STATE OF CALIFORNIA
COUNTY OF MARIPosa
PLANNING COMMISSION

Resolution

WHEREAS, Use Permit Determination Application No. 2015-059 was submitted by Ranch Fence on March 27, 2015; and

WHEREAS, the proposal was submitted for an existing commercial/light industrial fencing business in Bootjack. A real estate office will also be located on-site; and

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

WHEREAS, a Planning Commission public hearing for this project was scheduled and noticed for the 25th of September, 2015; and

WHEREAS, a Staff Report and Notice of Exemption 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 public hearing date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE, BE IT RESOLVED THAT, the Planning Commission of the County of Mariposa does hereby find, pursuant to Section 15061 of CEQA Guidelines, that the project is exempt from review pursuant to the California Environmental Quality Act under the General Rule exemption.

BE IT THEREFORE FURTHER RESOLVED THAT, the Planning Commission of the County of Mariposa does hereby approve the application for Use Permit Determination No. 2015-059.

BE IT THEREFORE FURTHER RESOLVED THAT, findings are made for project approval as shown in Exhibit 1.

BE IT THEREFORE FINALLY RESOLVED THAT, the approved site plan and project elevations are shown in Exhibit 2.
ON MOTION BY Commissioner Harter, seconded by Commissioner Kenney, this resolution is duly passed and adopted this 25th day of September, 2015 by the following vote:

AYES: Harter, Kenney, Becker and Harris

NOES: None

ABSENT: Bernikoff

ABSTAIN: None

Attest:

__________________________
Susan Hunter, Secretary to the
Mariposa County Planning Department

__________________________
Larry Harris, Chair
Mariposa County Planning Commission
EXHIBIT 1
PROJECT FINDINGS
FOR
USE PERMIT DETERMINATION NO. 2015-059

1. FINDING: This use permit determination has been processed and reviewed in accordance with the procedures and standards set forth in Title 17, Mariposa County Zoning Ordinance.

This project is for the continued use for an over-the-counter retail sales outlet for fencing materials, off-site installation of fencing, small gate and panel fabrication shop; manufacturing of gates, corral panels, dog kennels, livestock feeders and items of a similar nature. In addition, the office of Twiss Realty, a local real estate office owned and operated by Courtney Twiss will be located at this site.

The site will be developed, operated and maintained in accordance with the Planning Commission’s approved site plan and the approved applicant’s project description, including the following project description details:

- Building permits will be obtained for all improvements, as required by the Building Department. The building permit for the metal building will not be finaled until all unpermitted work is removed from the project site or corrected and approved by the Building Department to Building standards (if consistent with the approval project description).

- The steel shop, buildings and storage containers will have galvanized roofing, “barn red” walls and white trim. The painting will have a classic rural Midwest farm theme.

- The Health Department requirements for this project will be met, through the building permit process. These requirements include a permitting requirement for use of porta-potties during construction.

- The access road, parking and exterior storage areas will be surfaced with asphalt grindings or gravel: 1 inch as needed. This shall be an annual maintenance activity. Mariposa County may revoke Use Permit Determination No. 2015-059 for non-conformance of this requirement.

- Maximum average daily trips is estimated to be 25.

- Signs will be posted, as required by the Health Department, to address dust impacts.
• In 2 years a concrete pad will be constructed under and a roof constructed over the steel square tubing, angle iron, flat stock, etc. in the north portion of the project site, which is for retail sale.

• A rain water catchment tank is approved to be installed to collect rainwater from the roof of the steel building at the option of landowner/applicant.

• Upon completion of the steel building bulk fencing and fence rental panels will be stored behind (to the West of) the steel building such that the view from Cole Road is limited.

• Business hours of operation shall be 7 days a week (Monday through Saturday) from 7:30 a.m. to 5:30 p.m. and (Sunday) from 1:00 p.m. to 4:00 p.m.

• Existing landscaping will be maintained along the side and front property lines for screening and noise buffering; cedar trees are located along side property lines and vines are located along the front property line.

• Exterior lighting on the project site is subject to County Code standards. Exterior lighting will be shielded and create no off-site impacts.

• The construction time frame is as follows:

  Following Planning Commission’s approval of the UPD, time estimated to:
  Obtain building permits: 6-8 weeks
  Complete site work: 1 month
  Underground utilities: 1 month
  Complete concrete work: 1 month
  Complete structure of steel building: 2 months
  Interior finish work of steel building: 3 months
  Estimated Move-in Date: 4-12 months after Planning Commission approval

• Upon completion of the building, welding and fabrication activities will occur on the inside of the building.

