Resolution
No. 2017-013

WHEREAS, an application for a Conditional Use Permit was received on September 21, 2017 from Aaron & Lena Matheson for a parcel located at 5038 Bullion Street, in the Town of Mariposa, also known as Assessor’s Parcel Number 013-172-011; and

WHEREAS, the Conditional Use Permit applicant proposes to develop one residence on an existing parcel in the General Commercial (GC) Zone and Historic Design Review Overlay Zone (HDRO) of the Mariposa Town Planning Area; a conditional use in the GC zone. The structure on the property previously was 2,554 square feet and burned down. The proposed replacement residence is 4,954 square feet; and

WHEREAS, the Mariposa County Code and Town Plan for Mariposa requires full compliance with code for an existing non-conforming use which is being replaced due to fire, if the replacement structure is larger in size than the prior structure; and

WHEREAS, a Notice of Exemption was prepared pursuant to the California Environmental Quality Act; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 6th day of October 2017; 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 noticed date and considered all of the information in the public record, including the Notice of Exemption 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 find the project is exempt from environmental review.


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 including changes to Conditions 9 and 12.
ON MOTION BY Commissioner Mark Becker, seconded by Commissioner Kehoe, this resolution
is duly passed and adopted this 6th day of October, 2017 by the following vote:

AYES: Becker, Kennec, Herman, McCamman, Kehoe

NOES: None

EXCUSED: None

ABSTAIN: None

Mick Herman, Chair
Mariposa County Planning Commission

Attest:

Shawnee Iacano, Secretary to the
Mariposa County Planning Commission
EXHIBIT 1

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

   **EVIDENCE:** The proposed development covers approximately 60% of the total area of the parcel, including the driveway, the proposed house with covered porch, and the proposed parking area. This conditional use requires less parking that a permitted commercial use, and therefore this conditional use includes more open-space than a permitted commercial use would.

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

   **EVIDENCE:** Based on the scale of the project as proposed and that is it sited in the same location as the residence that burned down, the applicant will be able to locate the proposed improvements entirely onsite while meeting all County requirements for setbacks and landscaping.

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:** The project is required to connect to the Mariposa Public Utility District (MPUD) for sewage disposal; MPUD provided sewage disposal for the prior residence. Disposal of solid waste is the responsibility of the applicant; the Mariposa County landfill has the capacity to process typical residential waste streams.

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 project is required to connect to the Mariposa Public Utility District water lines; MPUD provided potable water and residential use and fire protection for the prior residence.

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:** The project as proposed meets the minimum applicable County setback standards. There are no special setbacks required for this project. Fencing is proposed along all but the southern portion of the property.

6. **FINDING:** Appropriate access is available or is proposed to the development. (§17.112.040.F, Mariposa County Zoning Code)

   **EVIDENCE:** The project will not conflict with any public easement. The project has frontage on Bullion Street, from which the project proposes to take access, which is a County-maintained road. The Public Works Department has made no objection to the
project; only that an encroachment permit will be required for the proposed driveway and the existing sidewalk.

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: Areas designated by the General Plan as Town Planning Areas have been determined to be suitable for higher-density residential development and for commercial uses that would not be appropriate in other areas of the County, as determined on a case-by-case basis. The proposed use is consistent with the policies and standards of the General Plan as related to Town Planning Areas. The Mariposa Town Planning Area Specific Plan governs this property. Residential uses such as the proposed use are conditional uses within the General Commercial zone, and the proposal is consistent with the policies and standards of the General Plan regarding the processing of conditional use permits. The proposed use is the same use as previously existed on the project site.

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: The project as proposed is categorically exempt from the provisions of the California Environmental Quality Act, as it is a new single-family residential structure, replacing a previous single-family residential structure. Additionally, the Mariposa Town Planning Area Specific Plan has a certified EIR which covers the development of all property within the TPA boundaries. The conditions attached to this approval are established to address the aesthetic quality, safe ingress and egress, impacts of exterior lighting and other potential impacts of this project on the surrounding parcels and neighborhood.

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: According to the project as proposed, no detriment will be posed to the health, safety, morals, comfort, or general welfare of the neighboring people or to the value of the surrounding property.

EXHIBIT 2

1. The approved project consists of construction of one residence on one parcel located at 5038 Bullion Street (APN 013-172-011). The proposed residence is to be 4,954 square feet. The parcel is 0.32-acres and zoned General Commercial in the Mariposa Town Planning Area; the property is also located within the Historic Design Review Overlay. The approved
project includes the possibility that the residence may be renovated in the future, to be a duplex.

2. This project is approved as of October 6, 2017. This approval shall expire October 6, 2020. If the conditions of approval are not completed by that date, the applicant may request one or more time extensions of up to eighteen (18) months. The applicant must make this request in writing prior to October 6, 2020.

3. Construction activities occurring outdoors shall not commence prior to the hours of 7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturdays. All construction activities occurring outdoors shall cease by sunset Monday through Saturday. No outdoor construction shall be permitted on Sundays. The Planning Department shall monitor noise through complaints by the neighbors.

