhibit 2 will modify the zoning designation from Mountain Transition (MT) to Agriculture Exclusive (AE).

BE IT FINALLY ORDAINED, this action is based on the amendment standards described in and the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as shown in Exhibit 3.

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

PASSED AND ADOPTED on this ___th day of ________, 2009 by the following vote.

AYES:
NOES:
ABSTAINED:
EXCUSED:
NOT VOTING:
BRAD ABORN, Chair
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM:

STEVEN W. DAHLEM, County Counsel
EXHIBIT 2
ZONING AMENDMENT NO. 2008-197

PROJECT LOCATION
ASSESSOR PARCEL MAP
ROADS

012-010-031 (+/- 166.95 ACRES) TO BE REZONED FROM MOUNTAIN TRANSITION (MT) TO AGRICULTURE EXCLUSIVE (AE)

PROJECT TYPE: Zoning Amendment No. 2008-197
APPLICANT: Carla Kelly
APN: 012-010-031
PROJECT ADDRESS: 5752 French Camp Road Mariposa, CA 95338

MAP CREATED ON: AUGUST 10, 2009
DATA SOURCE: PARCEL MAP FROM MARIPOSA COUNTY ASSESSOR'S MAP
JUNE 2009 UPDATE
MAP CREATED BY: EE MIRAM, GIS TECHNICIAN

*MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2039 5100 BULLION STREET
MARIPOSA, CALIFORNIA 95339-2039
209.966.6151 FAX 209.742.5524
MARIPOSAPLANNING@MARIPOSACOUNTY.ORG
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*MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.

*NOTE: A map appropriate for publication is in production. That version will replace this version prior to publication.
Exhibit 3

Pursuant to the Mariposa County Zoning Ordinance, section 17.128.050, the following findings must be made before a zoning amendment may be approved.

1. **FINDING:** That such an amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare;

**EVIDENCE:**

a. Through the Land Conservation Act (Williamson Act), the State of California encourages commercial agricultural to occupy lands suited to such enterprises in order to maintain and enhance this type of economic resource of the state.

b. Commercial agricultural uses are common in Mariposa County and permitted to occur on most land use designations.

c. The Agriculture Exclusive zoning district includes provisions that require discretionary review for certain uses that by their nature may require measures to reduce impacts to less than significant.

2. **FINDING:** That such an amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long-term guide for county development and a short- term basis for day-to-day decision-making;

**EVIDENCE:**

a. The zoning designation of Agriculture Exclusive is necessary to allow for the property to be placed under a rolling 20-year contract with the County for agricultural uses. This improves the plan by providing long-term guidance on the use of the property in a manner consistent with the desired land use of the area.

b. The requested zoning designation will also provide guidance with respect to day-to-day decision-making. The AE zone is the appropriate zone for a Williamson Act contracted parcel based on contract restrictions.

3. **FINDING:** That such an amendment conforms to the requirements of state law and county policy;

**EVIDENCE:** With respect to notice, hearings and findings requirements, the project was reviewed in accordance with state law and county policy.

4. **FINDING:** That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan;
EVIDENCE: The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agriculture Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining the open space nature of the county. One hundred sixty (160) acres of this parcel are in a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

5. FINDING: In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map:

a. the subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development; and

EVIDENCE: The proposal meets the minimum dimensional requirements of the Agriculture Exclusive zone, has access to French Camp Road, has been used over the last three years for commercial agricultural use and is compatible with adjacent uses and land use designations (Mountain Transition-20 acre minimum). The Agriculture Exclusive zoning district is considered to be consistent with the Residential land use classification, per Section 5.3.02.C of the County of Mariposa General Plan.

b. the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).

EVIDENCE: The proposal is to maintain commercial agricultural uses on the property for a minimum period of 20-years, which is extended automatically each year until the property owner notifies the county and state of his/her intent to terminate the contract after 20-years. The proposed zoning designation is logical, based upon existing “development” on-site, infrastructure investments made on-site (for the vineyard and cattle grazing) and past use of the site.
Attachment 7
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 2008-560
A resolution conditionally approving Land Conservation Act
Contract Application No. 2008-115, APN 012-010-031, Carla R.
Kelly, applicant

WHEREAS an application for a new Land Conservation (Williamson) Act Contract was
received on June 20, 2008 from Carla R. Kelly for a property located at 5752
French Camp Road in Mariposa, also known as a 150 acre portion of Assessor
Parcel Number 012-010-031; and

WHEREAS the property has been used for agricultural purposes for a minimum of
three years; and

WHEREAS the Planning Department circulated the application among trustee and
responsible agencies, interested public organizations, and others as appropriate;
and
WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory
Committee meeting of September 25, 2008; and

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

WHEREAS the Agricultural Advisory Committee did hold their meeting on the noticed
date and considered all of the information in the public record, including the
Staff Report, testimony presented by the public concerning the application, and
their own knowledge of county-wide agricultural operations; and

WHEREAS based on the requirements of Resolution 77-157 and past discussions of
the Agricultural Advisory Committee regarding the appropriateness of horses as
part of an agricultural production use, the Agricultural Advisory Committee
recommended that the Planning Commission recommend that the Board of
Supervisors establish a new Agricultural Preserve on the subject property and
enter into a new Land Conservation Act Contract with the applicant, covering the
subject property with a finding that the horses raised on the property are ranch
type horses and with a condition requiring that the property be rezoned from
Mountain Transition to Agricultural Exclusive; and

WHEREAS a duly noticed Planning Commission public hearing for the project was
scheduled for the 7th day of November 2008; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date
and considered all of the information in the public record, including the Staff
Report, testimony presented by the public concerning the application, and the
comments of the applicant; and

(34)
WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they find this project exempt from the provisions of the California Environmental Quality Act; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they approve Land Conservation Act Contract Application No. 2008-115 with the proposed modified condition; and

WHEREAS the Planning Commission recommendation for project approval was based upon the findings and condition set forth in the Staff Report as presented to the Planning Commission at the public hearing of November 7, 2008; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of December 2, 2008; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

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

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves Land Conservation Act Contract Application No. 2008-115.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings and condition set forth in Exhibit 1 of this resolution.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project for the property as set forth in the legal description contained within Exhibit 2 of this resolution.

