Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2009-013

A resolution conditionally approving Major Subdivision
Application No. 2006-154 (Don Pedro View Subdivision)/Lot Line
Adjustment No. 2008-100, Kenneth Nichols, applicant. Assessor’s
Parcel Numbers (APN) 021-340-002 and 021-060-017.

WHEREAS an application for Major Subdivision No. 2006-154 was received on April 21, 2006
from Kenneth Nichols and an application for Lot Line Adjustment No. 2008-100 was
received from Kenneth Nichols on May 21, 2008 for property located roughly 3,500 feet
east of the intersection of Banderilla Drive and Hidalgo Street, identified as Assessor’s
Parcel Numbers (APN) 021-340-002 and 021-060-017; and

WHEREAS Lot Line Adjustment Application No. 2008-100 proposes to would bring the
boundary between the two parcels to the centerline of Hidalgo Street. The adjustment
would reduce the size of APN 021-340-002 from 32.92 acres to 25.29 acres and would
increase the size of APN 021-060-017 from 43.36 acres to 50.99.

WHEREAS Major Subdivision Application No. 2006-154 (Don Pedro View Subdivision)
proposes the division of the 50.99-acre APN 021-060-017 into 8 lots ranging in size from
5.01 acres to 9.81 acres, and

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

WHEREAS a duly noticed public hearing was scheduled for July 10, 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 and Initial Study were prepared pursuant to the California
Government Code, Mariposa County Code, California Environmental Quality Act, and
local administrative procedures; and

WHEREAS the Initial Study/Proposed Mitigated Negative Declaration was distributed to
affected state agencies through the State Clearinghouse process under State
Clearinghouse number 2009061009, and

WHEREAS the Planning Commission considered all of the information in the public record,
including the Initial Study and Staff Report, testimony presented by the public
concerning the application, and the comments of the applicant.

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of
Mariposa does hereby adopt a Mitigated Negative Declaration for the project.
BE IT FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Major Subdivision Application No. 2006-154/Lot Line Adjustment Application No. 2008-100.

BE IT FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms, conditions and mitigation measures set forth in Exhibit 2.

BE IT FINALLY RESOLVED THAT project mitigation measures will be monitored as shown in Exhibit 3.

ON MOTION BY Commissioner Ross, seconded by Commissioner Marsden, this resolution is duly passed and adopted this 10th day of July 2009 by the following vote:

AYES: Francisco, Ross, Rudzik, Tucker, Marsden

NOES: None

EXCUSED: None

ABSTAIN: None

Attest:

[Signature]
Judy Mueller, Secretary to the Mariposa County Planning Commission

Robert L. Rudzik, Chair
Mariposa County Planning Commission
EXHIBIT 1

PROJECT FINDINGS

FOR

Major Subdivision Application No. 2006-154/Lot Line Adjustment
Application No. 2008-100

1. FINDING: The site is physically suitable for the type and density of development.

EVIDENCE: Based on site inspection and the proposed division of the adjusted parcel into 8 lots that are all between five and 10 acres in size, the site is physically suited for low-density residential development and appurtenant improvements provided that the conditions of approval relating to septic systems and their approved locations can be met. The proposed project is located within the Rural Residential zone. The subdivision density is designed in accordance with the Rural Residential zone where individual septic systems are utilized. The easement roads and driveways provide adequate access to the residential parcels.

2. FINDING: The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

EVIDENCE: The Initial Study prepared for the project found that based on the approved project description and the proposed mitigation measures, it would have a less than significant effect on the environment. Implementation of mitigation measures as identified in the project's Initial Study will reduce potentially significant impacts of project implementation on a blue-line drainage, jurisdictional waters of the United States, including wetlands, within the drainage, nesting birds, and cultural resources to less than significant levels. The addition of text within Mitigation Measures 4.b.1 and 4.b.2 as a result of input on the Initial Study from the Army Corps of Engineers will reduce potentially significant impacts on jurisdictional waters to less than significant levels. The project is subject to the California Department of Fish and Game filing fees for a mitigated negative declaration as required by AB 3158 and a County Clerk filing fee.

3. FINDING: The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.

EVIDENCE: This subdivision and its subsequent use for low-density residential purposes is not likely to cause serious health problems with the implementation of conditions of approval that are designed reduce potential health effects from septic systems to less than significant levels. The project area has septic limitations such as shallow soils, steep slopes, rock outcroppings, archaeological sites, and drainages. Soils on the site create limitations with respect to septic disposal and engineered, alternative design systems will be required to be installed on these lots. Future residential uses will be required to comply with all Building Code regulations and Health Department
standards for the proper installation of sewage disposal systems. The proper location and implementation of these improvements, and the implementation of septic system conditions of approval will ensure that serious health problems will not occur on the site. All future residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resources Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection. Fire hydrants are located on the project site and are required to be in adequate operating condition.

Azulete Way will exceed the maximum dead end road length standard contained in Public Resources Code (PRC) 4290. Section 1273.09 states that for parcels zoned for 5 acres to 19.99 acres, dead end roads are not to exceed 2,640 feet in length. The length of the dead-end road from the intersection of Banderilla Drive and Hidalgo Street to the Azulete Way cul-de-sac is 2,771 feet. However, CalFire finds that the road is acceptable because the existence of fire hydrants provides a mitigating factor allowing the road to exceed the requirements of Section 1273.09 of PRC 4290.