• The shop will be insulated if and when the applicant has funds available to do so.

• Any outside storage located in the front of the parcel will be placed in storage racks and will be used for retail sale.

• Rolls of wire and chain link materials are to be placed on metal shelving or in rows similar to Bootjack Feed. These will be constructed / purchased within two years.

• The building’s front entrance will have a covered pergola above the patio area where potted plants and a concrete pad entrance will be located.
• A table, chairs and flyer box will be set up for real estate use.

• Business advertising signage in accordance with County Code requirements.

The planning director may approve one or more revisions to an approved use permit determination provided such revision does not result in a cumulative expansion of more than ten percent (10%) of the original site or use area or such revision, other than expansion, is deemed necessary and desirable for the best utilization of a site, and such revision will not result in creating a potential public nuisance or health and safety problem, will not create impacts which were not addressed by the original environmental determination for the project, and will not change the original intent of the use permit determination. Notice of a use permit determination revision shall be the same as specified by Section 17.08.120.D of this Title. (Ord. 912 Sec.II, 1997; Ord. 704 Sec.1, 1988).

2. **FINDING:** The public drop-off scrap metal recycling use is not an approved use on the project site.

A free public scrap metal recycling use was not proposed or approved by the Planning Commission as part of the 2008 UPD process. While scrap metal related to and resulting from the fence building business could be expected (and related to the fence business), a free public scrap metal drop off and recycling operation is not related to or typically appurtenant to a fence retail sales and fence building business. A free public scrap metal drop off is not typically appurtenant to a real estate office use. A free public scrap metal drop off use is not similar to a hardware store or paint store, or typically appurtenant to a hardware store or paint store.

A scrap metal drop off use is a heavier industrial use and not consistent with the neighborhood commercial zone.

3. **FINDING:** The project is suitable and a proper use in the Bootjack Community Planning Area, is not socially, economically, or environmentally incompatible with the surrounding area, and will not adversely affect the nature and condition of adjacent properties, uses, and structures, and to the area affected by the proposed use.

**EVIDENCE:** The project, as proposed and approved, is similar in use to those permitted uses in the Neighborhood Commercial 1 and 2 zones. Hardware and paint stores, which sell home and property improvement projects, are a permitted use in Town Planning Areas under County Zoning Ordinance Section 17.076.020.A.b.(1). As previously found by the Mariposa County Planning Commission, the established use is similar to or compatible with the existing uses in the general area of the project site, if it is continuously operated in compliance with the approved site plan and project description. The project will use an existing on-site well and Health Department requirements for a septic system will be met. The project, because it is maintenance of an existing use on a developed parcel, and based on the project description, will not impact any sensitive environmental resources.

4. **FINDING:** The site is physically suitable for the proposed development.
EVIDENCE: The project site parcel is developed with existing commercial/light industrial and residential improvements, and support infrastructure. There is sufficient area and improvements for on-site parking for the proposed (current and future) retail commercial/light industrial uses. There is sufficient area on-site for parking for the existing use and proposed retail use. Cole Road is improved and does not require any additional improvements for the proposed use. The existing encroachment improvements have been approved by Public Works. The project is required to obtain a building permit, which involves a number of affected agencies, including the County Fire Department, Cal Fire, the County Health Department, and the Building Department. The permit process, involvement of affected agencies, and application of existing standards and regulations will address potential impacts of the project, and all unpermitted improvements will be rectified through the permit process, based on the project description. Based upon these site characteristics and existing permit processes, the site is found to be physically suited for the proposed use.

5. FINDING: The previously approved establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be objectionable by reason of production or emission of noise, offensive odor, smoke, dust, bright lights, vibrations, involving explosives or dangerous materials, or which might constitute a public or private nuisance.

EVIDENCE: The project, based on the approved project description (excluding the public drop-off scrap metal recycling use), is compatible with the existing uses in the area. Specific provisions have been included by the applicant to address noise impacts, visual quality impacts, dust impacts, and lighting impacts. Building and Health Department permitting processes will be followed. No explosive or dangerous materials are proposed to be used.

