STATE OF CALIFORNIA
COUNTY OF MARIPosa
PLANNING COMMISSION

Resolution
No. 2008- 026
A resolution conditionally approving Land Division Application 2008-098, Kevin and Lauri Henry, applicants. Assessor Parcel Number 014-250-036

WHEREAS an application for Land Division Application 2008-098 was received on May 16, 2008 from Kevin and Lauri Henry for a property located at 4989 Ashworth Road, also known as Assessor Parcel Number 014-250-036; and

WHEREAS Land Division Application No. 2008-098 proposes the division of a 10.75± acre parcel into 2 parcels, Parcel A of 5.43 acres, and Parcel B of 5.32; 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 August 22, 2008; and

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

WHEREAS a Staff Report 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 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, 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.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application 2008-098.

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

ON MOTION BY Commissioner DeSantis, seconded by Commissioner Rudzik, this resolution is duly passed and adopted this by the following vote:

AYES: DeSantis, Rudzik, Francisco, Skyrud

NOES: None
EXCUSED: Ross

ABSTAIN: None

Skip Skyrud, Chair
Mariposa County Planning Commission

Attest:

Judy Mueller, Secretary to the
Mariposa County Planning Commission

Revised: March 17, 2004
EXHIBIT 1
PROJECT FINDINGS
FOR
Land Division Application 2008-098

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

EVIDENCE: Based on site inspection, existing issued development permits, and the proposed division of the existing parcel into two parcels of 5.43 acres and 5.32 acres, the site is physically suited for low-density homes and appurtenant improvements such as septic systems. The proposed project is located within the Mountain Home zone and the Residential Land Use. The subdivision density is designed in accordance with the Mountain Home zone and the Residential Land use.

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, it would have a less than significant effect on the environment with mitigation. The land is currently and will continue to be used primarily for residential purposes. The project may have an adverse impact on wildlife resources and potential habitat areas, and is therefore subject to the California Department of Fish and Game filing fees for a mitigated negative declaration as required by AB 3158 and Senate Bill 1535 and County Clerk fees.

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

EVIDENCE: This land division and its subsequent use for low-density residential purposes are not likely to cause serious health problems. Future residential uses will be required to comply with all Building Code regulations and Health Department standards for the proper installation of wells and sewage disposal systems. The proper location and implementation of these improvements 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

Revised: March 17, 2004
California Public Resource Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection.

4. **FINDING:** The proposed map is consistent with applicable general (Mariposa County General Plan, 2006) and specific plans as specified in Government Code Section 65451.

**EVIDENCE:** The land division is the initial step in the process to help accomplish the General Plan's Housing Element overall goal to "Provide opportunities for an adequate supply of sound, affordable housing units for ownership and for rent in a safe and satisfying environment for the present and future residents of the County." The land division satisfies the following Housing Element Objectives, including: "Provide Adequate Sites and Services". There is no specific plan governing this property.

Based upon input from the Mariposa County Public Works Department, Ashworth Road in the vicinity of the project site is maintained and has adequate capacity for the potential traffic volume generated by the total number of existing lots and those which are proposed by the project.

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

**EVIDENCE:** The minimum parcel size, minimum density, and building intensity proposed by the project is consistent with standards contained in the Residential Land use of the General Plan and the Mountain Home zone of the Zoning Ordinance. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The project site is not in an area governed by any special, specific, community or area Plan at this time.

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.
EXHIBIT 2

CONDITIONS OF APPROVAL AND MITIGATION MEASURES
FOR
Land Division Application 2008-098

Project Name: Kevin and Lauri Henry
File Number: LDA No. 2008-098

The following conditions of approval and/or mitigation measures were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions/mitigation measures have been complied with and implemented.

