STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION

Resolution  
No. 2018-012  
A Resolution Recommending Board of Supervisors' Action on the Tenaya Zip Line and Seasonal Dining Project and Initial Study and Mitigated Negative Declaration (SCH2018051041) for General Plan/Specific Plan Zoning Amendment (GP/SPZA) No. 2017-207, and Amended Conditions/Site Plan No. 2017-208 (CUP 204-Tenaya Lodge and CUP 241-Tenaya Cottages); Delaware North Parks and Resorts at Tenaya Lodge, Inc., Applicant; 1122 Highway 41, Fish Camp.

WHEREAS, applications for a General Plan/Specific Plan Zoning Amendment, Amended Conditional Use Permit Conditions were received on December 13, 2017, from Delaware North Parks and Resorts at Tenaya Lodge, Inc., for the Tenaya Lodge property and a property located immediately adjacent the Tenaya Lodge, in Fish Camp, CA Mariposa County, also known as Assessor Parcel Number APNs 010-410-012 and 013; and

WHEREAS, the applications proposed a General Plan/Specific Plan Land Use Amendment from Single Family Residential 2 ½ acre land use to Resort Commercial land use of approximately 16.3 acre area and site plan amendments to Conditional Use Permits 204 and 241 for the proposed installation of recreational and dining facilities that include a Zipline Canopy Tour, associated trails to access improvements, Summerdale Seasonal Dining Improvements, existing Sierra and Jackalopes Restaurants' remodel, and a Challenge Course; and

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

WHEREAS a duly noticed public meeting of the Fish Camp Town Planning Advisory Council was held on April 14, 2018 to receive public and advisory council comments on the project; and

WHEREAS, the Fish Camp Town Planning Advisory Council did hold a public meeting on the noticed date and considered the project, including testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS, the Fish Camp Town Planning Advisory Council recommended that the Planning Commission and Board of Supervisors adopt a mitigated negative declaration and approve the Project with findings, conditions and mitigation measures; and

WHEREAS, an Initial Study and Mitigated Negative Declaration, State Clearinghouse Number (SCH 2018051041), was prepared for the Tenaya Zip Lines Project Pursuant to the California Environmental Quality Act; and
WHEREAS, the Tenaya Zip Line Initial Study was prepared and a Notice of Intent To Adopt a Mitigated Negative declaration was published May 18, 2018; and

WHEREAS, a duly noticed Planning Commission public hearing for the project and Mitigated Negative Declaration was scheduled on the 18th day of May 2018; and

WHEREAS, the Planning Commission did continue the public hearing for the project to June 1, 2018 at 9 am or as soon thereafter as possible; and

WHEREAS the Planning Commission hold a public hearing on the continued date of June 1, 2018 and considered the Fish Camp Town Planning Advisory Council’s recommendation, all of the information in the public record, including the Staff Report, Initial Study, Mitigated Negative Declaration, project findings, mitigation measures, conditions of approval, 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 recommend that the Board of Supervisors approve the Tenaya Zip Line and Seasonal Dining Project and Mitigated Negative Declaration for General Plan/Specific Plan Zoning Amendment (GP/SPZA) No. 2017-207, and Amended Conditions/Site Plan No. 2017-208 (CUP 204-Tenaya Lodge and CUP 241-Tenaya Cottages) by:

• Adopting the Mitigated Negative Declaration (SCH 2018051041)

• Approving the project applications with the recommended findings, conditions as amended, and mitigation measures.

BE IT THEREFORE FINALLY RESOLVED THAT this action is recommended based upon the findings set forth in Exhibit 1 and the conditions established in Exhibit 2.

ON MOTION BY Commissioner McCamman, seconded by Commissioner Kennee, this resolution is duly passed and adopted this 1st day of June 2018 by the following vote:

AYES: Becker, Herman, Kehoe, Kennec, McCamman

NOES: None

EXCUSED: None

ABSTAIN: None

Mick Herman, Chair
Mariposa County Planning Commission
Attest:

Kimberlee Lake, Secretary
Mariposa County Planning Commission
Proposed Findings for General Plan/Specific Plan/Zoning Amendment No. 2017-207

The amendment to the Specific Plan rezoning the property as proposed is subject to the following general policies as stated in Section VIII.B.1 of the Fish Camp Specific Plan:

Policy 1:
Any amendment to this Plan, whether initiated by the County of Mariposa or resident of Fish Camp, shall be evaluated in light of the overall goals and objectives of the Fish Camp Specific Plan and the Mariposa County General Plan.

Project Consistency: The specific plan amendment is consistent with the overall goals and objectives of the Fish Camp Specific Plan and the goals, policies, and implementation measures of the Mariposa County General Plan. Consistency with these goals, policies and implementation measures are addressed in the project’s recommended findings.

Policy 2:
Any amendment must be evaluated in light of the environmental impact it may create particularly as that impact is identified and mitigated in this Plan.

Project Consistency: An Initial Study/Mitigated Negative Declaration (IS/MND) were prepared for the proposed project, general plan/specific plan amendment, conditional use permit amended conditions/site plan in accordance with the California Environmental Quality Act (CEQA). The Initial Study found that with mitigation proposed, any potentially significant impacts are reduced to less than significant levels.

The environmental impact report certified for the Fish Camp Specific Plan found that proper performance of sewage disposal systems is of critical importance to the Fish Camp community considering the proximities of Big Creek and other tributaries. The project proposes the use of the Tenaya Lodge Waste Water Treatment Facility to treat the wastewater generated by the project resort commercial uses. Operation of the Tenaya Lodge’s wastewater treatment facility will have no impact on the Fish Camp community; connection to this existing system, which is operated under a state permit, will ensure that wastewater generated from the project is adequately treated and properly disposed.

The following specific findings are required to be made, in accordance with Section VIII.B.2 of the Fish Camp Specific Plan. In order to amend the Specific Plan it must be found that:
Amendment Finding 1:
The amendment will further the goals and objectives of the Fish Camp Specific Plan and the Mariposa County General Plan.

Evidence: The overall goal for the development of the community of Fish Camp as stated in Section IV – Principles of Plan Administration of the Fish Camp Specific Plan, is the following:

“To provide for the greatest obtainable convenience, prosperity, health, safety, comfort, peace, morals and general welfare of the present and future residents and visitors to the County.”