4. **FINDING:** The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.

**EVIDENCE:** With the implementation of required conditions of approval the proposed subdivision is consistent with the goals, policies and implementation measures of the Land Use Element and other applicable standards in Mariposa County General Plan and Title 17, Mariposa County Zoning. The land division is the initial step in the process to help implement the General Plan's Housing Element. Under Section 8.10.04 – Housing Objectives and Programs, A. Objective One: - Accommodate the County's Housing Allocation states: "California law requires the Department of Housing and Community Development to provide the County of Mariposa with its 'fair share' of regional housing. This Regional Housing Needs Allocation establishes the minimum number of dwelling units per income classification." C. Objective Three: – Providing Adequate Sites and Services of the Housing Element states: "The County shall provide opportunities for adequate housing sites and new subdivisions to accommodate anticipated population growth and its fair share of regional housing as required by state law." The land division satisfies these objectives by providing increased housing opportunities. There is no Specific Plan governing this property.

With additional improvements, as required by project conditions of approval, Hidalgo Street and Azulete Way are adequate to serve the increased traffic resulting from this subdivision and meet the applicable goals, policies and implementation measures regarding safe and adequate access contained in the Land Use, and Circulation, Infrastructure and Services elements of the Mariposa County General Plan

5. **FINDING:** The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

**EVIDENCE:** The minimum lot size proposed by the project is consistent with the Residential land use classification standards contained in the Mariposa County General Plan and the Rural Residential zoning standards contained in Title 17, Mariposa County Zoning. The subdivision design is consistent with the General Plan standard that all new subdivision parcels have safe and adequate access from a county
or easement road. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for lot configuration. The project site is not in an area governed by a Specific Plan. Section 5.3.02.E(3) of the General Plan states the following:

"New parcels must have approved areas for onsite or community system sewage disposal if sewer connections are not available and will obtain an approval from the Health Department."

The placement of Lot 5's leachfield system on Lot 7 would not be allowed under this General Plan standard. Implementation of the project condition of approval that proposes that Lot 5 be eliminated and its acreage absorbed into an adjoining lot or lots ensures that the project is consistent with the Mariposa County General Plan.

6. FINDING: The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

EVIDENCE: The project will not conflict with any public easement. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

Lot Line Adjustment Findings

1. FINDING: The lot line adjustment involves two (2) parcels which in their modified configurations comply with the minimum parcel size standards of the Rural Residential zoning district as described in Title 17, Mariposa County Zoning Ordinance. (This finding is made in accordance with the provisions of Section 17.108.040 of the Mariposa County Zoning Ordinance.)

EVIDENCE: The two parcels, APNs 021-060-017 and 021-340-002, are located in the Rural Residential zoning district. This zoning district has a five-acre minimum parcel size requirement unless lots are served by a community sewer system(s) in which case parcels can be 2-1/2 acres in size. APN 021-060-017 will be increased in size from 43.36 acres to 50.99 acres by the lot line adjustment and APN 021-340-002 will be reduced in size from 32.917 acres to 25.29 acres by the adjustment.

2. FINDING: The lot line adjustment involves two existing adjacent parcels. The adjustment results in land being taken from one parcel and added to an adjacent parcel, and a greater number of parcels than originally existed is not being created (this finding is made in accordance with the provisions of Section 66412(d) of the State Subdivision Map Act. The subdivision, upon compliance with the required conditions, complies with all standards of the Subdivision Map Act and Title 16 of the County Subdivision Ordinance).

EVIDENCE: The two parcels involved in this lot line adjustment are separate and legal parcels. The two parcels involved in the lot line adjustment were originally part of the Lake Don Pedro Subdivision; APN 021-060-017 was in Unit 3-M and contained 16 lots, and APN 021-340-002 was in Unit 7-M and contained 12 lots. The small parcels
were merged in 1974 leaving the two current parcels. These two parcels would remain after the lot line adjustment and a greater number of lots is not being created.
EXHIBIT 2
CONDITIONS OF APPROVAL/MITIGATION MEASURES
FOR
Major Subdivision Application No. 2006-154/
Lot Line Adjustment Applicant No.2008-100

PUBLIC WORKS DEPARTMENT CONDITIONS

1. The easement for Azulate Way shall be made a minimum 60 feet wide and non-exclusive. Minimum 60-foot radius cul-de-sac easement for Azulate Way shall be provided to encompass the required cul-de-sac improvements. Additional easement width may be required to encompass the required road improvements, including turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy. The easements shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state the dedications are for "public road and utility purposes."

(Section 16.12.160.B, County Subdivision Ordinance; Road Standard Cross-sections, Road Improvement and Circulation Policy)

2. The on site easement for Hidalgo Street shall be made a minimum 35 feet wide and non-exclusive. An area of adequate size to accommodate one-half of a 65-foot radius cul-de-sac easement for Hidalgo Street (32.5-foot radius) shall be provided to encompass the required cul-de-sac improvements. Additional easement width may be required to encompass the required road improvements, including turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy. The easements shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state the dedications are for "public road and utility purposes."