Project Approval Date: August 22, 2008

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Sign-Off Checklist for Conditions of Approval

<table>
<thead>
<tr>
<th>CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT</th>
<th>MONITORING DEPARTMENT</th>
<th>VERIFIED IMPLEMENTED</th>
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<td>PUBLIC WORKS</td>
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1. The on-site easement road to the proposed cul-de-sac shall be made a minimum of 60 foot wide and non-exclusive. The easement shall be designated for access for the use and benefit of the subject property. A cul-de-sac easement with a radius of 60 feet 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. Provisions for a public utility easement along the access easement shall be made; the public utility easement shall be offered for dedication to the County of Mariposa and shall specifically state on the parcel map that the dedication is for public utility purposes only. Prior to map recordation, the location and width of the easements shall be approved by the County Engineer.

[SECTION 16.12.160.B, COUNTY SUBDIVISION ORDINANCE; ROAD]
2. The easement from Ashworth Road to the cul-de-sac shall be improved to a Rural Class I SRA “A” standard and shall meet these standards at the time of parcel map filing. 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 the filing of the parcel 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.

**Any grades over 12% will be required to be paved.**

[Section 16.12.170, County Subdivision Ordinance; Chart A and Section H.D.2.a, Road Improvement and Circulation Policy.]; Public Works Recommendation

3. A cul-de-sac shall be constructed on-site at the terminus of the on-site easement road. The cul-de-sac shall be improved to meet county standards and shall meet this standard at the time of parcel map filing. 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 prior to filing of the parcel 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 Cal Fire, the applicant may request permission to construct a hammerhead T turnaround. Prior to filing of the map, the County Surveyor shall confirm that this condition has been met.
Public Work Recommendation

4. An encroachment permit shall be obtained from Public Works prior to any work being done on or adjacent to Ashworth Road. 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. All encroachment improvements shall be completed as required by Public Works. All encroachment permit requirements shall be completed to the satisfaction of Public Works by the applicant prior to filing of the parcel map.

Chapter 11, County Improvement Standards

5. 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 permits for the required improvements, a consultation meeting with the Public Works Department, the applicant, the road contractor, the Planning Department, and the agent shall occur. This meeting shall be conducted on-site. This consultation meeting shall be setup by the applicant and/or agent. 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 road improvement or encroachment permit required for this project and prior to the scheduling of any on-site inspection of road improvements.

Public Works Recommendation

6. 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 improvement required as a condition of approval for this project. If engineered improvement plans are required, the plan shall be approved by the County Engineer prior to commencement of construction work on
the required road improvements.

Public Works Recommendation

7. 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. The applicant shall also contact 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.

Public Works Recommendation

8. All cut and fill areas required for the construction of the improvements to the proposed access road shall be included within the access and utility easement pursuant to the County Improvement Standards, which may necessitate a variable width easement greater than 60 feet in width. The location, width, and description of the easements shall be approved by the County Engineer.

Public Works Recommendation

9. All required signs, shall be on metal, break-away type posts prior to filing of the map. The design and placement of signs shall be approved by the County Engineer prior to installation.

Public Works Recommendation

10. A stop sign shall be placed at the intersection of the off-site easement and Ashworth Road. 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.

Revised: March 17, 2004
Public Works Recommendation

11. A road name sign for the easement road shall be placed at the intersection of the easement road and Ashworth Road prior to map filing. The design and specifications of the sign shall be in accordance with the Mariposa County Improvement Standards and shall be approved by the County Engineer prior to installation.

(Section 16.12.175, County Subdivision Ordinance)

12. A sign stating “THIS ROAD IS NOT COUNTY MAINTAINED” shall be installed at the intersection of Ashworth Road and the easement road prior to map filing. The design and specifications of the sign shall be in accordance with the County Improvement Standards and shall be approved by the County Engineer prior to installation.

[Section 16.12.175, County Subdivision Ordinance]

13. A road maintenance association shall be formed for the maintenance of the easement road. 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 parcels served by the easement roads shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to the filing of the 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 governmental entity.

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

c. Include 100% of the parcels in the subdivision served by the access road.

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.

-or-

If an existing Road Maintenance Association (RMA) that performs these same functions exists, and if additional parcels can join the existing RMA, this shall be an acceptable alternative for meeting this condition. Evidence shall be submitted to the County Surveyor to verify that the parcels are legally joined to the existing RMA to satisfy this alternative.