The objectives of the Fish Camp Specific Plan as stated in Section V. – Objectives of the Plan are as follows:

1. To provide for an orderly expansion of the community of Fish Camp.
2. To provide for, and promote, planned commercial and residential development within the Fish Camp Town Planning Area.
3. To promote the recreation and tourist industry of the community.
4. To preserve and protect the historical sites and structures of the community for the benefit of future generations.
5. To promote and provide an effective and safe circulation system within the community.
6. To preserve and protect the fragile ecology of the community specifically with respect to the hillsides of the Town Planning Area and Big Creek.
7. To promote and provide adequate and cost effective public services such as fire protection, public roads, water and sewer services, and snow removal.
8. To develop an adequate program for the evaluation of public buildings and facility needs.
9. To ensure a safe and healthful environment for residents and visitors alike.
10. To promote a diversity of housing types to meet the lifestyle of present and future residents.

The project parking and necessary infrastructure provides for and promotes an orderly addition to the adjacent existing resort commercial developments (Tenaya Lodge and Tenaya Cottages) in the community. The project is specifically designed for resort commercial development promoting the recreation and tourist industry of the community consistent with Objective 3. The project Initial Study and Mitigated Negative Declaration were processed in accordance with the California Environmental Quality Act. The Initial Study evaluated impacts to cultural and historic resources and potentially significant impacts relating to biological resources at the site. The project was designed to preserve resources such as Big Creek. Mitigation is proposed to reduce potentially significant impacts to a less than significant level, thus meeting Objective 4. The Initial Study evaluated traffic impacts and found project would not have a significant impact on the community’s circulation system and therefore would be consistent with Objective 5.
The project design minimizes grading by use of pier foundations where feasible, and access pathways, roadways and parking in previously disturbed areas. Mitigation and conditions of approval include requirements for erosion control and storm water pollution prevention, wastewater treatment, protection of biological resources that reduces any potentially significant impact to less than significant levels in order to protect the ecology, consistent with Objective 6. The protection of the fragile ecology of the community was addressed through project design, mitigation and conditions of project approval. The IS/MND found that with the application of the required mitigation, that the project would have no impact on the area’s hydrology or water quality.

The project is consistent with Objective 7 in that Highway 41 access improvements, water, waste water, snow removal and project roads are all provided for and maintained by the project proponent and are adequate to serve the project. Additionally, the project will meet all fire protection and emergency plans required by Fire agencies. The project will provide for provision of emergency plans and meet all County Fire requirements for access and is therefore consistent with Objective 8.

The project is required to meet all construction standards for access (roadways), encroachments, buildings and connection to the existing Tenaya Lodge community water system. The project is required to connect to the Tenaya Wastewater Treatment Facility. The applicant is required to maintain all on-site infrastructure improvements in accordance with applicable health and safety code requirements. Therefore, the project will be consistent with Objective 9.

General Plan Issues:
The project is consistent with the Guiding Principles of the Mariposa County General Plan, including Principle 3.2.13 which states that “Supporting Mariposa’s economy, character, and housing, the County must take responsibility to determine the appropriate levels of service, the areas where infrastructure is to be provided, when service levels will be achieved, and how they will be funded. The General Plan requires that potable water, sewage disposal, and fire safe road access be available to the property consistent with State and County regulations.”

Section 5.3.01 of the Mariposa County General Plan states that Town Planning Areas represent the rural scale “urban” development centers in the county. In describing Town Planning Areas, Section 5.3.01.B(1) states that all residential, commercial, industrial, job-center, recreation, and public uses, as defined in the General Plan, are consistent with the purpose of a Town Planning Area. Section 5.3.01.E(1) states that Fish Camp has an adopted Town Planning Area Specific Plan. The Fish Camp Plan is described as a Town Planning Area Specific Plan to allow a comprehensive mix of zoning and land uses associated with its rural scale “urban” character.” The proposed recreation uses at and existing resort commercial development is a tourist oriented commercial use that incorporates a density that preserves opens pace and utilizes a design that fits within a comprehensive mix of zoning and land uses with a rural scale.

Under Goal 5-4 of the General Plan, which states “Designate land areas and establish siting criteria to enhance economic opportunities”. Implementation Measure 5-4c(1) states, “Accommodate appropriate siting and development standards for recreation and resort uses
within the County." Implementation Measure 5-4c(2) states, "Standards shall be included that protect visual character related to: viewsheds; structural design, landscaping and scenic environments; landform grading; site development; and lighting." The project proposes a limited range of recreational activities for an existing resort where the aesthetic utilizes native vegetation for visual screening and preserves features through no build areas or setbacks from water features such as Big Creek.

Section 6.1.05.A of the General Plan states that "General Plan land use policies and the Economic Development Strategic Plan will encourage the development of destination resorts and hotel facilities in appropriate locations in Mariposa County." The project site is located at the Tenaya Lodge site and adjacent to the Tenaya Cottages and Tenaya Cabins, and the Tenaya Zip Lines and Summerdale Seasonal Dining are designed to contribute to the overall destination resort, thereby meeting this General Plan goal.

Section 9.1.05 of the General Plan (Water and Wastewater) states that "most of Mariposa County is not within the service area of public water and wastewater treatment providers. Therefore, most development in the County must provide for its own water and wastewater treatment through on-site means or small, private communal systems." This section of the General Plan goes on to state that "other portions of the County are served by small public systems. Three public water systems provide domestic water to portions of the Fish Camp area through surface springs and groundwater wells. Sewage disposal in the Fish Camp area relies on individual septic tanks and underground leach field systems." The project is served by an existing, permitted and state-regulated water system and wastewater treatment plant.

Goal 9-5 of the General Plan states that "Adequate water and wastewater services shall be provided to properties in the County." Implementation Measure 9-5a(1) states that "No project shall be approved unless it is shown to have access to an approved source for wastewater treatment and disposal and a potable water supply meeting Health Department requirements." The RWQCB, County Health Department regulate the water and wastewater systems and project Initial Study evaluated the existing wastewater treatment system and disposal capacity proposed to serve the project and found it was adequate through the application of the requirement for connection and ongoing compliance with the Tenaya Lodge Wastewater Treatment Facility Waste Discharge requirements and permit.

