Resolution
No. 2017-006  A resolution approving Conditional Use Permit No. 2017-023; Steven and Toni Kellenberg, applicants. Assessor’s Parcel Number 008-100-022.

WHEREAS, an application for a Conditional Use Permit was received on February 15, 2017 from Steven and Toni Kellenberg for a property located at 7040 Highway 49 North in the Bear Valley Area of Mariposa County, also known as Assessor’s Parcel Number 008-100-022; and

WHEREAS, the Conditional Use Permit proposes a low impact wilderness camping in collaboration with the Sierra Foothill Conservancy that proposes 8-12 campsites for 10-24 customers and one RV type trailer for a camp attendant on a parcel that is 314 acres; and

WHEREAS, an Initial Study and Draft Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 7th day of July 2017; 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 Conditional Use Permit No. 2017-023.

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

ON MOTION BY Commissioner Becker, seconded by Commissioner McCamman, this resolution is duly passed and adopted this 7th day of July 2017 by the following vote:

AYES: Becker, McCamman, Kennec, Herman, and Kehoe
NOES: None
EXCUSED: None
ABSTAIN: None

Mick Herman, Chair
Mariposa County Planning Commission

Attest:

Susan Hunter, Secretary to the
Mariposa County Planning Commission
EXHIBIT 1
PROJECT FINDINGS
FOR
CONDITIONAL USE PERMIT NO. 2017-023

1. **FINDING:** Adequate open space is provided by this proposal. (§17.112.040.A, Mariposa County Zoning Code)

   **EVIDENCE:** The proposed camping area, along with parking, and access covers less than 5 acres of the total area of the parcel (314 acres). Adequate open space is provided.

2. **FINDING:** The site is physically suited for the proposed development. (§17.112.040.B, Mariposa County Zoning Code)

   **EVIDENCE:** Based on the size and design of the project as proposed, the applicant will be able to locate the proposed improvements entirely onsite while meeting all County requirements for setbacks, roadways, septic systems, and environmental restrictions.

3. **FINDING:** Adequate provisions have been made for sewage disposal and the handling of solid waste. (§17.112.040.C, Mariposa County Zoning Code)

   **EVIDENCE:** Sewage disposal methods must be approved the Environmental Health Department and all necessary permits obtained. Solid waste will be handled in compliance with all applicable sections of Mariposa County Code Title 8.36. A condition of approval requires that all waste and refuse area be designated and kept clean and free of litter. The containers shall be covered and locked to keep wildlife from accessing it.

4. **FINDING:** The proposed development will have adequate potable water for public use and fire protection. (§17.112.040.D, Mariposa County Zoning Code)

   **EVIDENCE:** The water needs of the project are proposed to be served by an existing on-site well. The well will be required to meet all applicable Health and State drinking water requirements. Water use is expected to be minimal based on the limited number of potential campers and limited uses.

5. **FINDING:** The project proposal complies with all standard and special setback requirements and adequate buffers have been provided for adjacent land uses. (§17.112.040.E, Mariposa County Zoning Code)

   **EVIDENCE:** Project structures will be required to meet all setbacks and this will be reviewed during the building permit process. The project site is located in the midst of a 314 acre parcel that is further surrounded by larger acreage parcels of 40+ acres. The site is secluded and a significant distance from existing residential development. Private property exists within the perimeter of and immediately adjacent to the camp site. The site is adequately buffered from other adjacent land uses in the general vicinity that may be sensitive to the operation of the camp.

6. **FINDING:** Appropriate access is available or is proposed to the development. (§17.112.040.F, Mariposa County Zoning Code)
EVIDENCE: The project proposes to improve an existing ranch road to the appropriate requirements. The internal driveway will be required to comply with Public Resources Code 4290 and all other applicable state or local regulations relating to driveway safety. This road and driveway shall be maintained in this condition for the life of the project. Roadways serving the project are required to be maintained in the required condition for the life of the project. Maintaining these roadways in the required conditions will ensure public health and safety relating to emergency ingress/egress is maintained.

7. **FINDING:** The proposed use is consistent with the policies and standards of the general plan and any applicable specific plan. (§17.112.040.G, Mariposa County Zoning Code)

EVIDENCE: The project is located in the Mountain General zone portion of the parcel and the Agriculture Working Landscape land use classification. Guest ranches are conditional uses in the Mountain General zone and the proposed use is similar but less intensive. The project will operate under a conditional use permit and, therefore, will be consistent with the site's zoning. The project site is not governed by a specific plan.

