STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION

Resolution  
No. 2011-011  
A resolution recommending approval of General Plan/Zoning Amendment No. 2011-043 and conditional approval of Amended Site Plan/Amended Conditions No. 2010-161; Delaware North Companies, applicant. Assessor Parcel Number 010-410-013.

WHEREAS an application for an Amended Site Plan/Amended Conditions was received on September 30, 2010 from Delaware North Companies (DNC) for a property located at 1110 Highway 41 in Fish Camp, also known as Assessor Parcel Number 010-410-013; and

WHEREAS an application for a General Plan/Zoning Amendment was received on February 23, 2011 from DNC on the same project; and

WHEREAS the project is entitled the Tenaya Lodge Facilities Upgrade Project and proposes the construction of a new wastewater treatment plant on APN 010-410-013 and related improvements including transmission lines. The treatment plant will serve existing development at the Tenaya Cottages and Tenaya Lodge; and

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

WHEREAS a duly noticed Planning Commission public hearing was scheduled for the 6th day of May 2011; and

WHEREAS at their meeting on the 6th day of May, the Planning Commission formally continued the public hearing on this matter to their meeting on the 3rd day of June 2011; and

WHEREAS at their meeting on the 3rd day of June, the Planning Commission formally continued the public hearing on this matter to their meeting on the 8th day of July 2011; and

WHEREAS environmental documents comprised of an Initial Study/Mitigated Negative Declaration for the project were prepared 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 Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Initial Study and
Staff Report, written and oral testimony presented by the public concerning the application, and the comments of the applicants.

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors adopt a Mitigated Negative Declaration.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors approve General Plan Zoning Amendment No. 2011-043 based upon the findings set forth in Exhibit 1.

BE IT THEREFORE FINALLY RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend that the Board of Supervisors approve Amended Site Plan and Amended Conditions No. 2010-161, based upon the findings set forth in Exhibit 1 and based upon the conditions and mitigation measures and site plan set forth in Exhibit 2, as modified at the public hearing.

ON MOTION BY Commissioner Ross, seconded by Commissioner Marsden, this resolution is duly passed and adopted this 8th day of July 2011 by the following vote:

AYES: Marsden, Francisco, Rudzik, Tucker and Ross

NOES:

EXCUSED:

ABSTAIN:

Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:

Carol Suggs, Office Technician, for Judy Mueller,
Secretary to the Mariposa County Planning Commission
Exhibit 1—Findings for Approval

General Plan/Specific Plan/Zoning Amendment No. 2011-043

The following specific findings are required to be made, in accordance with Section VIII.B.2 of the Fish Camp Specific Plan. In order to amend the Specific Plan it must be found that:

FINDING 1:

The amendment will further the goals and objectives of the Fish Camp Specific Plan and the Mariposa County General Plan.

Evidence: The overall goal of the development of the community of Fish Camp as stated in Section IV – Principles of Plan Administration of the Fish Camp Specific Plan, is the following:

“To provide for the greatest obtainable convenience, prosperity, health, safety, comfort, peace, morals and general welfare of the present and future residents and visitors to the County.”

The proposed wastewater treatment facility, specific plan amendment and accompanying amended site plan, which is necessary to allow the Tenaya Lodge and Cottages to remediate their existing sewage disposal system, was subject to environmental review and the initial study prepared did not find evidence that the implementation of the wastewater treatment facility/plant project that would be allowed by the specific plan amendment would have any potentially significant impact on the issues described above.

The objectives of the Fish Camp Specific Plan as stated in Section V. – Objectives of the Plan are as follows:

1. To provide for an orderly expansion of the community of Fish Camp.
2. To provide for, and promote, planned commercial and residential development within the Fish Camp Town Planning Area.
3. To promote the recreation and tourist industry of the community.
4. To preserve and protect the historical sites and structures of the community for the benefit of future generations.
5. To promote and provide an effective and safe circulation system within the community.
6. To preserve and protect the fragile ecology of the community specifically with respect to the hillsides of the Town Planning Area and Big Creek.
7. To promote and provide adequate and cost effective public services such as fire protection, public roads, water and sewer services, and snow removal.
8. To develop an adequate program for the evaluation of public buildings and facility needs.
9. To ensure a safe and healthful environment for residents and visitors alike.
10. To promote a diversity of housing types to meet the lifestyle of present and future residents.
The construction of a new wastewater treatment facility for the Tenaya Lodge and Cottages sites meets Objectives 1 and 2. It promotes an orderly operation of an existing commercial development in the community. The project is necessary infrastructure to support existing commercial development, which is consistent with Objective 3. The Initial Study prepared for the project is in accordance with the California Environmental Quality Act. The study found potentially significant impacts relating to biological and cultural resources at the site. Mitigation is proposed to reduce potentially significant impacts to a less than significant level, thus meeting Objective 4. The project would not have a negative impact on the community’s circulation system based on project conditions and would be consistent with Objective 5.

Construction of a more efficient wastewater treatment system is consistent with Objective 6 in that better protection of the fragile ecology of the community would be recognized by this project. The initial study found that the wastewater treatment facility would have no impact on the area’s hydrology or water quality.

The project is consistent with Objective 7. The new wastewater treatment facility would provide additional treatment capacity to accommodate peak wastewater flows that cannot be adequately treated on-site at the moment. All impacts associated with the project have been found to be found at less than significant levels. As it pertains to other aspects of this project, the project site has adequate access, parking and emergency ingress/egress via Jackson Road. There is adequate fire protection at the project site.