Section 13.3.01 of the General Plan states that, "The Land Use Element contains policies for development of resort and commercial recreation uses within sub-classifications of the Rural Commercial land use classification. These types of uses support the goals of the Regional Tourism Element by providing additional tourism destinations, including destination resorts and hotels in appropriate locations, and a wider range of recreational opportunities in the County." This project provides an additional tourism activity to serve the resort destination, adjacent to other existing tourism facilities, in an appropriate location in the county.

Goal 13-5 of the General Plan states, "Provide job growth and sustain County revenues by enhancing and expanding the visitor-serving sectors of the economy." Plans to construct a Zip
Line and improvements to the Tenaya Lodge Resort would supply the tourist population with expanded options at the resort for recreational activities to enhance the visitor experience.

The project is consistent with these goals, policies, and implementation measures contained in the Mariposa County General Plan.

**Amendment Finding 2:**
All environmental impacts of the amendment can be satisfactorily mitigated.

**Evidence:** The Initial Study prepared for the project evaluated agricultural resources, population and housing, public services, land use and forest resources, biological resources, cultural resources, transportation and circulation, air quality, greenhouse gas emissions and climate change, noise, geology and soils, hydrology and water quality, utilities and public services, hazardous materials and hazards, visual resources, cumulative impacts, and found either no impact, less than significant impact or less than significant with mitigation. All impacts of the project can be satisfactorily mitigated.

**Amendment Finding 3:**
The amendment will not result in the degradation of the community as a residential and commercial center.

**Evidence:** The Initial Study for the project found that the project would have no significant impacts on the residential component of the community with the application of mitigation. The amendment will enhance the community’s resort commercial improvements and opportunities.

**Amendment Finding 4:**
The proposed amendment is needed to promote orderly growth within the Fish Camp community.

**Evidence:** The portion in Single Family Residential 2-½ acre will be rezoned to Resort Commercial to allow for the proposed uses. Both parcels’ CUP’s Nos. 204 (Tenaya Lodge) and CUP 241 (Tenaya Cottages) would be amended to include revised site plan and additional conditions. In order to develop the property, a number of conditions are required. Compliance with these conditions will ensure orderly growth in conformance to the Fish Camp Plan and General Plan, that establish the policies for orderly growth in the County and Fish Camp.

**Amendment Finding 5:**
The area proposed for amendment is uniquely suited to the proposed use or density and other areas are not presently available or usable for such use or density.

**Evidence:** The project site is one of a few parcels in the Fish Camp Town Planning Area that has sufficient size (36.43 acres, APN 010-410-012) to accommodate for resort commercial uses. APN 010-410-013 is already within the Resort Commercial land use. The project site is an existing resort commercial use and also has Highway 41 frontage and access. The proposed development site is an area available for such a development and will complement the adjacent
land uses and operations of the Tenaya Lodge and Tenaya Cottages. The project is in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan. Sub-section 3.f. in Section VI (Land Use Policies and Standards) of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The site is developed as follows: lodging development is currently 2.3 acres (6%), which is less than the 15% allowed, additional development will total approximately 8.2 acres (23%), which is less than the 25% allowed, and remaining open space will be 25.9 acres (71%), which is more than the minimum open space required of 60%. No new lodging units are proposed and therefore the density is maintained at 244 Tenaya Lodge units, less than the Fish Camp Specific Plan Resort Commercial Development Standards VI., A. 3., f. 1. a. allow (one lodging unit (LU) shall be permitted for each 5,000 square feet of net lot area), which is over 290 units for the project parcel at 34.4 acres.

**Amendment Finding 6:**
The amendment will not result in damage or have an adverse effect on the value of adjacent properties.

**Evidence:** The Initial Study and Mitigated Negative Declaration prepared for the project mitigate any potentially significant impacts on adjacent property owners including potential noise impacts. The mitigation ameliorates potential adverse effects on the neighboring properties and thereby results in no damage or adverse effects on the value of the adjacent property. Adequate buffer between the project and neighboring property owners is provided. All work is done through permits and inspections. On-going operation of the water and wastewater facilities are monitored by a permit and state agency.

**Amendment Finding 7:**
The amendment will not result in an overtaxing of the existing community circulation system or create a traffic hazard.

**Evidence:** The Initial Study for the project found that the traffic demand generated by the project will have a less than significant impact. No hazards will be created nor will the circulation system will be overtaxed and will accommodate for the project traffic demand.

When zoning on property is amended in Mariposa County, the following findings are required to be made, in accordance with Section 17.128.050.C. of Title 17, Mariposa County Zoning Code. It must be found:

**Amendment Finding 8:**
That such an amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

**Evidence:** The project is in the general public interest in that it serves to implement the Mariposa County General Plan and the Fish Camp Specific Plan as stated in FINDING 1 above, and will promote the orderly growth of the community of Fish Camp as stated in FINDING 4
above. The project will not have a significant adverse effect on the general public health, safety, peace, based on the discussion in the Evidence sections for FINDINGS 2, 3, 6, and 7 above. The text of those sections is incorporated into this section by reference.

**Amendment Finding 9:**
That such an amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making.

**Evidence:** As noted in FINDING 1 above, the project is consistent with the amended land use descriptions, and applicable goals, policies and implementation measures of the Mariposa County General Plan. The general plan is a long term guide for county development and project consistency with the general plan confirms that it will implement the general plan. Specific plans are designed to implement the general plan and provide more area specific land use standards. The project with the amended land use is consistent with the Fish Camp Specific Plan, which specifically directs development within the community and, therefore, provides a short term basis for day-to-day decision making.

**Amendment Finding 10:**
That such an amendment conforms to the requirements of state law and county policy.

**Evidence:** State law and the Mariposa County General Plan allow for the amendment to area plans, including the adopted Specific Plan for the Fish Camp Town Planning Area. This amendment has been processed in accordance with the requirements of the Mariposa County General Plan, Title 17, Mariposa County Zoning Code and the Fish Camp Specific Plan. This amendment has also been processed in accordance with adopted environmental review policies and laws. The public hearings were noticed in accordance with requirements of Section 17.132 of Title 17 and applicable sections of state law.

**Amendment Finding 11:**
That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan.

**Evidence:** The project is consistent with all applicable guiding policies, goals, policies, and standards of the Mariposa County General Plan. To support this conclusion, the discussion in the Evidence section of FINDING 1 is incorporated into this section by reference.