6. FINDING: The proposed project is consistent with applicable Mariposa County Zoning ordinances and its General Plan.

EVIDENCE: The project is located in the Bootjack Planning Area, with a General Plan designation of Community Planning Area / Bootjack Interim Community Center and a zoning designation of Town Planning Area (TPA). The County General Plan Land Use Element states Planning Areas "...represent the rural scale 'urban' development centers for the County. Planning areas are specifically designated as locations in the County where policy mandates a broad and comprehensive mixture of land uses and zoning." The proposed project will facilitate the continued operation of a previous home enterprise into a Planning Area in accordance with Section 6.1.05B(3)(b) of the General Plan.

Title 17, County Zoning Ordinance Section 17.12.010, states that Town Planning Areas "...are the centers for industrial and commercial activity, and population concentration." Section 17.12.010.B. of the Title 17 states that TPAs that don't have specific plans can allow uses listed in the Neighborhood Commercial-1 (CN-1) and Neighborhood Commercial-2 (CN-2) zones. The CN-1 zone under Section 17.076.020.A.1.b.(1) states retail hardware and paint store uses are a permitted use, and the project site is an existing parcel with an existing commercial/light industrial
and residential improvements, and support infrastructure. The project is subject to applicable sections of Title 17 including but not limited to, parking, signs, lighting, and land use.

The proposed project will bring an existing commercial / light industrial use into compliance with the pertinent Zoning Ordinance and General Plan designations for the parcel.

Pursuant to Section 17.04.050, 17.144.050, 17.144.060, uses and development which are not in compliance with the Zoning Ordinance (approved Use Permit Determination) are a public nuisance and a violation of County Code. In accordance with the approved project description, the Planning Commission has the ability to revoke the approval of this Use Permit Determination should the project not be developed, operated and maintained in accordance with the approved site plan and project description.

7. **FINDING:** Pursuant to California Administrative Code, Sections 15061, it is found that the project is exempt from review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities. The permitting will bring the site and facility into procedural requirements of County Code, Zoning and will approve modification of existing uses and development. The building permit process required prior to installation of the projects retail space and offices will ensure that all potential impacts created by the project are reviewed and addressed by the Mariposa County Fire Department, the Mariposa County Health Department, Cal Fire, the Mariposa County Public Works Department, and the Mariposa County Building Department. There are adequate regulations in place, including the applicant’s project description, to address potential environmental impacts associated with the project, including fire and explosive materials potential, access impacts, erosion impacts, air pollution impacts and human health and safety impacts. The applicant’s proposal includes measures to address potential dust and noise impacts.

8. **FINDING:** The County Code requirements applicable to Use Permit Determination No. 2015-059 include:

a) The project shall comply with applicable requirements of Mariposa County Code, including development standards established in Chapter 17.76.

b) Pursuant to County Code, Section 17.08.170, an approved site plan shall be null and void if the project is not completed within three (3) years from date of approval thereof, unless the approval authority finds and stipulates in its original approval that a different time limit is necessary and not detrimental to the public health, safety and welfare, or, unless an extension of time has been approved. The applicant’s project implementation and construction time line is incorporated into the approved project description.

c) Pursuant to County Code, Section 17.08.190, project completion is the point at which active county review of project progress is terminated. A development
project is considered completed when a certificate of occupancy has been issued by the building official.

d) Pursuant to County Code, Section 13.08.030, a Health Officer approved sewage disposal system is required for this project, including during construction.

e) Pursuant to County Code, Section 13.08.070, a county-issued permit is required for the private sewage disposal system for this project. The health department may establish reasonable standards of construction as a condition to the granting of a permit.

f) County Code Title 15, Building and Construction, applies to this project.

g) Pursuant to County Code, Section 17.04.050, all land uses on the project site and all improvements on-site shall be in compliance with the zoning ordinance; the Use Permit Determination No. 2015-059, as approved by the Planning Commission, is compliant with the zoning ordinance.

h) Pursuant to County Code, Section 17.144.050, any land, buildings or structures erected, constructed, altered, enlarged, converted, moved or used contrary to the provisions of this title, or any failure to comply with the conditions attached to the granting of any development permit, is unlawful and a public nuisance. The planning commission may, after conducting a noticed hearing, declare a use located on any parcel within the county a public nuisance. The county counsel shall commence the necessary action or proceedings for the abatement, removal and enjoining thereof in the manner prescribed by law in the courts which may have jurisdiction to grant such relief as will accomplish such abatement and restraint.

i) Pursuant to County Code, Section 17.144.060, any person violating or causing the violation of any of the provisions of the zoning ordinance is guilty of an infraction.
EXHIBIT 2
APPROVED SITE PLAN AND ELEVATIONS FOR
USE PERMIT DETERMINATION NO. 2015-059