(Public Works Recommendation)

14. A Verification of Taxes Paid Form, acquired no sooner than 30-days prior to the filing of the parcel map, shall be submitted to the County Surveyor. [COUNTY SUBDIVISION ORDINANCE SECTION 16.12.395]

**CONDITION OF APPROVAL / MARIPOSA PLANNING**

15. Project approval is valid for a period of three years from August 22, 2008. This approval shall expire on August 22, 2011.

[MARIPOSA COUNTY SUBDIVISION CODE SECTION16.12.430]

16. The Property 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.

[COUNTY ORDINANCE NO. 1017]

17. Prior to filing of the parcel 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 ($1,876.75 as of 1/1/08) and the County Clerk fee ($50.00 as of 1/1/08) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, August 29, 2008), 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, August 29, 2008 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 $1,926.75 (effective 1/1/08), 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.

§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code

18. The easement road from Ashworth Road to the cul-de-sac shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and approved by the Board of Supervisors prior to the recordation of the parcel map.

(Mariposa County Resolution No. 92-541)

19. Subdivision Map Act Section 66434.2 applies to the recordation of the parcel map for this project.

Planning Department Recommendation

20. Prior to the recordation of the parcel map, the Certificates of Compliance required to complete Lot Line Adjustment No. 2008-060, which was approved April 21, 2008 shall be recorded.

CONDITION OF APPROVAL/ HEALTH DEPARTMENT

21. The applicant shall record a disclosure statement concurrently with the map and referenced on the map stating the following:

"Water supplies for residential lands are derived from private wells on Parcel A and Parcel B as shown on the Parcel Map for _____, filed in Book ___ of Parcel Maps at Page _____. Mariposa County Records. Mariposa County groundwater supplies are found in fractures in the bedrock. The costs associated with drilling and developing a private well is highly variable because it is unknown how much or if any additional water can be found on these parcels. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map."

(Mariposa County General Plan, Section 5.3.02.E(4)
22. Prior to recordation of the parcel map the applicant shall demonstrate to the satisfaction of the Mariposa County Health Department that the on-site sewage disposal system serving the existing mobile home on proposed Parcel B is located wholly on that parcel, meets all required setbacks and that there is adequate area, as determined by the Health Department, for future replacement of the system. In the event that a portion of the septic system is determined to encroach upon the setback from the property line, the location of the property line shall be adjusted accordingly or the septic system shall be replaced to a location that meets all setbacks.

Health Department Recommendation

CONDITION OF APPROVAL

CALIFORNIA DEPARTMENT OF FOREST AND FIRE PROTECTION

23. Prior to filing of the parcel map, all applicable State Fire Safe Regulations shall be met. A letter shall be submitted to the County Surveyor by CDF stating this condition has been met.

(California Public Resource Code)

CEQA MITIGATION MEASURES

24. Cultural resources shall not be altered, disturbed, removed, or destroyed. If any cultural resources or archeological materials are uncovered during ground disturbance or construction activities associated with compliance with the conditions of approval for this project, Mariposa County authorities and/or a qualified archeologist shall be notified immediately by the applicant or his representative and construction work shall be stopped in this area until mitigation is established by appropriate professional(s) meeting the Secretary of Interior qualification standards. Should human remains be encountered, the County Coroner must also be notified within 48 hours. If the remains are Native American, the coroner must notify the Native American Heritage Commission within 24 hours.

Mitigation Measure; Planning Staff Recommendation

Revised: March 17, 2004
25. Open space setbacks of 20 feet shall be established from the drip line of the elderberry shrubs identified in the Biological and Wildlife Study conducted for this project. No buildings, septic systems or grading shall be permitted in this setback. During any construction or grading within 100 feet of the elderberry plants, temporary fences and/or protective barriers shall be placed around the elderberry plants. The Planning Director shall approve the location of the setbacks prior to recordation of the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and shall be referenced on the parcel map. The statement shall read as follows:

“This area is habitat of the Valley Elderberry Longhorn Beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973. No new structures or roads shall be constructed within the open space setback. No grading shall be allowed within the setback on Parcel ___ as shown on the Parcel Map for _____ filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records except for the purposes of maintaining the existing roads. The Elderberry plants shall not be removed from the setback. This open space setback shall be in perpetuity, except as specifically provided herein and shall restrict the use of the land within the setback. The restrictions established for this setback shall be in place and effective until such a time as the elderberry shrub or shrubs die of natural causes, (which may include a wildland fire) or are delisted and shall restrict the use of the land within the setback. Violators are subject to prosecution.”