4. Provisions shall be made for the on-site storage of all solid waste generated during construction and operation of the project. All solid waste shall be placed in trash bins to maintain the site in a safe and attractive condition. Solid waste which cannot be contained in trash bins on site shall be removed from the site on a weekly basis.

5. All utilities, with the exception of propane storage tanks, shall be underground within the project site.

6. All exterior mechanical equipment located on roof, building, and ground shall be enclosed or screened from public view either by utilizing materials compatible with the building or locating them away from public view. Proposed locations and screening of mechanical equipment shall be reviewed and approved by the Planning Department prior to issuance of a building permit.

7. Refuse storage areas, dumpsters, and propane tanks shall be enclosed or screened from public view. Proposed locations and screening of these facilities shall be reviewed and approved by the Planning Department prior to issuance of a building permit.

8. The base color for the proposed building shall be a light color in a warm tone (swiss coffee is approved). Trim may be brighter or darker colors to compliment architectural features (trim is proposed to be swiss coffee and white and is approved). The color of the roof of the building shall be compatible with the building and consistent with the purpose and intent of the Historic Design Review Overlay District; the charcoal-colored dimensional shingles are approved. The applicant shall submit design details regarding materials used, finish and trim of doors as well as windows which shall be approved by the Planning Director prior to issuance of a building permit.

9. Thirty (30) days after the issuance of a building permit, the applicant shall submit a landscaping plan for the site. The landscaping plans shall indicate existing native trees within the development site to be retained. The landscaping plan shall conform to Section 17.336.060.C of County Code, delineating the size, type, and location of landscape plantings as well as proposed irrigation methods. The landscaping plan shall provide for shading and building enhancement in conformance with Section 17.336.060.C.6. of County
This plan must be approved by the Planning Director prior to issuance of a building permit. Landscaping must be installed prior to issuance of a Certificate of Occupancy.

10. Per the Mariposa Town Plan Section 3.38., any mature native trees that must be removed shall be replaced at a ratio of four trees for every one removed. Tree replacement shall include a specific program for protection and maintenance of the replacement trees until they are established.

11. All landscaping shall be maintained in good condition in order to present a healthy and neat appearance for the life of the development. Dead or diseased plants shall be immediately replaced with plants which meet the size requirements of Section 17.336.060 of County Code.

12. All exterior lighting fixtures shall be shielded and shall be designed and located to confine lighting directly on the premises. Lighting should be of minimum, but adequate, intensity. Exterior lighting fixtures shall not shine light upon or directly illuminate any surface other than the area required to be lighted. A lighting plan showing the design and location of all exterior lights shall be submitted to the Planning Department up to thirty (30) days after the issuance of a Building Permit and the design of the lighting fixtures shall be subject to Planning Director approval.

13. Minor amendments in the configuration and materials of the proposed development may be approved by the Planning Director provided that any expansion does not exceed 10% of the size of area of the approved facility (any amount of a reduction in size of area of the facility may be allowed), and provided a finding can be made that the modification does not create impacts which were not addressed in the original project approval. Amendments to building, trim and roofing colors may be proposed.

14. Prior to issuance of a building permit (other than grading) all flammable vegetation shall be removed from each building site a minimum distance of one hundred (100) feet from any flammable building material, including finished structure. This condition shall not apply to vegetation proposed to remain as finished site landscaping, or offsite vegetation.

15. A residential driveway encroachment permit for Bullion Street shall be obtained from the Public Works Department prior to issuance of a grading or building permit. All required encroachment improvements shall be completed and approved by Public Works prior to issuance of a Certificate of Occupancy.

16. Prior to the issuance of a building or grading permit and prior to issuance of a Certificate of Occupancy, all fees associated with the County’s processing of this project and filing of associated documents shall be paid.

17. You may opt to have our office file the Notice of Exemption (NOE). This filing notifies the public that Mariposa County has determined that your project is exempt from the California Environmental Quality Act (CEQA). While filing is not required, it is advisable if you want to minimize legal exposure to your project, since the action of filing shortens the statute of limitations on appeals from 180-days to 35-days. If you opt to file, then the
NOE must be posted within five days of October 6, 2017. The County Clerk’s Office requires a fee of $50.00 for the filing of the NOE for your project. If you opt to file, please submit cash or a money order made payable to the Mariposa County Clerk’s Office to our office for that amount within 4-days of the approval of your Conditional Use Permit and Historic Design Reviews. Within five (5) business days of the approval of this project, the applicant shall file a Notice of Exemption. A cashier’s check or money order shall be made out to the Mariposa County Clerk in the amount of fifty ($50) dollars. The Mariposa County Clerk will not accept a personal check for purposes of filing this document.

18. 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)

19. Non-compliance with any of the conditions of approval for Conditional Use Permit (CUP) No. 2017-158 may be grounds for revocation of the CUP.

(Mariposa Planning Recommendation)