8. **FINDING:** The project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or it has been determined that the significant effects are unavoidable and acceptable due to overriding concerns. (§17.112.040.H, Mariposa County Zoning Code)

EVIDENCE: An initial study was prepared for this project and this study found that the implementation of mitigation measures will reduce potentially significant impacts to biological and cultural resources to less than significant levels. The project will not have a significant effect on the environment.

9. **FINDING:** The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county. (§17.112.040.I, Mariposa County Zoning Code)

EVIDENCE: Based on the size and design of the project as proposed, the applicant will be able to locate the proposed improvements entirely onsite while meeting all County requirements for setbacks, roadways, septic systems, and environmental restrictions. The nearest exiting residential development is over 1,000 feet away from the camping location. All septic disposal will be required to be done under the approval of the Health Department under the necessary permits. The limited nature of the project within a large parcel will ensure that impacts to off-site properties are limited to non-existent.

10. **FINDING:** The portion of the parcel where the project is occurring is in the Mountain General Zoning District. The Mountain General Zone lists camps with no permanent facilities and guest ranches as conditional uses. The proposed use is similar in nature to a guest ranch but much less intensive in that there are no proposed permanent facilities other than the proposed bathroom/shower facility, graveled roads and parking area, and appurtenant water and electrical connections. The campers will be educated and exposed to the foothill ranchland culture in collaboration with the Sierra Foothill Conservancy (SFC). This finding is based on the small scale of the project and the collaboration with the Sierra Foothill Conservancy for activities as part of the conservation easement on the property. This
determination is made specifically for this project proposal and does not make campgrounds a similar use to a guest ranch. This project is low impact and small scale on property protected by a conservation easement through the Sierra Foothill Conservancy. Some proceeds from the project are intended to provide for funds to the Sierra Foothill Conservancy for future conservation efforts.
EXHIBIT 2
CONDITIONS OF APPROVAL
FOR
CONDITIONAL USE PERMIT NO. 2017-023

Project Name: Steven and Toni Kellenberg
Project Approval Date: July 7, 2017

File Number: CUP No. 2017-023

The following conditions of approval and mitigation measures are proposed for this project in order to ensure compliance with all applicable codes and policies and the findings of the initial study prepared for the project.

1. The approved project consists of the following uses:
   a) 8-12 campsites for canvas tents, approximately 17’ by 17’.
   b) 10-24 customers
   c) Low impact camping activities with education and exposure of the public to the foothill ranchland culture. The purpose is to educate the traveler, provide funds for ecological conservation, and foster respect for different ecological systems and cultures.
   d) The ecological wilderness camp will operate approximately 180 days out of the year.
   e) Access is proposed from Highway 49 North, a state-maintained highway; which will require a new encroachment in accordance with CALTRANS requirements.
   f) Access will be through an existing ranch road that will be improved to the required standards.
   g) A 12 foot gravel driveway will provide fire/emergency access and accessible parking access to the camping areas.
   h) A gravel parking area will provide 16 - 10’x20’ parking spaces
   i) Sanitary facilities will be either portable or provided in a small toilet/shower building not to exceed 350 square feet with sewage disposal provided by a local company. If a septic system is installed, it will be done under the required Health Department permits.
   j) Solid waste will be removed by a third party vendor. An adjacent well, solar powered pump and a 5000 gallon storage tank will be accessible for fire and filtered potable water.
   k) No food service would be provided.
   l) Camping areas will be weed whipped each spring with grass levels maintained to an inch or less in height.
   m) Wood burning will be prohibited unless specifically permitted by Cal Fire. Gas barbecues and propane fire pits will be allowed with permission from Cal Fire.
   n) On-site supervision will be provided during operational periods on a 24 hour basis to monitor behavior and maintain rules and regulations.
   o) RV-type trailer will be located near the parking area to house the on-site camp attendant
   p) Minor grading will be required for the road, driveway, parking, and camp site locations.
   q) Bear boxes will be provided for the storage of food.
(Marioposa Planning Recommendation)

2. Minor amendments to the total square footages of the structures may be approved by the Planning Director provided that any expansion does not exceed 10% of the approved total square footages, and does not exceed the number of approved tent sites and/or campers, and provided a finding can be made that the modification does not create impacts which were not addressed in the original project
approval. Expansion beyond the 10% threshold shall require a formal amendment to the conditional use permit. The addition of outdoor uses not expressly permitted under these conditions of approval and not similar in nature to approved uses shall be subject to approval by the Mariposa County Planning Director.