For any portion of the proposed cul-de-sac easement located off site and not in the ownership of the applicant, adequate documentation showing that the off-site portion is non-exclusive and that the lots in the project are granted the right to use the off-site portion shall be provided. If documentation cannot be provided, the entirety of the cul-de-sac shall be located on the project applicant's property.

(Section 16.12.160.B, County Subdivision Ordinance; Road Standard Cross-sections, Road Improvement and Circulation Policy)

3. The easement for Hidalgo Street and Azulate Way from the existing pavement to the cul-de-sacs shall be improved to a Rural Class III C standard and shall meet this standard at the time of filing the final map. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer at the time of
filing of the final map. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.

(Section 16.12.170, County Subdivision Ordinance; Drawing No. R-3, Mariposa County Improvement Standards)

4. The proposed driveway easements serving Lots 5 and 6 and Lots 7 and 8 shall be made 40 feet wide and non-exclusive. The easements shall be designated for access for the use and benefit of subject properties. The location of the easements shall be approved by the County Engineer, based upon the requirements established by project Condition of Approval No. 5 for driveway construction. The easement serving Lots 5 and 6 shall terminate no less than five (5) feet from the boundaries of these lots and off-site parcels. This easement shall be for utility purposes also to allow for the existing fire hydrant to be located in the easement, and to allow the Lake Don Pedro Community Services District to access the hydrant for inspection and maintenance purposes.

The requirement for the creation of the driveway easement to serve lots 5 and 6, as shown on the tentative map, may be waived by Mariposa Planning staff should the easement be unnecessary with the absorption of Lot 5 into an adjoining lot or lots as required by Condition of Approval No. 25. If the requirement to establish the easement is waived the requirement to construct the driveway within the easement for lots 5 and 6 as required by Condition of Approval No. 5 would be null and avoid.

(Public Works/Mariposa Planning Recommendation)

5. The driveways within the easements described in Condition of Approval No. 4 shall be constructed to a 12-foot wide graveled standard at the time of final map filing.

(Public Works/Mariposa Planning Recommendation)

6. Prior to filing of the final map, the cracks in the existing pavement of Hidalgo Street and Azulete Way shall be cleared of vegetation and filled with a county approved crack filler and the existing pavement on both roads shall be sealed with a county approved slurry seal.

(Public Works Recommendation)

7. Cul-de-sacs shall be constructed at the terminus of both Hidalgo Street and Azulete Way. The cul-de-sacs shall be improved to meet county standards and shall meet these standards at the time of final map filing. The surfacing of the cul-de-sacs shall match the surfacing of Hidalgo Street and Azulete Way. The required cul-de-sac improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be inspected and approved by the County Engineer at the time of filing of the final map. If construction of a cul-de-sac is impractical due to the on-site terrain as determined by the County Engineer with the concurrence of CalFire, the applicant may request permission to construct a hammerhead
T turnaround. At the time of filing of the final map, the County Engineer shall confirm that this condition has been met.

(Section 11.4(B)(9) County Improvement Standards)

8. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to the county-maintained portion of Hidalgo Street. In addition, all grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.

(Chapter 11, County Improvement Standards)

9. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permit for the required improvements, a consultation meeting with the Public Works Department, the applicant, the agent, the road contractor, and Cal Fire shall occur. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County engineer shall verify that this condition has been met prior to issuance of any encroachment permit required for this project and prior to the scheduling of any on-site inspection of road improvements.

(Public Works and Mariposa Planning Recommendation)

10. Immediately upon completion of the required road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Resource Conservation District (RCD). The applicant shall also contact the RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter shall be submitted to the County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed prior to the filing of the final map.

(Public Works Recommendation)

11. All cut and fill areas required for the construction of the proposed access roads, outside of the designated road easement, shall be included within slope easements and shall be delineated as such on the final map. The location, width, and description of the easements shall be approved by the County Engineer. All slopes shall be included within the required easement.

(Public Works Recommendation)
12. All required signs shall be installed on metal, break-away type posts. The design and placement of signs shall be approved by the County Engineer prior to installation.

(Public Works Department Recommendation)

13. A stop sign for Azulete Way shall be placed at the intersection of Azulete Way and Hidalgo Street. The stop sign shall be installed on metal breakaway type posts prior to map filing. The design and placement of signs shall be approved by the County engineer prior to installation.

(Public Works Recommendation)

14. If Azulete Way and Hidalgo Street are accepted by the County for public access but not for maintenance, signs stating "THIS ROAD IS NOT COUNTY MAINTAINED" shall be installed at the intersection of the county maintained portion of Hidalgo Street and the easement portion of the road and along Azulete Way at its intersection with Hidalgo Street. The design and specifications of the sign shall be in accordance with the County Improvement Standards.