**Amendment Finding 12:**
Due to the fact that the project amends the zoning classification on individual parcels it must be found that:

The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.
Evidence: The site is physically suited for the zoning amendment as evidenced by FINDINGS 2, 3, 5, 6, 7, and 8, which are incorporated into this section by reference.

Project Findings for amended CUP 204 and 241
(Findings pursuant to §17.112.040., Mariposa County Zoning Code)

CUP Finding 1: That adequate open space is provided.

Evidence: The project is in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan. Sub-section 3.f. in Section VI (Land Use Policies and Standards) of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The site is developed as follows: lodging development is currently 2.3 acres (6%), which is less than the 15% allowed, additional development will total approximately 8.2 acres (23%), which is less than the 25% allowed, and remaining open space will be 25.9 acres (71%), which is more than the minimum open space required of 60%. There is adequate open space being provided by the project.

CUP Finding 2: That the site is physically suited for the proposed development.

Evidence: The project site is one of a few parcels in the Fish Camp Town Planning Area of sufficient size (34.43 acres, APN 010-410-012) to accommodate resort commercial uses. APN 010-410-013 is already zoned Resort Commercial and developed with resort commercial uses. The site is physically suited as the site is an existing resort commercial use that also has sufficient Highway 41 frontage and access. The proposed development will complement the adjacent land uses and operations of the Tenaya Lodge and Tenaya Cottages. The project is in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan. Sub-section 3.f. in Section VI – Land Use Policies and Standards, of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The site is developed as follows: lodging development is currently 2.3 acres (6%), which is less than the 15% allowed, additional development will total approximately 8.2 acres (23%), which is less than the 25% allowed, and remaining open space will be 25.9 acres (71%), which is more than the minimum open space required of 60%. The project proposes limited development where the open space is 11% below the open space allowance per the Fish Camp Specific Plan.

CUP Finding 3: That adequate provisions have been made for sewage disposal and handling of solid waste.

Evidence: The existing Tenaya Lodge Waste Water Treatment Plant will serve the project. The Initial Study and project analyses found that with the application of conditions and mitigation measures, the provision of wastewater treatment will be sufficient to serve the demands of the project. The waste water treatment system must comply with all Building Code regulations,
SWRCB Division of Drinking Water, RWQCB and Health Department standards for the sewage treatment and disposal. Conditions of approval require that adequate waste handling services be contracted to serve the project site. Enforcement of County Health standards will insure that sewage disposal and solid waste disposal are adequately handled and not generate a health hazard.

CUP Finding 4: That the proposed development will have adequate potable water for public use and fire protection.

Evidence: The existing Tenaya Lodge public drinking water system will be used to serve the project. Water for domestic and firefighting purposes would be provided by the existing Tenaya Lodge public drinking water system to serve the additional demand generated from the project. This would include the fire water storage that is estimated to be between 120,000 and 150,000 gallons, per Mariposa County requirements (Tenaya Cabins EIR requirement). The Initial Study for the project evaluated the supply of water to meet the demands of the project and the water supply is regulated by the California RWQCB Division of Drinking Water and County Fire department and it was found that adequate water is available. The application of mitigation and project conditions insures that the water is sufficient for the drinking water and fire protection requirements. The provision of potable water is regulated to comply with State public drinking water standards.

CUP Finding 5: The project complies with all standard and special setback requirements and appropriate buffers have been provided for adjacent land uses.

Evidence: The project meets all applicable Fish Camp Specific Plan setback requirements for the resort commercial development. The Initial Study for the project evaluated visual impacts and noise impacts and through the application of mitigation found that the impacts on neighboring land uses to be less than significant.

CUP Finding 6: That appropriate access is available or is proposed to the development.

Evidence: The existing Highway 41 encroachment for Tenaya Lodge access will serve the project and CALTRANS did not require any changes to the encroachment. Onsite access to the Summerdale area would generally follow existing dirt roads and are routed around existing trees, vegetation, and rock formations wherever possible to maximize visual screening. All access shall meet the minimum requirements of emergency access as required by County Fire and CALFIRE. Access and grading shall meet the minimum requirements as required by the County Engineer. The project Initial Study found that access for the project was is sufficient to serve the development with the application of conditions and mitigation.

CUP Finding 7: That the proposed use is consistent with the policies and standards of the General Plan and any applicable specific plan.

Evidence: The General Plan encourages Resort Commercial Development through the application of Area Plans in the Land Use Element. Section 13.3.01 of the General Plan states that, “The Land Use Element contains policies for development of resort and commercial
recreation uses within sub-classifications of the Rural Commercial land use classification. These types of uses support the goals of the Regional Tourism Element by providing additional tourism destinations, including destination resorts and hotels in appropriate locations, and a wider range of recreational opportunities in the County." The Fish Camp Specific Plan Land Use Classification of Resort Commercial allows commercial recreational uses with a use permit such as are proposed. The project will create an enhanced resort lodge facility to serve the public at large, the local community and the customers for the Tenaya Lodge. The land use designation and zoning for a portion of APN 010-410-012 is being amended to Resort Commercial to accommodate the proposed resort commercial uses. Based on the proposed amendment, this development is in compliance with the policies of the General Plan and the Specific Plan.

CUP Finding 8: That the project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or determined that the significant effects are unavoidable and acceptable due to overriding concerns.

Evidence: An Initial Study was prepared for the Project, pursuant to California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000, et seq.). Approval of a project with significant impacts requires that findings be made by the lead agency pursuant to the California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000, et seq.), and State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) Sections 15043, 15091, and 15093. CEQA Guidelines Section 15092(b) requires a finding that the significant impacts of a project are either: (1) mitigated to a less-than-significant level or (2) that the public benefits of a project outweigh the significant impacts (requires a Statement of Overriding Consideration).

The project Initial Study concluded that all project impacts would be mitigable to less than significant; the project would not result in significant and unavoidable impacts. The project CEQA findings and mitigation measures are made a part herof.

CUP Finding 9: That 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, and 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.

Evidence: This project proposes recreational uses at an existing resort commercial development. The Conditional Use Permit amendments will establish written limits for the project. The Conditional Use Permit amendments and project Initial Study establish specific mitigation measures and conditions to address potential impacts the development may have on surrounding properties or properties in the community, including noise, light, traffic, and outdoor activity (reducing impacts to a level of less than significant). Finally, the Conditional Use Permit amendments will establish requirements for construction and ongoing operation of the project to insure no significant project impacts on persons residing or working in the neighborhood or in the community. There is a benefit to the health, safety, morals, comfort and general welfare of
persons residing and working in the neighborhood to have established limits and mitigations such as will result from this project.