The initial study prepared for the project found that the project would have a less than significant impact on public services. Therefore, it is consistent with Objective 8.

The expansion project will be required to meet all construction standards and the wastewater treatment facility is required to maintain the facility in accordance with all applicable health and safety code requirements. Therefore, the project will be consistent with Objective 9.

No housing is proposed or impacted by this development request. Therefore, Objective 10 is not applicable to this project.

General Plan Issues:

The project is consistent with the Guiding Principles of the Mariposa County General Plan, including Principle 3.2.13 which states that “Supporting Mariposa’s economy, character, and housing, the County must take responsibility to determine the appropriate levels of service, the areas where infrastructure is to be provided, when service levels will be achieved, and how they will be funded. The General Plan requires that potable water, sewage disposal, and fire safe road access be available to the property consistent with State and County regulations."

Section 5.3.01 of the Mariposa County General Plan states that Town Planning Areas represent the rural scale “urban” development centers in the county. In describing Town Planning Areas, Section 5.3.01.B(1) states that all residential, commercial, industrial, job-center, recreation, and public uses, as defined in the General Plan, are consistent with the purpose of a Town Planning Area. Section 5.3.01.E(1) states that Fish Camp has an adopted Town Planning Area Specific Plan. The Fish Camp Plan is
described as a Town Planning Area Specific Plan to allow a comprehensive mix of zoning and land uses associated with its rural scale "urban" character."

Under Goal 5-4 of the General Plan, which states "Designate land areas and establish siting criteria to enhance economic opportunities", Implementation Measure 5-4c(1) states, "Accommodate appropriate siting and development standards for recreation and resort uses within the County." Implementation Measure 5-4c(2) states, "Standards shall be included that protect visual character related to: viewsheds; structural design, landscaping and scenic environments; landform grading; site development; and lighting."

Section 6.1.05.A of the General Plan states that "General Plan land use policies and the Economic Development Strategic Plan will encourage the development of destination resorts and the hotel facilities in appropriate locations in Mariposa County." Staff would interpret this to include infrastructure and facilities necessary to operate destination resorts or hotels.

Section 9.1.05 of the General Plan (Water and Wastewater) states that "most of Mariposa County is not within the service area of public water and wastewater treatment providers. Therefore, most development in the County must provide for its own water and wastewater treatment through on-site means or small, private communal systems." This section of the General Plan goes on to state that "other portions of the County are served by small public systems. Three public water systems provide domestic water to portions of the Fish Camp area through surface springs and groundwater wells. Sewage disposal in the Fish Camp area relies on individual septic tanks and underground leach field systems."

Goal 9-5 of the General Plan states that "Adequate water and wastewater services shall be provided to properties in the County." Implementation Measure 9-5a(1) states that "No project shall be approved unless it is shown to have access to an approved source for wastewater treatment and disposal and a potable water supply meeting Health Department requirements."

Section 13.3.01 of the General Plan states that, "The Land Use Element contains policies for development of resort and commercial recreation uses within sub-classifications of the Rural Commercial land use classification. These types of uses support the goals of the Regional Tourism Element by providing additional tourism destinations, including destination resorts and hotels in appropriate locations, and a wider range of recreational opportunities in the County."

Goal 13-5 of the General Plan states, "Provide job growth and sustain County revenues by enhancing and expanding the visitor-serving sectors of the economy." Plans to construct a new wastewater treatment facility for the Tenaya Lodge and Cottages would supply this existing tourist facility with needed modern infrastructure to support the visitor experience.

The new wastewater treatment facility will allow for the treatment of 125,000 gallons per day of wastewater, which is sufficient to accommodate peak daily flows from the Lodge and Cottage properties. This is consistent with applicable goals, policies, and implementation measures contained in the Mariposa County General Plan.
FINDING 2:

All environmental impacts of the amendment can be satisfactorily be mitigated.

Evidence: The initial study prepared for the new wastewater treatment facility, which would be allowed by the specific plan amendment, found that the only potentially significant impacts from project development were related to biological and cultural resources. Mitigation measures involving biological resources include inspection of trees selected for removal by a qualified biologist for potential dens for Pacific fisher, a pre-construction survey shall be required during the general avian nesting season if tree removal, site grading, etc. occur on the project site, and trees or snags on the site selected for removal shall be inspected by a qualified biologist for the presence of foliage-roosting bats or potential dens suitable for other special-status bats. A mitigation measure involving cultural resources has been included to stop all work on the project site should any signs of prehistoric, historic, archaeological, or paleontological resources. Mariposa Planning shall work with the American Indian Council of Mariposa County to identify appropriate mitigation measures to protect the find and ensure the mitigation measures are implemented by the project applicant. All mitigation measures pertaining to biological and cultural resources will reduce potentially significant impacts to a less than significant level.

FINDING 3:

The amendment will not result in the degradation of the community as a residential and commercial center.

Evidence: The initial study prepared for the project found that the project would have no potentially significant impacts on the residential component of the community. The proposed wastewater treatment facility will enhance operation of the commercial component within the community of Fish Camp.

FINDING 4:

The proposed amendment is needed to promote orderly growth within the Fish Camp community.