(Section III.A.4, Road Improvement and Circulation Policy)

15. The applicant shall have the choice of forming a zone of benefit or forming a road maintenance association for the maintenance of the easement roads from the county-maintained portion of Hidalgo Street to the cul-de-sacs. Should the applicant choose to form a zone of benefit, the applicant shall file a completed petition on a form to be approved by the County Engineer (including but not limited to, all required signatures and attachments) with the County to form a Zone of Benefit within the Countywide County Service Area No. 1 for road maintenance. The project applicant shall be responsible for all costs associated with the filing of the petition, including but not limited to, preparation and cost estimates.

Maintenance shall include, but not be limited to, drainage and erosion control devices, fuel modification, upkeep of road surfaces, and ultimate replacement costs for road surfaces, etc. The initial road construction costs shall not be included in the Zone of Benefit.

The Zone of Benefit shall include provisions to allow additional parcels and additional road length to be added to the zone if appropriate in the future.

The formation of the Zone of Benefit shall be completed prior to filing of the map.

(Section II.I, Road Improvement and Circulation Policy)

If a zone of benefit is not formed the applicant shall form a road maintenance association. Maintenance shall include, but not be limited to, drainage and erosion control devices, fuel modification, and upkeep of road surfaces. The Road Maintenance Association provisions shall be developed by the applicant so those lots served by the easement road shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to filing of the final map 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 government entity.

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

c. Include 100% of the lots in the subdivision served by the access roads.

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

e. Provide a mechanism for new parcels to be added to the association.

As an alternative, if a formal road maintenance organization exists, the project applicant may join that organization providing that organization includes the provisions contained in a. through e. above as determined by the Mariposa County Planning Department.

(Public Works Recommendation; Section II.1, Road Improvement and Circulation Policy)

16. If a Zone of Benefit for road maintenance is not formed for the maintenance of the easement roads from the intersection of the county-maintained portion of Hidalgo Street to the cul-de-sacs a declaration or covenant of non-protest for road maintenance of the easement road shall be filed concurrently with the final map and shall be referenced on the final map. The declaration or covenant shall be made appurtenant to each lot and shall state that the owners or future owners of the lots waive their right to protest the formation of a zone of benefit or assessment district within Countywide County Service Area No. 1 for road improvements, road upgrades, and/or maintenance of the easement road. The declaration or covenant shall be approved by the Public Works Director prior to filing of the final map.

(Public Works Recommendation)

17. A final Soils Report shall be submitted to the County Planning Department as required by Mariposa County Code Subdivision Ordinance, Section 16.20.220 and by Sections 66490 and 66491 of the Subdivision Map Act. The Soils Report shall be reviewed and approved by the County Engineer prior to final map filing.

(Section 16.20.220, Mariposa County Code)

18. Verification of taxes paid shall be submitted to the County Surveyor prior to final map filing.

(Public Works Recommendation)

FIRE SAFE REGULATIONS
19. Prior to filing of the final map, all applicable State Fire Safe Regulations shall be met, including construction of roadways, cul-de-sac turnarounds, road naming and signage. A letter shall be submitted to the County Surveyor by CDF stating this condition has been met.

20. The cul-de-sac turnarounds shall be the same surface as the roadway and be constructed with a minimum effective radii of no less than 40 feet (45 feet is recognized as the most restrictive legal standard in Mariposa County) (Public Resources Code Section 1273.05). If parking is anticipated or allowed within the cul-de-sac, the radii of the turnaround must increase proportionately.

(Public Resources Code §1273.05)

21. Prior to recording of the final map, the applicant shall have complied with all applicable SRA Fire Safe Regulations. A letter shall be submitted to the County Surveyor from CalFire to confirm this requirement.

Additionally, a document shall be recorded and referenced on the Final Map that states:

"Future residential development on Lots 1 through 8 as shown on the final map for Don Pedro View filed in Book of Maps at Page ____, Mariposa County Records shall be required to conform with all applicable SRA Fire Safe Regulations (Public Resource Code 4290 and 4291). Furthermore, the development of the parcels is subject to all applicable SRA Fire Safe Regulations and the risk of fire hazards shall be reduced through compliance with Public Resource Code 4291, including the requirement to maintain fire protection or firebreaks within 100 feet from buildings or structures or to the property line unless an alternative mitigation measure is approved by CDF at the time of issuance of a residential building permit."

(CalFire Recommendation)

**PLANNING DEPARTMENT/GENERAL CONDITIONS**

22. A road name sign for Azulete Way shall be placed at the intersection of Azulete Way and Hidalgo Street. The design and specifications of the sign shall be in accordance with the Mariposa County Improvement Standards.

(Section 16.12.175, County Subdivision Ordinance)

23. Prior to filing the final map, the applicant shall request that the Lake Don Pedro Community Services District (District) and CalFire inspect each on-site fire hydrant to ensure that it is adequately pressurized and in an operating condition that meets required standards. Should testing show that hydrants are not pressurized and/or are not in a condition meeting required standards, the hydrant(s) shall be repaired at the applicant’s expense to bring the hydrants into conformance with required standards. The applicant shall provide the Mariposa County Planning Department written verification from the District that the hydrants meet required standards prior to filing the final map. The written verification from the District shall include a statement that CalFire has inspected
the hydrants and any required repairs that have occurred and finds the hydrants adequate.