The Initial Study evaluated all potential environmental impacts of the proposed project and concluded that the project could occur with no significant environmental impacts based upon the implementation of adequate and feasible mitigation measures. These mitigation measures are incorporated into the project.

The Conditional Use Permit amendments have been reviewed through a discretionary process, and there have been opportunities for public input on health, safety, morals, comfort and general welfare issues throughout the public process. All public input on these matters as well as input and recommendations from the Fish Camp Planning Advisory Council have been considered. The Planning Commission has considered the Initial Study for this project. Finally, the Planning Commission has considered the staff report, project findings, the recommended conditions, and the CEQA findings and mitigation measures.

The Planning Commission finds that with mitigation and conditions, and the continued maintenance and operation of the use as conditioned 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.

Finally, the amendments to the Conditional Use Permit are consistent with the General Plan and Specific Plan, as described in Finding No. 7 of this project.
EXHIBIT 2
PROJECT CONDITIONS

Proposed Project Conditions and Mitigation Measures GP/SPZA No. 2017-207, AC/SP No. 2017-208 (CUP 204-Tenaya Lodge & CUP 241- Tenaya Cottages)

The following conditions of approval are applicable for Amended Conditions and Site Plan No. 2017-208 and in addition to all existing conditions for CUP 204 and CUP 241 as amended.

Approved Project Description:

1. A Zipline Canopy Tour to be installed on the west and north sides of the Tenaya Lodge property and will include approximately 6 zip line traverses and 2 sky bridges. An access pathway and one Zip Line support tree are proposed on Tenaya Cottages parcel.

2. Associated trails to access the entry and exit points of the Zipline Canopy Tour.

3. Paving existing dirt access pathways to allow improved access for service vehicles to the Summerdale area and portions of the Zipline Canopy Tour course.

4. Summerdale Seasonal Dining Improvements, including replacing the existing service building and adding permanent restrooms at the facility in compliance with County Building codes.

5. The existing Sierra and Jackalopes Restaurants in the Main Lodge will be remodeled to increase the indoor seating capacity.

6. A Challenge Course may be incorporated into the Zipline Canopy Tour and would be located in the Summerdale area.

The project is proposed at the existing Tenaya Lodge Resort site on Assessor Parcel Number 010-410-012. An access pathway and one Zip line tree are proposed to be located on the Tenaya Cottages Parcel APN 010-410-013. Conditional Use Permit (CUP 204) site plans are amended to include the proposed Resort Commercial land uses and facilities. The Tenaya Cottages Conditional Use Permit (CUP 241) site plan is amended to include the access walkway and Zip line improvements.

No additional rooms are proposed under this project.

The applicant has proposed to implement the Summerdale dining area improvements in two (2) phases where phase one (1) would use the existing facilities as a temporary facility for summer 2018 (through September). All food service would be served in tents or as required by Mariposa County Health Department requirements. All restrooms would be rental portable toilets. The activities would exclude use of any unpermitted structures. Phase two (2) would include the construction of all the permanent facilities for food and restrooms, site paving and access pathways.
General Conditions

1. After the effective date of the Board of Supervisors’ approval of General Plan /Zoning Amendment (GP/ZA) No. 2017-207, the project shall be constructed in substantial conformance with the approved site plan and building elevations as approved by the Board of Supervisors. Minor increase in project square footages up to 10%, with no increase in the number of lodging units, may be considered and approved by the Planning Director. Any substantial modification of the site plan requires additional public review.

2. Any representations during public meetings or public hearing by the applicant or agents speaking on the applicant’s behalf shall be reduced to writing and added as conditions of project approval.

3. The approved amendments to the conditional use permits (CUP 204-Tenaya Lodge & CUP 241- Tenaya Cottages) shall be activated by the issuance of the first building or grading permit within 36 months from the effective date of Board of Supervisors approval of the project. Should activation of the permit(s) be delayed by any moratorium or excessive delays by a permitting agency over which the County of Mariposa does not exercise control, or should a lawsuit involving the approval of the CUP or related entitlements be pending in a court of competent jurisdiction, the 36 month clock shall be tolled until such time the court action or other delay has concluded. However, if the remaining time is less than 120 days, the permit shall be valid for 120 days following the termination of the moratorium or other event triggering the tolling of the period. The tolling period shall be initiated upon written notice by the applicant to the Planning Department setting forth the facts and circumstances justifying the tolling, and shall be immediately effective unless a written notice of rejection is issued by the Planning Director within 14 days of receipt of applicant’s notice.

4. The applicant may request of the Planning Commission one 18-month time extension of the approved amended CUP initial time frame (as identified in condition no. 3 above) between the effective date of the approval of the CUP amendments and the start of construction (building permit or grading permit issuance). The application must be made at least 90 calendar days prior to the initial approval expiration date.

The Planning Commission or Board of Supervisors may impose any conditions and/or requirements it finds necessary to guarantee compliance with the project approval findings.

Any tolling provisions provided for by conditions of approval for the amended use permit shall remain in full effect. Time extension request provisions of this condition do not change any approved applicable tolling provisions.

5. An updated project development schedule shall be submitted to the Planning Director
prior to issuance of grading and or building permit for the project. Project schedule shall at a minimum include:

- Outside agency permitting application estimated submittal timeline
- Projected overall construction schedule
- Estimated completion

6. No use or occupancy of the project shall commence until the Planning Director has certified all applicable conditions have been satisfied. No use or occupancy of the Summerdale dining area shall commence until the Planning Director has certified all applicable conditions have been satisfied for Phase 1 and Phase 2 respectively.

7. No site disturbance activities shall commence without the issuance of a building or grading permit. Should there be no code requirement for such a permit, a letter authorizing site disturbance activities shall be issued by the Planning Director upon request and upon proof of condition completion.

8. Prior to the issuance of any site disturbance, building or grading permits, the permit holder shall submit final site plans based on construction plans. The final site plans shall clearly be labeled to match the approved site plans. *Site plan shall include the Challenge Course activities area oriented to the west and on the westernmost side of the Summerdale area, and the stage of the Summerdale area shall be oriented to the west (Hwy 41 side).* All physical construction for the project shall be sited in substantial conformance with the approved plans.