Evidence: The specific plan amendment will rezone 5.02 acres of land from the Single Family Residential (5-acre minimum) zone to Resort Commercial. The Single Family Residential (5-acre minimum) zoning does not allow for wastewater treatment facilities. The specific plan amendment will specifically allow construction of a wastewater treatment facility within Resort Commercial zoned property on the project site. The amendment will allow for replace of an antiquated leachfield and septic system wastewater with a modern wastewater treatment facility. The new wastewater treatment facility will be located in an area that is heavily forested and the development site will be below grade adjacent to Highway 41 and Jackson Road.

FINDING 5:

The area proposed for amendment is uniquely suited to the proposed use or density and that other areas are not presently available or usable for such use or density.
Evidence: This appurtenant use will be located in an area away from the Tenaya Lodge and Cottages development and the site, as noted under Evidence for Finding 5, will be located in an area that is heavily forested and the development site will be below grade adjacent to State Highway 41 and Jackson Road. The proposed development site is the only area available for such a facility and will have the least impact on existing operations of the Tenaya Lodge and Cottages and adjacent land uses. The new wastewater treatment facility will be in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan, and as stated in Conditional Use Permit No. 241. Sub-section 3.f. in Section VI – Land Use Policies and Standards, of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The existing lodging and additional development will be under that allowed under the Specific Plan and the open space would be 75% of the project site.

FINDING 6:

The amendment will not result in damage or have an adverse effect on the value of adjacent properties.

Evidence: The initial study prepared for the project did not find any potentially significant impacts on adjacent property owners. The new wastewater treatment plant will maintain and adequate buffer between the project and neighboring property owners to the south and west. The project has a potential indirect positive effect on the value of adjacent properties as it will ensure the effluent is treated to tertiary standards. All work is done through permits and inspection. On-going operation of the facility is also monitored by a permit.

FINDING 7:

The amendment will not result in an overtaxing of the existing community circulation system or create a traffic hazard.

Evidence: The initial study found that the wastewater treatment project would not substantially affect the performance of the circulation system. Operation of the proposed wastewater treatment would not result in an increase in the number of employees or visitors to the Tenaya Lodge or Tenaya Cottages properties. The study concluded that operation of the project would not be expected to generate additional vehicle trips to and from Tenaya Lodge or Tenaya Cottages.

When zoning on property is amended in Mariposa County, the following findings are required to be made, in accordance with Section 17.128.050.C. of Title 17, Mariposa County Zoning Code. It must be found:

FINDING 8:

That such an amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare.
Evidence: The project is in the general public interest in that it serves to implement the Mariposa County General Plan and the Fish Camp Specific Plan as stated in FINDING 1 above, and will promote the orderly growth of the community of Fish Camp as stated in FINDING 4 above. The project will not have a significant adverse effect on the general public health, safety, peace, based on the discussion in the Evidence sections for FINDINGS 2, 3, 6, and 7 above. The text of those sections is incorporated into this section by reference.

FINDING 9:

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: As noted in FINDING 1 above, the project is consistent with land use descriptions, and applicable goals, policies and implementation measures of the Mariposa County General Plan. The general plan is a long term guide for county development and project consistency with the general plan confirms that it will help to implement the general plan. Specific plans are designed to implement the general plan and provide more area specific land use standards. The project is consistent with the Fish Camp Specific Plan, which specifically directs development within the community and, therefore, provides a short term basis for day-to-day decision making. The project is supportive and necessary infrastructure for the existing development in the community.

FINDING 10:

That such an amendment conforms to the requirements of state law and county policy.

Evidence: State law and the Mariposa County General Plan allow for the amendment to area plans as provided by the adopted Specific Plan for the Fish Camp Town Planning Area. This amendment has been processed in accordance with the requirements of the Mariposa County General Plan, the Title 17, Mariposa County Zoning Code and the Fish Camp Specific Plan. This amendment has also been processed in accordance with adopted environmental review policies and laws. The public hearings were noticed in accordance with requirements of Section 17.132 of Title 17 and applicable sections of state law.

FINDING 11:

That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan.

Evidence: The project is consistent with all applicable guiding policies, goals, policies, and standards of the Mariposa County General Plan. To support this conclusion, the discussion in the Evidence section of FINDING 1 is incorporated into this section by reference.

FINDING 12:

Due to the fact that the amendment amends the zoning classification on an individual parcel it must be found that:
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.

Evidence: The site is physically suited for the zoning amendment under these and additional criteria, which have been discussed in previous findings. To support this conclusion, the discussion in the Evidence sections of FINDINGS 2, 3, 5, 6, 7, and 8 is incorporated into this section by reference.

Amended Site/Amended Conditions No. 2010-161

Due to the fact that the amended site plan application amends the original site plan for the Tonaya Cottages (formerly the Apple Tree Inn) approved for Conditional Use Permit No. 241, findings that need to be made for an amended site plan are those required for Conditional Use Permits in accordance with Section 17.112.040, Title 17, Mariposa County Zoning Code. It must be found:

FINDING A:

That adequate open space is being provided.