(Mariposa Planning Recommendation)

24. During road grading and/or construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning in consultation with a representative of the American Indian Council of Mariposa County has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the 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 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 excavation activities.

(Mariposa Planning Recommendation)

25. Lot 5 shall be eliminated and its acreage absorbed into an adjoining lot or lots to ensure that all lots on the recorded map have approved areas within the lot for septic disposal, in accordance with the Mariposa County General Plan.

(Mariposa Planning Recommendation; Section 5.3.02E(3), Mariposa County General Plan)

26. Project approval is valid for a period of three years from July 10, 2009. This approval shall expire on July 10, 2012.

(§16.16.090, Mariposa County Subdivision Code)

27. Prior to filing of the final map, evidence that the State Department of Real Estate Public Report process has been commenced shall be submitted to the County Surveyor. Completion of the public report process is not necessary for map filing, but is necessary prior to lot sale.

(Mariposa Planning Recommendation)

28. Prior to filing of the final map, all fees associated with the County’s processing of the map and filing of associated documents shall be paid. The Department of Fish and Game filing fee ($1,933.00 as of January 1, 2009) and County Clerk fee ($50 as of January 1, 2009) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, July 17, 2009), 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 Friday, July 17, 2009 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 $2,043 (effective January 1, 2009), 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 who will 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.

(§16.12.390, Mariposa County Subdivision Code; (California Department of Fish and Game Requirement)

29. 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.

(Section 16.36.039, Mariposa County Subdivision Ordinance)

30. A declaration shall be filed with the final map and referenced on the final map. The declaration shall state the following:

“All residential buildings, including mobile homes placed on foundations on Lots 1 through 8 as shown on the Final Map for Don Pedro View Subdivision, filed in Book of Maps at Page _____, Mariposa County Records, shall be constructed in compliance with the special foundation requirements stated in the Soils Investigation Report prepared for the Don Pedro View Subdivision and on file with the County Planning Department. A building permit shall not be issued for residences placed on foundations unless the foundations meet the foundation requirements contained in the
Soils Investigation prepared for the subdivision. The foundation requirements must be incorporated in the building plan and permit.”

(Mariposa Planning Recommendation)

31. Lot Line Adjustment No. 2008-100 shall be completed prior to or concurrently with the filing of the final map.

(Planning Department Recommendation)

32. Subdivision Map Act Section 66434.2 applies to the filing of the final map for this project.

(Planning Department Recommendation)

HEALTH DEPARTMENT CONDITIONS

33. A final report, using the final lot numbers for reference, consolidating all of the soils data, including an accurate map showing the approved sewage disposal areas and design recommendations for the sewage disposal systems shall be submitted to and approved by the Health Department. The slopes in the sewage disposal reserve areas shall be accurately measured by a Licensed Surveyor or Engineer and plotted on the map submitted with the final soils report. The report shall be submitted under the signature and stamp of an appropriately licensed or registered professional and approved by the Health Department.

If the Health Department approves the final soils report the following statement shall be filed in Official Records concurrently with the Map and referenced on the map as follows:

"Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on lots 1, 2, 3, 4, 5, 6, 7, and 8, as shown on the final map for Don Pedro View filed in Book of Maps at Page ____, Mariposa County Records, based upon limiting soil conditions; however, the test results meet the Health Department Land Division policy requirements for use of engineered, alternative design on-site sewage disposal systems. The State of California is in the process of developing Statewide on-site sewage disposal regulations that could affect the future installation of engineered, alternative design on-site sewage disposal systems; therefore, buyers are encouraged to check with the Mariposa County Health Department regarding State or local regulation changes that could effect the installation of an on-site sewage disposal system on any of these lots".

Additionally, a notice shall be filed concurrently with the final map and referenced on the final map which states:

"The properties described as Lots 1, 2, 3, 4, 5, 6, 7, and 8, as shown on the final map for Don Pedro View filed in Book of Maps at Page ____, Mariposa County Records, are required to be served by an alternative design on-site sewage disposal system which is to be installed in the exact area tested and approved by the Health Department unless the Health Department approves an alternate location as described below."
Construction plans for the alternative design on-site sewage disposal system must be submitted to and approved by the Mariposa County Health Department prior to the issuance of a development permit for any construction activities. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Health Department.

The alternative design on-site sewage disposal systems are to be maintained in accordance with Mariposa County Health Department Policy 03-01 which states, "A maintenance entity shall be required prior to approval and installation of a special design sewage disposal system on a land division. In lieu of a public entity, an operation and maintenance protocol may be submitted for approval by the manufacturer of a specific technology." Said maintenance entity shall be created to provide maintenance on the engineered sewage disposal systems prior to issuance of a development permit for residential construction activities.

In the event that additional soils testing is conducted demonstrating that an alternative design on-site sewage disposal system is not necessary, the Mariposa County Health Department may allow the use of a conventional on-site sewage disposal system in the newly tested area. Any newly tested area requiring the use of an engineered alternative design on-site sewage disposal system must meet the same minimum soils requirements of Health Department Policy 03-01 as a newly created lot except for the minimum area square footage requirement of that policy."