**Botanical/Wildlife**

9. Prior to the commencement of site disturbance activities of any kind, the Planning Director shall receive a detailed preconstruction survey clearly identifying areas which are proposed to be retained in natural vegetation (e.g. grasses, shrubs, trees and riparian vegetation). Accompanying the preconstruction survey shall be a construction management plan identifying how “non-disturbance areas” are to be physically protected during construction activities.

10. Any proposed site fencing shall be limited to surrounding maintenance facilities, “no access” or ecologically sensitive areas, or as required for the site security plan. Fencing shall meet biologist approval and aesthetics requirements. Planning Director approval of any and all fencing plans shall be required prior to any building and/or grading permit issuance.

11. Prior to the issuance of any building or grading permits, the permit holder shall submit to the Mariposa County Agricultural Commissioner copies of the construction management plan identifying how the permit holder will take steps to prevent the transport of noxious weeds to the site. Certification of approval by the Agricultural Commissioner of such program shall be transmitted to the Planning Director.
12. Mitigation Measure BIO-1a: Conduct preconstruction surveys for and avoid rare plant species. During the spring and summer prior to construction, a qualified plant ecologist shall conduct surveys during the period when the rare plant species with potential to occur on the Zip Line project site are identifiable, which is generally the blooming period. The surveys shall follow the protocols given in CNPS Botanical Survey Guidelines (CNPS 2001) and Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFG 2009). If no rare plant species are detected during the survey, no further mitigation is required.

If rare plant species are detected, the Project Proponent in consultation with a qualified plant ecologist shall design, construct and maintain the project to avoid impacts. Avoided populations shall include a buffer of approximately 25 feet, which may be increased or decreased depending on the species’ rank, site-specific conditions, and anticipated project activities. All such populations within 100 feet of project disturbance limits, and their associated buffer areas, shall be clearly depicted on construction plan sets. Before any ground disturbance or vegetation removal, the avoidance areas shall be clearly flagged and maintained throughout construction. Protected plant populations shall be demarcated for avoidance throughout the operation of the resort facility to minimize impacts from recreational use and site maintenance activities. If complete avoidance is not feasible, plants, bulbs, or seeds should be translocated by a qualified plant ecologist or restoration ecologist to another suitable location onsite identified by a qualified plant ecologist.

13. Mitigation Measure BIO-3a: Conduct work outside of the nesting season. If feasible, all construction activities shall occur between September 1 and February 28, which is outside the breeding season. If the breeding season cannot be avoided, implementation of Mitigation Measure BIO-3b is required.

14. Mitigation Measure BIO-3b: Conduct preconstruction surveys for nesting birds and avoid nests. If it is not possible to schedule construction between September 1 and February 28, a qualified biologist shall conduct a preconstruction survey for nesting birds, including raptors, to ensure that no active nests will be disturbed during construction. The preconstruction survey shall be conducted no more than 7 days before the initiation of construction activities in any given area of the project site. During this survey, the qualified biologist shall inspect all potential nest substrates in the impact area, and all nests identified will be monitored to determine if they are active. If an active, non-raptor nest is found within 50 feet of the construction area, a qualified biologist shall determine the extent of a buffer to be established around the nest. The buffer will be delineated for the construction personnel, and no work shall take place within the buffer area until the young have left the nest, as determined by a qualified biologist. If active raptor nests are found during the surveys, a 500-foot disturbance-free buffer shall be established around each nest, and demarcated by fencing or flagging. The buffer distance may be reduced if the qualified biologist determines in coordination with CDFW that a nest site would be shielded from construction activities by topographic or
other features that would minimize disturbance. No work shall take place within the buffer area until the young have left the nest, as determined by a qualified biologist.

15. Mitigation Measure BIO-4a: Conduct preconstruction surveys for roosting bats and avoid roost sites. Preconstruction surveys shall be conducted during an appropriate seasonal period to detect bats, which at this elevation would be mid-April to mid-October. Acoustic monitoring shall be performed to determine the species of bats occupying the site. Acoustic monitoring devices shall be set up for full coverage of the site and allowed to collect data for two nights. If no special-status bat species are detected during the initial acoustic monitoring surveys, the monitors shall be left in place for an additional three nights to confirm that special-status bat species are not present on the site. If no special-status bat species are detected, no further mitigation is required.

If special-status bat species are detected, Generation 3-plus night-vision goggles shall be used in surveys to determine the presence of any roosting bats in tree cavities, under bark, or in foliage. All trees in the impact area plus a 300-foot buffer (on the subject property) shall be surveyed. Night-vision surveys shall be conducted by two people for two nights. If any roost sites are detected, a disturbance-free buffer of 300 feet shall be flagged. Buffers may be modified by the qualified biologist, provided the bats are protected, and shall not be removed until the qualified biologist has determined that the roost site is no longer in use. If buffer areas cannot be avoided during work, implementation of MM BIO-4b shall be required.

16. Mitigation Measure BIO-4b: Passively remove special-status roosting bats if avoidance is not feasible.

If occupied roosts of special-status bat species cannot be avoided as described in MM BIO-4a, work in these areas must take place between August 1 and October 31, which is outside the winter hibernation and maternity roosting seasons. In this period, a qualified bat biologist, who has received authorization under a Memorandum of Understanding with CDFW, shall conduct passive eviction by opening the roosting cavity to allow airflow, placing a one-way door on the entrance(s) to the roost, or disturbing the roost using a high-frequency broadcasting device. A bat biologist shall continue monitoring the roost with acoustic surveys to ensure that no bats are in the roosts before the trees are removed.

17. Mitigation Measure BIO-5a: Conduct preconstruction surveys for fishers and avoid occupied dens. Trees containing cavities that are potentially suitable for fisher den sites shall be surveyed (using trail cameras) for 7 days before the initiation of construction activities to determine whether there are occupied dens. The protocol for pre-construction surveys of potential den sites shall utilize the fisher den monitoring methodology developed by the U.S. Forest Service’s Pacific Southwest Research Station (PSW). Three to four infrared, remote triggered trail cameras will be used for each tree or snag ≥20 inches in diameter within the utility corridor that is designated for removal and contains a potentially suitable cavity. Seven days prior to tree removal, the three to four trail
cameras will be mounted in areas near the base of the tree or snag such that the cameras have direct and overlapping views, facilitating the detection of a fisher traveling up or down the main trunk. At least seven consecutive nights of camera data with no detections of fishers will be required before the tree or snag can be considered to be unused by fishers. If no occupied dens are detected then no further mitigation is required.