Evidence: The amended site plan is consistent with the requirements of Sub-section 3.f. in Section VI – Land Use Policies and Standards for the Resort Commercial zone as described in the Fish Camp Specific Plan. This section requires that 60% of a resort commercial site be kept in open space. The amended site plan meets this requirement as 69% of the total 11.13 (net) lot area will remain in open space. In accordance with the provisions of Conditional Use Permit No. 241, any expansion of square footage up to 10% may be reviewed and approved by the Planning Director; however, no increase may occur with regards to the number of lodging units. Additional development above the 10% requirement can only occur on the project site through an amended site plan in accordance with Condition of Approval No. 1 which states:

"The Use Permit is approved for the development of a 5,230 sq.ft. Lodge (containing an approximately 1,000 sq.ft. dining room, and approximately 640 sq.ft. conference room, an approximately 340 sq.ft. gift shop, a kitchen, bathrooms, laundry, mechanical room, and a lobby), a 3,053 sq.ft. recreation building (contained a pool, spas, laundry, bathroom, and racquetball court), 52 lodging units (contained within 21 separate units), and one residence, in general compliance with the approve site plan, building elevations on file at the Planning Department, and the donation of $10,000 to the Mariposa County Fire for use by the Fish Camp Fire Rescue for the purchase of equipment. Expansion of up to 10% of square footage may be approved by the Planning Director, no expansion in the number of lodging units is permitted by this use Permit. The project shall be developed in accordance with the approved plans; any deviation from the approved plans shall be reviewed and approved by the Planning
Director, in accordance with the conditions of approval and standards of the Fish Camp Specific Plan and County Zoning Ordinance, prior to any modification being made.”

The project is consistent with Section VI.A.3.f.1.d. of the Fish Camp Specific Plan in that development in the Resort Commercial zone must meet specific density standards. The new wastewater treatment facility and existing cottage development meets this criteria.

**FINDING B:**

That the site is physically suited for the proposed development.

**Evidence:** The new wastewater treatment facility proposed under this amended site plan will be located in an area that is best suited for appurtenant structures since the development site is a remote, flat area away from most lodging facilities away from residential development and will be screened from view by existing forest vegetation. As mentioned, the majority of the development site is flat and will require little site grading and preparation. Given these existing characteristics, the site is physically suited for the proposed development and the wastewater treatment facility project will be required to comply with all applicable construction code standards.

**FINDING C:**

That adequate provisions have been made for sewage disposal and handling of solid waste.

**Evidence:** Because the existing sewage disposal and leachfield system for the Tenaya Lodge and Cottages has not preformed adequately over the life of the system, the applicant is proposing a modern wastewater treatment facility to effectively and efficiently treat sewage generated from the site. The proposed wastewater treatment facility will be required to adhere to all state permitting requirements relating to sewage treatment and disposal. The waste generated at the lodge and cottages is required to comply with federal, state and local statutes and regulations relating to solid waste.

**FINDING D:**

That the proposed development will have adequate potable water for public use and fire protection.

**Evidence:** The initial study prepared for the project found that water is supplied from three active wells on the Tenaya Lodge property and the capacity of existing groundwater wells is more than sufficient to serve the needs of the lodge and cottages. The proposed wastewater treatment plant would use potable water for sinks and toilets in the wastewater treatment plant building as well as for equipment wash down, however, this would not represent additional demand over existing quantities as the proposed wastewater treatment facility would replace an existing facility on-site. Consequently, water supply from existing sources on the Tenaya Lodge and Cottages properties would be sufficient to serve the project and impact would be less than significant.
FINDING E:

That the project complies with all standard and special setback requirements and appropriate buffers have been provided for adjacent land uses.

Evidence: The expanded lodge will meet the setback requirements contained in Section VI.A.3.b. of the Fish Camp Specific Plan. Front setbacks shall be a minimum of 30 feet from the centerline of a community street, or ten feet from the easement boundary of a State Highway. This setback area shall not be used for off-street parking purposes. All off-street parking in the front of a Resort Commercial structure shall have adequate ingress and egress with respect to the abutting street or highway. Setback areas may be used for such ingress and egress. The proposed project conforms with all applicable Resort Commercial setback standards.

FINDING F:

That appropriate access is available or is proposed to the development.

Evidence: The Tenaya Lodge and Cottages project site is accessed by Jackson Road. The access point is adequate to serve the WWTF.

FINDING G:

That the proposed use is consistent with the policies and standards of the general plan and any applicable specific plan.

Evidence: The project will allow construction of a new wastewater treatment plant at the Tenaya Lodge and Cottages facility in the community of Fish Camp. Fish Camp is a Town Planning Area as described in the Mariposa County General Plan. Section 5.3.01.B(1) of the General Plan states that “All residential, commercial, industrial, job-center, recreation, and public uses, as defined in the General Plan, are consistent with the purpose of a town planning area.” This project fits with or is consistent with this description of a Town Planning Area. The project is consistent with all applicable goals, policies, and implementation measures contained in the Mariposa County General Plan. (See “Evidence” in Finding 1 above.) The project is consistent with the goals and objectives of the Fish Camp Specific Plan (See “Evidence” in Finding 1 above) and with the development standards contained in Section IV.A. for Resort Commercial uses in the Fish Camp Specific Plan.

FINDING H:

That the project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or determine that the significant effects are unavoidable and acceptable due to overriding concerns.

Evidence: The project will not have a significant effect on the environment. An initial study was prepared for the project. The potentially significant impacts of the proposed wastewater treatment facility related to biological and cultural resources have been mitigated to a less than significant level. These two areas were the only significant impacts identified in the initial study.
FINDING I:

That the establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county.

Evidence: The initial study prepared for the project did not find that project implementation would have a potentially significant impact on persons working or residing in the neighborhood of the Tenaya Lodge and Cottages site. The project will not be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the county.

ADDITIONAL FINDING:

Is the project consistent with the applicable approval standards and conditions of approval for Conditional Use Permit No. 241.