(Health Department Recommendation)

34. Prior to filing of the final map the applicant shall demonstrate to the satisfaction of the Mariposa County Health Department that the minimum required area per Health Department Policy 03-01 is available for use on Lot 6 adjacent to the area tested. The available area will be considered acceptable if it meets all of the criteria in Policy 03-01 and is free of rock outcroppings, non-removable trees and is certified by the archeological consultant to be free of any protected archeological sites. Based on the feasibility testing that has been conducted the sewage reserve area required for parcel 6 as shown on the tentative map is 14,000 square feet. If the minimum required area is not available adjacent to the existing test site, and another area is proposed to be used, the new area must be tested. The testing must include percolation tests and soil profile analysis. If Lot 6, as shown on the tentative map, does not meet Health Department Policy 03-01 to the satisfaction of the Health Department it shall be merged with an adjoining lot or lots. The setback areas required by any other condition of approval or any rule, regulation, code or statute may not be used to satisfy this condition.

The lot number for the area shown on the tentative map as Lot 6 may change as a result of implementation of Condition of Approval No. 25 requiring the absorption of Lot 5 as shown on the tentative map into an adjoining lot or lots.

(Health Department Recommendation)

35. The preliminary testing conducted on Lot 6, as shown on the tentative map, only meets the minimum data requirements for a feasibility study and additional testing will be required prior to issuance of a development permit. If additional testing is not completed
and approved by the Health Department prior to filing of the final map the following statement shall be filed in Official Records concurrently with the map and referenced on the map as follows:

“Lot 6 has not had the minimum testing required to demonstrate that an on-site sewage disposal system permit of any type can be issued. Percolation tests and soil profile analysis must be conducted and approved by the Health Department prior to the issuance of any development permit. Percolation tests and soil profile analysis results must meet all of the requirements of Health Department Policy 03-01 as they are applied to proposed new lots. If the test results do not meet these requirements the parcel will be determined to be unbuildable. Buyers are advised to have all required testing completed prior to closing escrow.”

The lot number for the area shown on the tentative map as Lot 6 may change as a result of implementation of Condition of Approval No. 25 requiring the absorption of Lot 5 as shown on the tentative map into an adjoining lot or lots. The text of the recorded document shall reflect any change in the lot number for this area.

(Health Department Recommendation)

36. Future driveway and pad grading activities have the possibility of causing the approved sewage disposal areas to become unusable; therefore, future owners must be notified that these activities could render the property unbuildable. A notice shall be filed concurrently with the final map and referenced on the final map which states:

“All grading activities on Lots 1, 2, 3, 4, 5, 6, 7, and 8, as shown on the final map for Don Pedro View filed in Book of Maps at Page _____, Mariposa County Records shall maintain a setback from the Sewage Disposal Reserve Area equal to four (4) times the height of any cut.”

(Health Department Recommendation)

37. All Health Department fees shall be paid prior to filing of the final map.

(Health Department Recommendation)

38. All lots must be served by a connection to a State permitted public water supply.

Prior to filing the final map for the project the applicant shall execute an agreement with the Lake Don Pedro Community Services District (District) that states that the District shall provide water to lots 1 through 8 in the Don Pedro View subdivision. The agreement shall be recorded concurrently with the final map and referenced on the final map as constructive notice to lot owners that domestic water is to be provided by the District.

The applicant shall install all infrastructure, including off-site infrastructure, as well as improve existing infrastructure either on-site or off-site that may be required to ensure that water is available to each lot from the Lake Don Pedro Community Services District (District) water mains prior to filing of the final map. All required infrastructure shall be constructed to the standards of the District. Should the installation of infrastructure be
required, the applicant shall provide Mariposa Planning written confirmation from the District stating that infrastructure has been installed in accordance with District standards prior to filing the final map.

(Health Department and Mariposa Planning Recommendation)

39. The applicant shall obtain a land development Burn Permit from the Mariposa County Air Pollution Control District prior to lighting any fires to dispose of brush, grass, trees and other flammable debris generated during ground clearing activities associated with compliance with the conditions outlined for this project.

(Mariposa County Air Pollution Control District)

CEQA MITIGATION MEASURES

40. Prior to the commencement of any road improvements, road construction or other road building activities required as a condition of approval for this project, the applicant shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the applicant shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code. A copy of the Stream Alteration Agreement or evidence that such an Agreement is not required shall be submitted to the Mariposa County Public Works Department prior to the onsite consultation meeting required as a condition of approval for the project. If an Agreement is required, all provisions and requirements of the Agreement shall be completed prior to the filing of the final map. The applicant shall submit to the County Surveyor evidence that all Agreement requirements have been met to the satisfaction of the Department of Fish and Game.

Prior to the commencement of the construction activities stated above, the project applicant shall have a wetland delineation prepared by a qualified wetland specialist to determine if jurisdictional waters of the United States, including wetlands, are present in the area of construction activities and if the construction activities will result in the discharge of dredged or fill material into waters of the United States, including wetlands. This delineation shall be submitted to the Army Corps of Engineers for verification and the project applicant shall comply with all applicable permitting requirements and mitigation, if applicable, of the Army Corps of Engineers under Section 404 of the Clean Water Act. Permitting under Section 404 will require the project applicant to obtain a Section 401 Water Quality Certification from the Regional Water Quality Control Board, and this shall be obtained prior to commencement of construction activities.