(Section 17.112.050, Title 17; Mariposa Planning Recommendation)

3. The development of the site and the location of structures and uses shall be in substantial conformance to the site plan that was reviewed and approved by the Planning Commission.

(Mariposa Planning Recommendation)

4. This project is approved on July 7, 2017. This approval shall expire July 7, 2020. If the conditions of approval are not completed and the project is not fully implemented by July 7, 2020 the applicant may request one or more time extensions of up to eighteen (18) months (total). The applicant must make this request in writing prior to July 7, 2020. The project shall be allowed to be phased at the discretion of the project proponent providing the entire project is implemented within the time frames required by this condition.

(Mariposa Planning Recommendation)

5. Prior to initiation of any activities the access road and driveway shall be improved to to the required standards. The access road shall be improved to a minimum Rural Class I SRA gravel standard or higher as required by Cal Fire. The driveway shall be improved to a minimum 12' wide gravel driveway or higher as required by Cal Fire. The project proponent shall provide the Mariposa County Planning Department with written approval that the required improvements have been reviewed and approved by CalFire prior to initiation of any camp activities. The road shall be maintained in accordance with the approved engineering plans for the life of the project.

(Mariposa Planning Recommendation and Public Resources Code 4290)

6. Prior to the initiation of camping activities during the fire season as identified by CalFire, the project proponent shall obtain a campfire permit from CalFire if wood burning fires will be used. The project proponent shall provide the Mariposa County Planning Department with a copy of these permits when obtained. Any use of gas or propane barbeques and fire pits shall meet any necessary Cal Fire requirements. A copy of the approval for the use of these shall be submitted to the Planning Department when obtained.

(CalFire and Mariposa Planning Recommendation)

7. The following are additional fire safety requirements that the project proponent shall maintain at the project site for the life of the project:

   a) There shall be a minimum 5,000 gallons of readily accessible water for fire protection. Water storage facilities shall meet CalFire standards.
   b) Property addressing shall be posted in accordance with Public Resources Code 4290.

The project proponent shall provide a written statement from CalFire to the Mariposa County Planning Department that the conditions of approval have been met prior to the initiation of camping
activities during the fire season as identified by CalFire. The project proponent shall be responsible for paying for all inspection fees as may be required from CalFire.

(Public Resources Codes 4290 and 4291)

8. Prior to undertaking any work within the Caltrans right of way, an encroachment permit must be obtained. Evidence that this has been completed shall be submitted to the Planning Department prior to initiation of proposed project activities. The proposed access from Highway 49 North shall meet all current Caltrans standards.

(Caltrans and Mariposa Planning Recommendation)

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

(Mariposa Planning Recommendation)

10. Prior to the commencement of any easement road construction activities, the project proponent shall obtain from the Regional Water Quality Control Board (RWQCB) a General Permit for Discharges of Storm Water Associated with Construction Activity, unless it can be shown to the satisfaction of the Mariposa County Planning Director through evidence submitted by a qualified person, such as a licensed land surveyor or registered civil engineer, that less than one acre of land will be disturbed to implement the project. A copy of the approved permit or evidence that a permit is not required shall be submitted to the Mariposa County Public Works Department by the project proponent prior to the pre-construction consultation meeting required in these conditions of approval. If a permit is required, all provisions and requirements of the permit shall be completed prior to filing of the final map. The proponent shall submit to the County Surveyor evidence that the permit requirements have been met to the satisfaction of the RWQCB.

(State Water Quality Control Board Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES)

15. A grading plan and permit must be submitted that includes any access road improvements, parking improvements and any infrastructure improvements. All soil erosion best management practices (BMPs) shall be included on the plans. Any exposed soils shall be revegetated.

(Building Department)

16. All property egress, gates and locks and fire clearances shall be reviewed and approved by Mariposa County Fire. All fire department water connections and water storage shall be approved by County Fire and/or Cal Fire.

(Building Department and Mariposa Planning Recommendation)

17. All parking, water, restroom and camping facilities shall be reviewed by a Certified Access Specialist (CASp). A project review and preapproval shall be completed by a CASp. A CASp shall review and approve the final overall project at its completion and provide the Building Department a letter of completion and approval prior to final project approval by the Building Department.
18. Any portion of the project subject to the California Department of Housing and Community Development (HCD) shall be addressed and approved by HCD exclusively as their sole responsibility. This condition shall apply to any other conditions listed that are subject to HCD approval.