Evidence: All applicable and remaining conditions of approval for Conditional Use Permit No. 241 remain in effect for this amended site plan proposal. Resolution Finding of Fact 2.C states that “All significant structural improvements will be located on that portion of the project site in the Resort Commercial land use as designated by the Fish Camp Specific Plan....” The approval of the Specific Plan Amendment to rezone a portion of the property to Resort Commercial ensures that this requirement is met.
Exhibit 2—Conditions of Approval and Mitigation Measures and Amended Site Plan

Conditions of Approval for Amended Site Plan Application No. 2010-161 for the Tenaya Lodge & Cottages Wastewater Treatment Facility

The following lists the original condition of approval that is the subject of this request, together with the recommended amendment shown in **bold italic underlined** font for new text, and strikethrough text for deleted text.

**Original Amended Condition of Approval No. 1:**

1) The Use Permit is approved for the development of a 5,230 sq.ft. Lodge (containing an approximately 1,000 sq.ft. dining room, and approximately 640 sq.ft. conference room, an approximately 340 sq.ft. gift shop, a kitchen, bathrooms, laundry, mechanical room, and a lobby), a 3,053 sq.ft. recreation building (contained a pool, spas, laundry, bathroom, and racquetball court), 52 lodging units (contained within 21 separate units), and one residence, in general compliance with the approve site plan, building elevations on file at the Planning Department, and the donation of $10,000 to the Mariposa County Fire for use by the Fish Camp Fire Rescue for the purchase of equipment. Expansion of up to 10% of square footage may be approved by the Planning Director, no expansion in the number of lodging units is permitted by this use Permit. The project shall be developed in accordance with the approved plans; any deviation from the approved plans shall be reviewed and approved by the Planning Director, in accordance with the conditions of approval and standards of the Fish Camp Specific Plan and County Zoning Ordinance, prior to any modification being made. **The Use Permit is also approved for the development of a new wastewater treatment facility on APN No. 010-410-013 for the Tenaya Lodge facilities located on APN 010-410-012 and Tenaya Cottages facilities located on APN 010-410-013. No other development shall be considered or allowed on this parcel except for the uses and development specifically described in this condition and accessory or appurtenant structures specifically associated with and necessary for the uses and development specifically described in this condition and the operation of the wastewater treatment facility. Specific mitigation measures associated with the wastewater treatment facility as required by Mariposa County and other outside agencies shall be implemented as part of the construction and future operation of the wastewater treatment facility. Such mitigation measure shall be detailed in the Mitigated Negative Declaration for the wastewater treatment facility project. Should the Assessor's Parcel Number (APN) change for the wastewater treatment facility sometime in the future, that new APN shall carry with it all conditions of approval as applied to the old APN.**

(Mariposa Planning Recommendation)
Recommended Conditions of Approval for Amended Site Plan Application No. 2010-161:

28) All previous conditions of approval for Use Permit Application 241 shall remain in full effect and apply to the Tenaya Lodge and Tenaya Cottages project sites. Should a conflict occur between one of the old conditions of approval and one of the old conditions of approval, the more restrictive condition shall apply.

(Mariposa Planning Recommendation)

29) All new buildings and structures that are part of the wastewater treatment plant project shall be painted or finished in muted tones and colors. No reflective surfaces shall be approved. The final exterior building colors (including siding and roofing) shall be reviewed and approved by Mariposa Planning prior to issuance of a building permit for the project. Final building paint or finish colors shall be submitted to Mariposa Planning for review and approval prior to issuance of a building permit for the new wastewater treatment facility. Building colors shall be colors that minimize the buildings visual impact from State Highway 41. Paint colors, such as earth tones, should reflect the adjacent natural environment. The new wastewater treatment facility structure shall have no shiny or reflective surfaces.

(Mariposa Planning Recommendation)

30) All new exterior lighting that is part of the new wastewater treatment facility shall be of a hooded type design (shielded fixture) and be designed to direct light onto the intended area. Additionally, all new lighting shall meet the criteria set forth by the International Dark Sky Association (www.darksky.org). Lighting shall be of the lowest intensity needed to perform the intended function at the project and shall not light any off-site parcels.

(Mariposa Planning Recommendation)

31) All fees for processing of this project, including publication costs, shall be paid within forty-five (45) days of the date of billing. A building permit for the wastewater treatment plant shall not be authorized if there are outstanding planning fees.

(Mariposa Planning Recommendation)

32) A landscape and irrigation plan shall be submitted by the project proponent for review and approval prior to issuance of a building permit for the new wastewater treatment facility. Planting areas along the perimeter of the new wastewater treatment facility shall be designed so as to maximize the effectiveness of the landscaping as a screen. Plant species and spacing shall be chosen such that full screening from Highway 41 and Jackson Road is achieved within five (5) years of project completion. Planting areas for perimeter landscaping shall be a minimum of three (3) feet wide. New landscaping shall be designed to effectively screen the wastewater treatment facility and any appurtenant structures from Highway 41 and Jackson Road. Any proposed landscaping shall incorporate or utilize indigenous or water conserving plants whenever possible. Plants that are susceptible to insects and disease shall be
prohibited. If at anytime a plant dies, the project proponent shall be responsible for replacing the dead plant in a timely manner. Retention of existing vegetation is encouraged to achieve these landscape plan objectives.