(Mitigation Measure 4.b.1)

41. A statement shall be recorded in Official Records concurrently with the final map and referenced on the final map as follows:

"Prior to any grading or construction activities occurring within 25 feet of the centerline of, or construction of residential driveways across, the drainage on Lots 1, 2,
and 3, as shown on the final map for Don Pedro View filed in Book of Maps at Page _____, Mariposa County Records, the owners of said lots shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the owner shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code.

Prior to any grading or construction activities occurring within the area on the lots described above, the owner of said lots shall have a wetland delineation prepared by a qualified wetland specialist to determine if jurisdictional waters of the United States, including wetlands, are present in the area and if the construction activities will result in the discharge of dredged or fill material into waters of the United States, including wetlands. This delineation shall be submitted to the Army Corps of Engineers for verification and the lot owner shall comply with all applicable permitting requirements and mitigation, if applicable, of the Army Corps of Engineers under Section 404 of the Clean Water Act. Permitting under Section 404 will require the property owner to obtain a Section 401 Water Quality Certification from the Regional Water Quality Control Board, and this shall be obtained prior to commencement of construction activities.”

(Mitigation Measure 4.b.2)

42. Any tree removal or pruning that is necessary to construct the cul-de-sac on Azulete Way and the driveway easement roads connecting to the cul-de-sac shall occur between September 15 and January 31, the time-frame which is outside of the general avian nesting season. Should such tree removal or pruning occur between February 1 and September 15 a pre-construction survey conducted by a qualified biologist/botanist shall be required to determine if such removal violates the provisions of Fish and Game Code sections 3503, 3503.5 and 3513. The survey shall be conducted no more than 30 days prior to tree removal or pruning. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures established by the qualified biologist/botanist shall be implemented to reduce impacts of tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any required mitigation measures have been implemented prior to such tree removal/pruning on the site.

(Mitigation Measure 4.d.1)

43. A historic preservation setback running the full length of and for five (5) feet on both sides of the rock walls on the project site shall be shown on the final map. The Mariposa County Planning Director shall approve the location of the setback prior to the filing of the final map. A statement shall be recorded in Official Records concurrently with the final map and shall be referenced on the final map as follows:

“The historic rock walls located within Lot No. 6 as shown on the final map for Don Pedro View filed in Book of Maps at Page _____, Mariposa County Records, shall not be altered, disturbed, removed or destroyed without the review and approval of the Mariposa County Board of Supervisors. Residential development of the lot, including
grading, and construction of structures, residential driveways, and septic systems shall occur no closer than five feet from the rock walls."

The lot number for the area shown on the tentative map as Lot 6 may change as a result of implementation of Condition of Approval No. 25 requiring the absorption of Lot 5 as shown on the tentative map into an adjoining lot or lots. The text of the recorded document shall reflect any change in the lot number for this area.

(Mitigation Measure 5.a.1)

RECOMMENDATION ON OFFERS OF DEDICATION

The Planning Commission recommends that the Public Works Director accept the offers of dedication for public access and utilities, but not for maintenance, for the on-site easement roads.

CONDITIONS OF APPROVAL FOR LOT LINE ADJUSTMENT 2008-100

1. A land surveyor or other qualified individual shall provide the County Surveyor with typed, stamped and signed legal descriptions describing the amended parcels (descriptions that include and exclude the transfer pieces). The County Surveyor requests that copies of all documents referred to in the legal descriptions and copies of the lot closure computations (including error or closure, ratio of precision and acreage) be supplied with copies of the descriptions to validate the content of the descriptions. The County Surveyor will not accept area summary calculations. This requirement may be waived for adjusted APN 021-060-017 if the lot line adjustment and major subdivision are completed concurrently.

2. Verification of taxes paid shall be submitted to the Mariposa County Planning Department.

3. All Trust Deeds on any parcel must be modified to reflect the new parcel configurations. Amended trust deeds shall be recorded with legal description(s) that have been reviewed and approved by the County Surveyor. Mariposa Planning shall be provided copies of the recorded amended trust deeds. As an alternative, the applicant may provide reconveyance documents to Mariposa Planning (showing the trust deeds have been paid off).

4. Mariposa Planning will prepare a Certificate of Compliance for each parcel involved in the lot line adjustment, when Conditions 1 through 3 above have been complied with. Following preparation of the Certificates, Mariposa Planning will determine the required recording fees for the documents and notify the applicant of the required fees. The Recorders fee charge is $8.00 for the first page and $3.00 for each additional page for each Certificate of Compliance. The number of pages varies with Certificates of Compliance.
The requirement for a certificate of compliance for APN 021-060-017 may be waived if the lot line adjustment and major subdivision are completed concurrently.

5. Upon the payment of fees required by Condition No. 4, Mariposa Planning will record the Certificates of Compliance for each parcel involved in the lot line adjustment. The may be waived for APN 021-060-017 if the lot line adjustment and major subdivision are completed concurrently.