BE IT FINALLY RESOLVED THAT the Mariposa County Board of Supervisors hereby directs the Chairman of the Board to execute the Land Conservation Act Contract for this property.

THIS RESOLUTION is duly passed and adopted this December 2, 2008 by the following vote:

AYES: 
ABORN, BIBBY, FRITZ, PICKARD

[Handwritten number 35]

December 2, 2008

NOES: NONE

EXCUSED: TURPIN

ABSTAIN: NONE

LYLE TURPIN, Chairman
By: DIANNE FRITZ, Vice-Chair
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:

JEFFREY G. GREEN
Interim County Counsel
EXHIBIT 1
PROJECT FINDINGS AND CONDITIONS
FOR

FINDINGS

In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. FINDING: The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan’s purpose.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the county. This project will result in the execution of a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. FINDING: The agricultural preserve will contain 160 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, raising of ranch type horses, vineyard and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). The project, upon compliance with the required condition, complies with all standards of the California Land Conservation (Williamson) Act and the Mariposa County Agricultural Preserve Policy. The parcel has been used for agricultural purposes for at least three years, and the agricultural uses have been profitable. The horses which have been raised and grazed on the property are considered to be ranch type horses.

3. FINDING: This project is Categorically Exempt based on the following: Class 17, Section 15317, CEQA Guidelines
Condition:

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 012-010-031 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.
EXHIBIT 2

LEGAL DESCRIPTION
EXHIBIT A

A tract of land situated in a portion of Projected Sections 3, 4, 9 and 10, all in Township 5 South, Range 18 East, Rancho Las Mariposas, M.D.B. & M., Mariposa County, State of California, said tract of land being more particularly described as follows:

All that certain real property conveyed to Michael J. Kelly and Carla R. Kelly by Grant Deed recorded April 22, 2005 as Document No. 2052767, Mariposa County Official Records, said certain real property described in said Grant Deed as follows:

All of the following described property in Sections 3, 4, 9 and 10, Township 5 South, Range 18 East, M.D.B. & M., as so designated in that certain patent of the tract of land known as “Las Mariposas”, from the United States of America to John C. Fremont, dated the 19th day of February 1856, and recorded in the Office of the County Recorder of the County of Mariposa on the 23rd day of March, 1857, in Book “D” of Deeds at page 70 to 88 inclusive, and also recorded in the Office of said County Recorder on the 23rd day of December, 1857 in Book “M” of Patents, at pages 1 to 17 inclusive, records of said County of Mariposa, described as follows:

BEGINNING at the northwest corner of the Southwest quarter of the Southwest quarter of Section 3; thence East 2635.5 feet, more or less, to the northeast corner of the Southeast quarter of the Southwest quarter of said Section 3; thence South 7°13’ East 541.37 feet; thence South 8°16’30” East 153.85 feet; thence South 8°00’ East 487.04 feet; thence South 8°25’ East 250.8 feet; thence 8°39’30” East 362 feet; thence West 4208 feet; thence North 450 feet, more or less, to the southwest corner of the Southwest quarter of the Southeast quarter of Section 4; thence North 1320 feet, more or less, to the northwest corner of the Southeast quarter of the Southeast quarter of said Section 4; thence East 1291.45 feet, more or less, to the POINT OF BEGINNING.

Reserving therefrom an easement for emergency use only, ie fire or flood, over the existing roadway running from French Camp Road Northerly and generally along the West boundary of said land to the land retained by grantor adjacent to the North and identified as Parcel A shown on Parcel Map recorded in Book 25 at page 21, Assessor’s Parcel No. 012-040-085. Said easement shall terminate upon sale, transfer or conveyance by grantor or grantee of their respective property.

EXCEPTING THEREFROM all that portion of said certain real property, as said certain real property is delineated on that certain map entitled “Record of Survey for Mark S. Brant” filed April 12, 1984 in the Book of Maps at Page 2174, Mariposa County Records, described as follows:
BEGINNING at the southwest corner of said certain real property, thence S89°55'41"E. along the south line of said certain real property, for 365.00 feet; thence leaving the south line of said certain real property, N01°56'26"W for 709.75 feet; thence N89°55'41"W for 352.31 feet to a point on the west line of said certain real property; thence S00°29'28"W, along the west line of said certain real property, for 298.80 feet to an angle point therein; thence S01°56'26"E. along the west line of said certain property, for 410.78 feet, more or less, to the POINT OF BEGINNING.

The above described tract of land contains 160.0 acres based on calculations derived from said Record of Survey for Mark S. Brant.

The above described tract of land is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:

[Signature]
Russell A. Marks, PLS 6377
License Expiration date: 12/31/08

[Stamp]

Page 2 of 2