(Mariposa Planning Recommendation)

33) Shrub materials shall be a minimum of five (5) gallons in size at the time of planting. Trees shall be selected from the Planning Department's approved tree list, and shall be a minimum of 15 gallons in size at the time of planting. Landscape plans shall consider the full growth of vegetation.

(Mariposa Planning Recommendation)

34) Any planting areas that may be subject to damage from pedestrian or vehicular traffic shall be protected by curbing, fencing or walls.

(Mariposa Planning Recommendation)

35) Drip irrigation shall be encouraged as a water conservation measure.

(Mariposa Planning Recommendation)

36) The property owner shall be responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance for the life of the development. Dead or diseased plants shall be immediately replaced with plants which meet size requirements.

(Mariposa Planning Recommendation)

37) Signs are not part of this project approval for an Amended Site Plan. Addressing may be required for the Building Permit.

(Mariposa Planning Recommendation)

38) An area or areas shall be shown on the final development plans indicating where snow storage for the wastewater treatment plant will occur. Snow storage areas shall not impact access to the site, required parking or facility operation.

(Mariposa Planning Recommendation)

39) As many of the existing on-site trees shall be preserved on the development site as possible in order to create a vegetative screen around the new wastewater treatment facility from both Highway 41 and Jackson Road. A final tree removal plan shall be presented to Mariposa Planning for review and approval prior to removal of any trees on the development site.

(Mariposa Planning Recommendation)

40) An encroachment permit shall be obtained by the applicant prior to any proposed access improvements to the development site or project work that involves a County right-of-way. This permit shall be obtained from the Department of Public Works prior to the start of any construction work involving any County
right-of-way. The encroachment permit shall also contain a traffic management plan to lessen construction impacts on regular uses of any affected County right-of-way. All required encroachment improvements shall be completed to the satisfaction of the Department of Public Works prior to building permit final on the project.

(Mariposa Planning Recommendation)

41) The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner’s project is subject to that other governmental entity’s approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.

(Mariposa Planning Recommendation)

42) Prior to issuance of any development permits for this project, any outstanding fees associated with the County’s processing of the project shall be paid. This shall include, but is not limited, to notifying fees and publication costs. The Department of Fish and Game filing fee ($2,044.00 as of 1/1/11) and the County Clerk fee ($50.00 as of 1/1/11) shall be paid by the applicant within five (5) working days of the approval of the application (by ___ day, ___ 2011), because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on ______, ______, 2011 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of $2,094.00 (effective 1/1/11), and that it be in the form of a cashier’s check or money order payable to “Mariposa County.” The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning to file this fee and other required documents with the County Clerk.
Note, the filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.

(California Department of Fish and Game Requirement and Mariposa Planning Recommendation)

43) A declaration shall be drafted and recorded with the County that specifies that the commercial development on APN 010-410-012 and APN 010-410-013 share a wastewater treatment facility and disposal system. Should ownership of the two parcels change in the future, such that the facilities are no longer owned and managed by the same entity, easements shall be created on both parcels for all surface and subsurface infrastructure improvements for wastewater treatment and a shared maintenance mechanism shall be established by recorded document. Maintenance shall include, but not be limited to, short-term and long-term operational maintenance and replacement needs related to a wastewater treatment facility including permitting requirements. The maintenance mechanism shall be developed by the applicant so those parcels served by the wastewater treatment facility shall be responsible for all associated maintenance. These provisions shall be reviewed and approved by the County staff prior to recordation and shall:

a. Be in effect for the life of the project unless said maintenance is taken over by the County, a special district, or other governmental entity.

b. Provide for annual maintenance and the immediate correction of emergency and hazard situations.

c. Include 100% of the parcels in the project development served by the wastewater treatment facility.

d. Provide a mechanism for members to collect delinquent payments or assessments for the maintenance described above by filing a lien on the delinquent properties.

The final declaration document shall be applicable to both parcels to be served by the new wastewater treatment facility. Should the two parcels served by the wastewater treatment facility be merged in the future, the recorded declaration shall be become null and void.

(Mariposa Planning Recommendation)

44) A surveyed set of as built drawings for subsurface infrastructure shall be created to establish locations for potential easements in the future.

(Mariposa Planning Recommendation)

45) If necessary, an address shall be obtained from the Assessors Office for the new facility, which takes access from Jackson / Big Sandy Road. Addressing shall occur prior to issuance of a building or grading permit.

(Mariposa Planning Recommendation)
46) The development of the site and the location of structures and uses shall be in substantial conformance to the site plan that was reviewed and approved by the Planning Commission and Board of Supervisors.

(Mariposa Planning Recommendation)

47) This project is approved on ________, 2011. This approval shall expire ________, 2014. If the conditions of approval are not completed and the project is not fully implemented by ________, 2014 the applicant may request one or more time extensions of up to eighteen (18) months. The applicant must make this request in writing prior to ________, 2014.

(Mariposa Planning Recommendation)

48) The on-site parking areas shall be graveled with a minimum of two inches of gravel and shall be maintained in that condition for the life of the project.

(Mariposa Planning Recommendation)

49) All grading to implement the project and that is subject to a grading permit shall occur in accordance with all applicable standards as applied through the grading permit. All disturbed soils after construction and improvements should be seeded with 20-25 pounds per acre and covered with weed free hay or rice straw to protect against rain drop impact sheet/rill erosion. Seeding shall be done during November-December. Building Department staff shall be responsible for inspection of this particular phase of project work.