Mitigation Measure; Planning Staff Recommendation

26. Prior to any construction work required for completion of conditions of approval of this parcel map, the elderberry plants shall be flagged and temporarily fenced with at least 3 foot high fencing and at least a 20 foot buffer around them. Any contractors who work on the project shall be briefed on the requirements by Planning Department staff to avoid disturbance in the fenced area both through direct contact and erosion work at nearby sites and shall be made aware of the possible penalties (the most severe being prosecution) for not complying with these provisions. At the time of construction, signs shall be posted with the following information:

“This area is habitat of the Valley Elderberry Longhorn Beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973. Violators are subject to prosecution,
Mitigation Measure; Planning Staff Recommendation

27. No road work shall be conducted during the flowering season (April 15 through June 15) of the elderberry shrubs identified in the biological survey as this may interfere with the reproduction of the Valley Elderberry Longhorn Beetle.

Mitigation Measure; Planning Staff Recommendation

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**RECOMMENDATION ON OFFERS OF DEDICATION**

Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public utilities.

Mariposa Planning Recommendation

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**Agency Contact List**

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CONTACT</th>
<th>PHONE NUMBER</th>
<th>EMAIL</th>
<th>SITE ADDRESS</th>
<th>MAILING ADDRESS</th>
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<tbody>
<tr>
<td>Mariposa Planning</td>
<td>Alvaro Arias</td>
<td>209-742-1218</td>
<td><a href="mailto:aarias@mariposacounty.org">aarias@mariposacounty.org</a></td>
<td>5100 Bullion Street Mariposa CA 95338</td>
<td>P.O. Box 2039 Mariposa CA 95338</td>
</tr>
<tr>
<td>Public Works</td>
<td>Jerry Freeman</td>
<td>209-966-5356</td>
<td></td>
<td>4639 Ben Hur Road Mariposa CA 95338</td>
<td>Same as site</td>
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<tr>
<td>Health Department</td>
<td>Dave Conway</td>
<td>209-966-2220</td>
<td></td>
<td>5100 Bullion Street Mariposa CA 95338</td>
<td>P.O. Box 5 Mariposa CA 95338</td>
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<tr>
<td>Mariposa County Resource Conservation District</td>
<td></td>
<td>209-966-3431</td>
<td></td>
<td>5009 Fairgrounds Rd Mariposa CA 95338</td>
<td>P.O. Box 746 Mariposa CA 95338</td>
</tr>
<tr>
<td>County Assessor</td>
<td>Sarah Wise</td>
<td>966-2332</td>
<td></td>
<td>4982 10th Street</td>
<td>P.O. Box 35</td>
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<th>Monitoring Dept.</th>
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<th>Department or Agency responsible for monitoring a particular mitigation measure.</th>
<th>When a mitigation measure has been implemented, this column will be initialed and dated.</th>
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<tr>
<td>County Fire</td>
<td>Jim Wilson</td>
<td>209-966-4330</td>
<td>5082 Bullion Street Mariposa CA 95338</td>
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<td></td>
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<td>P.O. Box 162 Mariposa CA 95338</td>
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<tr>
<td>Cal. Dept of Forestry</td>
<td>Matt Watson</td>
<td>209-966-3622</td>
<td>5366 Highway 49 North Mariposa CA 95338</td>
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Certificate of Completion:

By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a Certificate of Completion.

_________________________________________  __________________________
Environmental Coordinator                  Date

Explanation of Headings:

- Monitoring Dept: Department or Agency responsible for monitoring a particular mitigation measure.
- Verified Implemented: When a mitigation measure has been implemented, this column will be initialed and dated.