18. Mitigation Measure BIO-5b: Implement a disturbance-free buffer. If any occupied dens are detected, CDFW and USFWS shall be immediately notified and a disturbance-free buffer of 0.25 mile shall be flagged around the den at ground level. Monitoring of the den site, and any adjustment or removal of buffers shall occur in consultation with CDFW and USFWS. If buffer areas cannot be avoided during construction activities, the following construction schedule shall be implemented.

19. Mitigation Measure BIO-5c: Conduct construction near occupied fisher dens outside the kit rearing season. If construction activities must be conducted within the established buffer areas from occupied fisher dens, work in these areas must take place between July 1 and March 1, which is outside of the kit-rearing season. During this period and prior to work occurring within the established buffer, as indicated above, the monitoring of the den and the removal of the buffer shall be conducted in coordination with CDFW and USFWS. Once it has been determined that there would be no potential for mortality as a result of den disturbance, the tree may be removed or work conducted within the buffer area with oversight by the qualified biologist.

20. Mitigation Measure BIO-5d: Avoid use of anticoagulant rodenticides and insecticides during construction and operation. To prevent exposing fishers to toxic chemical compounds, no anticoagulant rodenticides or insecticides shall be used during construction or operation of the Zip Line project.

21. Mitigation Measure BIO-6a: Conduct preconstruction surveys for American badgers and avoid occupied dens. No more than 30 days before the start of construction activities, the Project Proponent shall retain a qualified biologist to conduct preconstruction surveys for potential American badger dens. All areas of suitable habitat within the impact area plus a 300-foot buffer (where access allows) shall be surveyed, and all potential dens shall be flagged and mapped. Any potential dens identified will be monitored using tracking medium or an infrared-beam trail camera for three consecutive nights to determine current use. Inactive potential dens shall be blocked with a one-way door or excavated to prevent use during construction. Blocking with one-way doors is preferable to excavation where feasible, since they would be available to badgers after construction. Occupied badger dens shall be flagged, and a buffer around the den shall be established in which all ground-disturbing activities are avoided. If construction takes place during the nonbreeding season (July 1 through February 14), the buffer shall be 50 feet from the occupied den, and if construction takes place during the breeding season (February 15 through June 30) the buffer shall be 200 feet to protect adults and nursing young. Buffers may be modified by the qualified biologist, provided the badgers are protected, and shall not be removed until the qualified biologist has determined that the den is no longer in
use. Flagging that is highly visible shall encircle the occupied den at the appropriate buffer distance, and shall not prevent access to the den by badgers. If work must be conducted within the buffer area of an active non-maternity den, badgers shall be relocated following the methods described in MM BIO-6b.

22. Mitigation Measure BIO-7a: Prepare and present a Worker Environmental Awareness Program. The Project Proponent shall retain a qualified biologist to prepare a Worker Environmental Awareness Program that will be presented to all construction personnel and employees before any ground-disturbing activities commence at the Zip Line project site. This program shall detail the avoidance and minimization measures undertaken during project implementation to avoid and minimize impacts on biological resources. It shall include a description of special-status species potentially occurring on the site and their natural history; the status of the species and their protection under the ESA, CESA, and California Fish and Game Code; and the penalties for take. The program shall also describe the measures to be undertaken to avoid impacts on jurisdictional areas. It shall include a description of jurisdictional areas on the site, the specifications of any permitted impacts on jurisdictional areas, measures to protect areas to be avoided, and maps showing the location of jurisdictional areas and any permitted impacts. All attendees of the Worker Environmental Awareness Program shall sign an attendance form.

23. Mitigation Measure BIO-7b: Observe construction standard operating practices. The following standard practices are recommended to reduce various project impacts on biological resources.
   a) Prior to the start of construction, the limits of disturbance shall be clearly delineated by stakes, construction fencing, flags, or another clearly identifiable system.
   b) All pipes, culverts, metal tubing, or similar structures stored or stacked on the Project site for one or more overnight periods shall be either securely capped before storage or thoroughly inspected for wildlife before the materials are moved, buried, capped, or otherwise used. In addition, materials such as lumber, plywood, and rolls of silt fence or roofing stored on site shall be thoroughly inspected before use. Materials that could provide shelter/nesting habitat for birds shall be covered with netting or other exclusion methods during the nesting season, where feasible and appropriate, to prevent birds from building nests. If encountered, wildlife shall be allowed to escape unimpeded, or relocated by a qualified biologist to a designated appropriate habitat area away from construction activities. Any wildlife relocations shall be authorized as necessary by CDFW and/or USFWS.
   c) To prevent entrapment of wildlife, all excavations (e.g., steep-walled holes or trenches) more than 6 inches deep shall be covered with plywood or similar materials when not in use or contain escape ramps constructed of dirt fill, wooden planks, or another material that wildlife could ascend. The amount of time trenches or other excavations are left open shall be minimized. All excavations more than 6 inches deep shall be inspected daily prior to the start of construction and immediately before being covered or filled. Any wildlife discovered shall be allowed to escape unimpeded before construction activities resume or shall be relocated by an authorized biologist.
d) Dust suppression shall occur during construction activities when necessary to meet air quality standards and protect biological resources.

e) To minimize disturbance, all vehicle traffic shall be restricted to established roads, construction areas, and other designated areas.

f) Drivers of Project-related vehicles shall observe a 15-mile-per-hour (MPH) speed limit within Project areas during construction. Speed limit signs shall be installed at the Project site entrance during construction.

g) No vehicles or equipment shall be refueled within 100 feet of jurisdictional areas unless a berm and lined refueling area is constructed. Spill kits shall be maintained on the site in sufficient quantity to accommodate at least three complete vehicle tank failures of 50 gallons each. Any vehicles driven or operated within or adjacent to drainages or wetlands shall be checked and maintained daily to prevent leaks. No vehicles or construction equipment shall be stored overnight within 100 feet of jurisdictional areas unless drip pans or ground covers are used.

h) No concrete washout shall be conducted on the site outside of an appropriate containment system.

i) The use of chemicals, fuels, lubricants, or biocides shall be in compliance with all local, State, and federal regulations. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation. Also see MM BIO-5C restricting the use of anticoagulant rodenticides.

j) All food-related trash items (e.g., wrappers, cans, bottles, food scraps), small construction debris (e.g., nails, bits of metal and plastic), and other human-generated debris (e.g., cigarette butts) shall be stored in animal-proof containers and/or removed from the site on a weekly basis. No deliberate feeding of wildlife shall be allowed.