(Mariposa Planning Recommendation)

50) Outdoor trash containers shall be required to meet the standards of Chapter 8.44, of Title 8, Health and Safety, Mariposa County Code, commonly known as the “Mariposa County Bear Control Ordinance.”

(Mariposa Planning Recommendation)

51) The project proponent shall be required to prepare and obtain approval of a Timber Harvesting Plan in accordance with State Forest Practice Rules if timber is removed from the site and sold commercially. The Timber Harvesting Plan shall be complete prior to timber removal.

(Mariposa Planning Recommendation)

52) Non compliance with any of the conditions of approval for Amended Site Plan No. 2010-161 may be grounds for revocation of the project approval.

(Mariposa Planning Recommendation)

53) Prior to the commencement of any grading required to implement this project, the project proponent shall contact the Regional Water Quality Control Board to determine if a General Permit for Discharges of Storm Water Associated with Construction Activity is required under State Water Quality Control Board
Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES). If required, the applicant shall obtain the permit prior to commencement of grading activities. The project proponent shall provide a copy of the approved permit or evidence that a permit is not required to the Mariposa County Planning Department prior to the initiation of grading activities. The project proponent shall provide written evidence that the permit requirements have been met to the satisfaction of the RWQCB at the conclusion of any grading.

(Mariposa Planning Recommendation)

54) The land use/rezoning amendment process shall be completed prior to any final of construction permits associated with this project.

(Mariposa Planning Recommendation)

55) All mitigation measures contained in the Mitigated Negative Declaration for the project shall be implemented through a mitigation monitoring plan adopted during the approval phase of project review.

(Mariposa Planning Recommendation)

56) The Discharger must submit a Report of Waste Discharge (RWD) and/or Technical Reports to the Central Valley Water Board 140 days prior to discharge to address changes to the existing WWTF and any potential degradation from the new WWTF.

(California Regional Water Quality Control Board – Central Valley Region, also know as the Central Valley Water Board)

57) The applicant shall submit evidence to the Environmental Health Division that confirms that the existing leach fields serving the main Tenaya Lodge are adequate to accommodate the additional daily flows from the cottages. The evidence shall be submitted prior to final inspection. If the information submitted to the Environmental Health Division by the applicant is not approved pursuant to this condition, the applicant shall be responsible for any and all testing, conditions and improvements established the Environmental Health Division prior to adding daily flows to the existing leachfields.

(Health Department Recommendation)

58) Excavation for the underground tanks may uncover or remove a portion of the leachfield serving the cottages creating a potential public health threat posed by runoff of the sewage effluent an/or contact with sewage contaminated materials. An engineering report addressing these concerns including mitigation prior to beginning construction shall be submitted to the Mariposa County Health Department, Environmental Health Division. A permit to repair, replace or remove any portion of the sewage system must be obtained from the Mariposa County Health Department, Environmental Health Division if determined necessary by Health Department staff.
(Health Department Recommendation)

59) If the project involves any tree removal at the WWTF development site, evidence shall be submitted to the Mariposa County Health Department, Environmental Health Division, that removal of trees shall not result in raising ground water levels. All areas identified for tree removal shall be evaluated for effective subsurface disposal.

(Health Department Recommendation)

60) A plan shall be submitted to the Environmental Health Division to show how all aspects of the existing septic system that serves the Tenaya Cottages and the Lodge will be removed during and following construction of the proposed new wastewater treatment facility. The plan shall be submitted prior to issuance of a building permit for the project regarding possible site remediation plans of the existing septic system consisting of two 3,000 gallon septic tanks and multiple leach lines (for the Cottages) shall be submitted to Mariposa County for review, consideration and permitting.

(Health Department and Mariposa Planning Recommendation)

61) Prior to the issuance of a Certificate of Completion for the Tenaya Lodge and Cottages wastewater treatment facility pursuant to Amended Site/Amended Conditions No. 2010-161, the project proponent shall provide the Regional Water Quality Control Board (RWQCB) certification from a registered civil engineer that the lodge and cottage’s wastewater treatment system has adequate capacity for all existing structures on-site and is not causing a localized groundwater mounding problem leading to an offsite (or onsite) surface discharge. The project proponent shall provide evidence of the RWQCB approval/acceptance of the certification to Mariposa Planning.

(Health Department and Mariposa Planning Recommendation)

62) The existing fiber optic cable located in the project site area shall be relocated by Sierra Telephone or Sierra Telephone’s designated agent prior to issuance of a grading permit for the project. The realigned cables shall be located in an easement which circumvents the project site area, the final location of which shall be approved by Sierra Telephone. The type and format of the easement document shall be approved by Sierra Telephone, prior to recording. The existing easement within the project site area shall be abandoned. All costs associated with the relocation and creation/abandonment of the easements shall be the responsibility of the applicant.

(Sierra Telephone)

63) This project shall be subject to a grading permit from the Building Department. All disturbed soils after construction and improvements shall be seeded with 20-25 pounds per acre and covered with weed free hay or rice straw to protect against rain drop impact sheet/rill erosion. Seeding should be done during November-December to ensure moisture for germination or otherwise irrigated in the dry months.
(Mariposa County Resource Conservation District)

64) A Special Use Permit shall be obtained by the project proponent for any work on that portion of Jackson Road that is within the Sierra National Forest. All requirements of the U.S. Forest Service shall be met prior to completion of the project (final on the building permit). As determined by the U.S. Forest Service, all road requirement standards as set forth by the U.S. Forest Service shall be met for any road providing access to the new wastewater treatment facility, which may include designing the road to be improved to a two-lane capacity.