19. Prior to initiation of any project activities, the applicant shall provide written confirmation from HCD that all HCD requirements have been met or confirmation that the project is not subject to HCD jurisdiction. Prior to occupancy of the RV spot for the camp attendant, all HCD requirements will have to be met.

20. Prior to the initiation of any camp activities that will provide domestic water to campers and staff, the project proponent shall obtain the required permits from the Mariposa County Health Department or as a public water system permit from the State Department of Public Health – Division of Drinking Water as determined by the Mariposa County Health Department. The project proponent shall provide copies of that permit to the Mariposa County Health Department and the Mariposa County Planning Department upon receipt.

21. All wastewater/sewage disposal shall be conducted in a manner approved by the Mariposa County Health Department. Written confirmation from the Health Department that all necessary permits and requirements have been met shall be provided to the Planning Department prior to initiation of any project activities.

22. There shall be adequate refuse containers on site to handle all solid waste. Solid waste shall be handled in compliance with all applicable sections of Mariposa County Code Title 8.36. Outdoor trash containers shall be required to meet the standards of Chapter 8.44, of Title 8, Health and Safety, Mariposa County Code, commonly known as the “Mariposa County Bear Control Ordinance.”

23. Any burning other than recreational campfires shall only be done under permit from the Mariposa County Air Pollution Control District.

24. Any grading that exposes asbestos containing materials shall be done in compliance with the California Air Resources Board ASBESTOS AIRBORNE TOXIC CONTROL MEASURE
FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS. https://www.arb.ca.gov/toxics/atcm/asb2atcm.htm’’

(Health Department)

25. The project proponent shall use only native plant species for landscaping purposes, and native seed mixes in lawn areas. Rice straw shall be used for erosion control following grading activities.

(Mariposa Planning Recommendation)

26. Signage shall comply with signage requirements contained in Section 17.108.190, Title 17, Mariposa County Zoning Ordinance. Maximum advertising signage shall be limited to a total 16 square feet.

(Section 17.108.190, Title 17, Mariposa County Zoning Code)

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

(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 ($2,216.25 as of January 1, 2017) and County Clerk fee ($50 as of January 1, 2017) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, July 14, 2017, 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 14, 2017 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 $2,266.25 (effective January 1, 2017), 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.

(California Department of Fish and Wildlife Requirement; Mariposa Planning Recommendation)

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.

(Mariposa Planning Recommendation)

30. Non compliance with any of the conditions of approval for Conditional Use Permit (CUP) No. 2017-023 may be grounds for revocation of the CUP.

(Mariposa Planning Recommendation)

31. It shall be the responsibility of the applicant to schedule an inspection with the Planning Department, two years after commencing operation of the project to ensure continued compliance with the approved conditions of the project. At the discretion of the Planning Director, an item may be scheduled for the Planning Commission to review issues associated with septage treatment and disposal.

(Mariposa Planning Recommendation)

**MITIGATION MEASURES**

32. The collection of wildflowers and firewood is prohibited. Prior to use of camp sites, the project applicant shall install signage informing campers of these prohibitions. In addition, the on-site camp manager shall ensure that this prohibition is enforced. The signs shall be permanent and placed in prominent locations near the camping areas. The applicant shall verify annually that the signs are installed and in good, legible condition. *(Mitigation Measure 4.a.1)*

33. No campsites, meeting areas, or appurtenant uses shall be located within 30 feet from the centerline of any ephemeral channel or within 100 feet of the stock pond. Camping shall only occur within the designated campsites as shown on the approved site plan. *(Mitigation Measure 4.a.2)*

34. During grading and/or construction (including for driveways), or any activity that involves ground disturbance necessary to implement the project or conditions of approval, in the event human remains, artifacts, or potentially significant cultural resources are discovered during ground disturbance on the project site, a Native American monitor shall be on-site for the duration of ground disturbance. During road grading, soil testing 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 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 applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and the Native American Heritage Commission shall be notified should human remains be discovered. If the remains are determined by the Native American Heritage Commission to be Native American, the NAHC guidelines shall be adhered to in treatment and disposition of the remains. Representatives of the Most Likely Descendant shall be requested to be on-site during disturbance and/or removal of human remains. (Mitigation Measure 5.a.1)