6. Prior to or concurrent with the filing of the certificate of compliance for APN 021-340-002, the applicant shall record a document offering for dedication a non-exclusive easement of a minimum width of 35 feet on adjusted APN 021-340-002 for public road and utility purposes. Dedication of an area to accommodate one-half of a 65-foot radius cul-de-sac easement for Hidalgo Street (32.5-foot radius) shall be provided to encompass the required cul-de-sac improvements. The offers of dedication shall be non-revocable and specifically state the dedications are for "public road and utility purposes." The location and width of the easement and the format for the dedication document shall be approved by the County Surveyor.

(Project Proposal)
### EXHIBIT 3

**MITIGATION MONITORING**

**FOR**

Major Subdivision Application No. 2006-154

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<th>Mitigation Measure No.</th>
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| 4.b.1                  | Prior to the commencement of any road improvements, road construction or other road building activities required as a condition of approval for this project, the applicant shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the applicant shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code. A copy of the Stream Alteration Agreement or evidence that such an Agreement is not required shall be submitted to the Mariposa County Public Works Department prior to the onsite consultation meeting required as a condition of approval for the project. If an Agreement is required, all provisions and requirements of the Agreement shall be completed prior to the filing of the final map. The applicant shall submit to the County Surveyor evidence that all Agreement requirements have been met to the satisfaction of the Department of Fish and Game.  
  
Prior to the commencement of the construction activities stated above, the project applicant shall have a wetland delineation prepared by a qualified wetland specialist to determine if jurisdictional waters of the United States, including wetlands, are present in the area of construction activities and if the construction activities will result in the discharge of dredged or fill material into waters of the United States, including wetlands. This delineation shall be submitted to the Army Corps of Engineers for verification and the project applicant shall comply with all applicable permitting requirements and mitigation, if applicable, of the Army Corps of Engineers under Section 404 of the Clean Water Act. Permits under Section 404 will require the project applicant to obtain a Section 401 Water Quality Certification from the Regional Water Quality Control Board, and this shall be obtained prior to commencement of construction activities. | This mitigation measure will be monitored by the Mariposa County Public Works Department through the project road construction permitting process and the Mariposa County Surveyor through the final map filing process. |
### 4.b.2

A statement shall be recorded in Official Records concurrently with the final map and referenced on the final map as follows:

"Prior to any grading or construction activities occurring within 25 feet of the centerline of, or construction of residential driveways across, the drainage on Lots 1, 2, and 3, as shown on the final map for Don Pedro View filed in Book of Maps at Page _____, Mariposa County Records, the owners of said lots shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the owner shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code.

Prior to any grading or construction activities occurring within the area on the lots described above, the owner of said lots shall have a wetland delineation prepared by a qualified wetland specialist to determine if jurisdictional waters of the United States, including wetlands, are present in the area and if the construction activities will result in the discharge of dredged or fill material into waters of the United States, including wetlands. This delineation shall be submitted to the Army Corps of Engineers for verification and the lot owner shall comply with all applicable permitting requirements and mitigation, if applicable, of the Army Corps of Engineers under Section 404 of the Clean Water Act. Permitting under Section 404 will require the property owner to obtain a Section 401 Water Quality Certification from the Regional Water Quality Control Board, and this shall be obtained prior to commencement of construction activities."

### 4.d.1

Any tree removal or pruning that is necessary to construct the cul-de-sac on Azalea Way and the driveway easement roads connecting to the cul-de-sac shall occur between September 15 and January 31, the time-frame which is outside of the general avian nesting season. Should such tree removal or pruning occur between February 1 and September 15 a pre-construction survey conducted by a qualified biologist/botanist shall be required to determine if such removal violates the provisions of Fish and Game Code sections 3503, 3503.5 and 3513. The survey shall be conducted no more than 30 days prior to tree removal or pruning. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures established by the qualified biologist/botanist shall be implemented to reduce impacts of this tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any
required mitigation measures have been implemented prior to such tree removal/pruning on the site.

| 5.a.1 | A historic preservation setback running the full length of and for five (5) feet on both sides of the rock walls on the project site shall be shown on the final map. The Mariposa County Planning Director shall approve the location of the setback prior to the filing of the final map. A statement shall be recorded in Official Records concurrently with the final map and shall be referenced on the final map as follows:

"The historic rock walls located within Lot No. 6 as shown on the final map for Don Pedro View filed in Book of Maps at Page ____, Mariposa County Records, shall not be altered, disturbed, removed or destroyed without the review and approval of the Mariposa County Board of Supervisors. Residential development of the lot, including grading, and construction of structures, residential driveways, and septic systems shall occur no closer than five feet from the rock walls."

This measure will be monitored by the Mariposa County Surveyor and the Mariposa County Planning Department through the final map filing process.

The lot number for the area shown on the tentative map as Lot 6 may change as a result of implementation of Condition of Approval No. 25 requiring the absorption of Lot 5 as shown on the tentative map into an adjoining lot or lots. The text of the recorded document shall reflect any change in the lot number for this area.