(U.S. Forest Service, Sierra National Forest)

**Mitigation Measures for the Tenaya Lodge & Cottages Wastewater Treatment Facility**

65) **Mitigation Measure BIO-1:** Any medium or larger (≥ 20 inches in diameter) trees selected for removal shall be inspected by a qualified biologist for potential dens (cavities, entrance holes) suitable for Pacific fisher. Cavities suitable for fisher will be examined with portable camera probes to determine fisher presence. A disturbance-free buffer of 300 ft shall be flagged around each occupied den. If a potential den is not occupied, the tree may be removed under the direction of the qualified biologist.

If avoidance of an occupied den is not possible, the Project Proponent shall coordinate with the U.S. Fish and Wildlife Service (the Service) and CDFG and take the following steps to passively remove the fisher outside of the kit-rearing season (1 June to 1 February):

- Occupied trees shall be monitored daily by a qualified biologist for a period of 7 days to determine whether the den has been temporarily vacated.
- Once it has been determined that the den was vacated, the unoccupied den tree shall be removed the same day under the direction of the qualified biologist. If the den remains occupied, the qualified biologist shall monitor the den weekly until it has been determined that the fisher has vacated the den. Tree removal shall take place immediately following confirmation that the den has been vacated as noted above.

66) **Mitigation Measure BIO-2:** Any construction activities such as tree removal, site grading, etc., occurring on the proposed Project site within the general avian nesting season, between March 1 and August 31, shall require a pre-construction survey conducted by a qualified biologist to determine if the construction activity violates the provisions of Fish and Game Code, sections 3503, 3503.5, and 3513. This pre-construction survey shall be conducted no more than 14 days prior to the initiation of any demolition/construction activities during the early part of the breeding season (March 1 through April 30) and no more than 30 days prior
to the initiation of these activities during the late part of the breeding season (May 1 through August 31).

For California spotted owl and northern goshawks, a qualified biologist shall conduct the focused breeding season surveys within the construction zone and a surrounding 500-foot buffer. If nests are found during the survey, a 500-foot disturbance-free buffer shall be established around each nest in coordination with the California Department of Fish and Game (CDFG) and demarcated by fencing or flagging. Where a biological evaluation by a qualified biologist determines that a nest site would be shielded from planned activities by topographic or other features that would minimize disturbance, the buffer distance may be reduced.

For all other bird species, the qualified biologist conducting the focused breeding season survey shall inspect all potential nest substrates in and immediately adjacent to the impact area for nests. If an active nest is found close enough to the construction area to be disturbed by these activities, the biologist, in consultation with CDFG, shall determine the extent of a construction-free buffer to be established around the nest.

A copy of the results of any survey conducted shall be provided to the Mariposa County Planning Department together with the evidence that any required mitigation measures have been implemented prior to such construction activity occurring on-site.

Mitigation Measure BIO-3: Any medium or larger (>12-inch diameter) trees or snags selected for removal shall be inspected by a qualified biologist for presence of foliage-roosting bats (western red bat) and potential dens (cavities, entrance holes) suitable for other special-status bats (pallid bat and Townsend’s big-eared bat). Cavities suitable as special-status bat roosts shall be examined for roosting bats using a portable camera probe or similar technology. Buildings with potential for supporting special-status bats (pallid bat and Townsend’s big-eared bat) shall be inspected by a qualified biologist for evidence of roosting colonies. If present, roosts (including day and night roosts, hibernacula, and maternity colonies) and a 300-foot disturbance-free buffer surrounding each roost shall be flagged.

If avoidance is not possible, the roosting bats shall be passively evicted under the direction of a qualified biologist (as determined by a Memorandum of Understanding with the CDFG). The qualified biologist shall facilitate the removal of roosting bats outside of the winter hibernation (1 November to 1 March) and maternity roosting (1 March to 31 July) periods through the following means:

- Opening the roosting area to allow airflow through the cavity or building (air flow disturbance).
- Waiting a minimum of one night for roosting bats to respond to air flow disturbance, thereby allowing bats to leave during nighttime hours when
predation risk is relatively low and chances of finding a new roost is greater than in the daytime.

- Disturbing roosts at dusk just prior to roost removal the same evening to allow bats to escape during nighttime hours.

68) **Mitigation Measure CUL-1:** During grading, construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, or paleontological resources are evident, all work activity within 50 feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within 50 feet of the find until the Mariposa County Planning Department, in consultation with a representative of the American Indian Council of Mariposa County has identified appropriate mitigation measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but shall not be limited to, requiring the project applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and the American Indian Council of Mariposa County shall be notified should human remains be discovered. Representatives of the American Indian Council of Mariposa County shall be requested to be on-site during disturbance and/or removal of human remains. Should any Native American artifact or human remains be discovered, a representative of the American Indian Council of Mariposa County shall be on-site to monitor the remainder of the excavation activities.

69) **Mitigation Measure UTILS-1:** Moisture probes shall be installed in the leach fields and subsurface disposal irrigation system to continuously register the level of soil saturation for the WWTP operators. Automated valves and flow meters shall be installed on the pipes in the leach fields, with telemetry the transmit data to the WWTP control room and allow for ongoing monitoring and control of the system.