24. Mitigation Measure BIO-7c: Implement biological construction monitoring. Before the start of construction, the Project Proponent shall retain a qualified biological monitor who will be on the site during all tree removal, vegetation clearing, and initial grading activities. If a special-status wildlife species is encountered during monitoring, the following protocol shall be implemented:

k) All work that could result in death, injury, disturbance, or harassment of the individual animal shall immediately cease and the qualified biologist shall be consulted on the appropriate measures to avoid take.

l) If authorized by Project-specific permits, the qualified biologist shall relocate the animal outside the Project impact areas, or the animal shall be allowed to leave unimpeded.

m) Construction shall resume as soon as the animal is out of harm’s way, as directed by the qualified biologist.

25. Mitigation Measure BIO-7d: Restore temporarily affected habitats to preserve habitat functions and values for wildlife and plant species. Areas where temporary, construction-related impacts have taken place shall be restored under the direction of a qualified restoration ecologist. Methods may include recontouring graded areas to blend in with
existing natural contours, and covering the areas with salvaged topsoil containing native seedbank from the site. Areas where substantial soil compaction has occurred may be treated with light ripping or other methods to rectify compaction, as recommended by the qualified restoration ecologist. No fertilization of disturbed soils shall be prescribed unless recommended by the qualified restoration ecologist. As appropriate, highly disturbed soils may be amended with certified weed-free mulch.

26. Mitigation Measure BIO-7e: Prepare a Stormwater Pollution Prevention Plan (SWPPP) and Obtain Coverage Under a National Pollution Discharge Elimination System (NPDES) General Permit. To prevent impacts on the water quality of wetlands and streams, the Project Proponent shall direct the preparation of a SWPPP covering the site preparation, construction, and post-construction periods. The SWPPP shall incorporate Best Management Practices (BMPs) consistent with the NPDES General Permit for Storm Water Discharges Associated with Construction Activity (CA-S000002), which shall be obtained by the Project Proponent. The SWPPP shall follow the guidelines in Developing Your Stormwater Pollution Prevention Plan: A Guide for Construction Sites (U.S. Environmental Protection Agency 2007), and may include specifications for the following:

27. Mitigation Measure BIO-7f: Prepare a Hazardous Materials Spill Response Plan. The Project Proponent shall prepare a Hazardous Materials Spill Response Plan that details the protocols to follow in the event that a hazardous material is released into the environment. This plan shall be submitted to the County of Mariposa for review and approval prior to the issuance of any building or grading permit. This plan shall be maintained on the Project site, and all personnel working on the Project site shall be notified of its location.

28. Mitigation Measure BIO-8a: Avoid and minimize impacts on wetland and riparian habitats by providing appropriate setbacks and depict setbacks on Project plan sets. A minimum 25-foot setback shall be observed, where feasible, from the outer edge of all wet meadow and forested/shrub wetland/riparian communities, as shown in Figure 7. Setbacks areas to be avoided shall be fenced or flagged before construction occurs in adjacent areas. To facilitate site management and ensure avoidance of these sensitive features, all wetlands, riparian areas and streams and their setback areas shall be clearly delineated on plan sets. No construction- or operation-related vehicular access shall occur through wetlands, riparian areas, or streams. A biological monitor shall be present during the work to ensure the setback areas are avoided. If these areas cannot be avoided, MM BIO-8b shall be implemented.

29. Mitigation Measure BIO-8b: Provide compensatory mitigation for permanent impacts on wetlands and riparian areas. If impacts on wetlands and/or riparian areas cannot be avoided, areas containing these communities shall be enhanced and preserved to compensate for permanent impacts in a manner that achieves no net loss in acreage or function. These areas shall be managed in perpetuity at a 2:1 mitigation ratio (acres enhanced and preserved: acres permanently affected). Permanent loss includes all areas
where permanent fill is placed during the construction of building pads or roads; where buildings or other amenities are constructed within the boundaries of these areas; and where native vegetation may be replaced with landscaped areas. Enhancement of the preserved habitat shall be site-specific according to opportunities available at the compensatory mitigation site, and may include native species planting, weed removal, and fencing to exclude recreational use. Preserved wetland and riparian areas providing compensatory mitigation for permanent impacts shall be placed in a conservation easement or similar legal mechanism and managed in perpetuity. The design, monitoring schedule, and success criteria for all compensatory mitigation shall be described in a Wetland and Riparian Mitigation and Monitoring Plan (WRMMP). The goal of the WRMMP shall be to achieve no net loss in acreage or function of these sensitive natural communities. The WRMMP shall contain a contingency plan for elements that do not meet performance criteria within 3 years for wetlands and 5 years for riparian areas; specific triggers for remediation if performance criteria are not being met; and contingency measures to be implemented to ensure that success criteria are met during the subsequent monitoring period.

Public Services

30. Prior to the issuance of any building or grading permits, the County Fire Chief and California Department of Forestry and Fire Protection shall provide the Planning Director with a letter certifying that the internal access roadway and pathways engineering design is of adequate width, grade, surfacing, and construction design to meet the requirements of the fire protection agencies.

31. Prior to the issuance of any building or grading permits, the permit holder shall submit required plans and water system design to the County Fire Department for review and approval. No building or grading permits shall be issued until the Planning Director receives a letter from the Fire Chief certifying the approval of the Plans. The Plans shall include all necessary information required by the County Fire Department.

32. Prior to the commencement of any structure framing, the approved water system shall be fully operational and approved by the County Fire Department. Evidence of Fire Department approval of the water system shall be provided to the Building Department prior to its issuance of any approvals to proceed with framing of the structures.

33. Prior to the issuance of a certificate of occupancy for any structure on the site, the County Fire Chief shall provide the Chief Building Official with a letter certifying that the structure(s) comply with requirements of the County Fire Department for fire protection, water supply, and other requirements.

34. Prior to the issuance of any building or grading permits, the Planning Director shall receive a letter from the CALFIRE indicating the final project design meets the requirements for the Fire Protection State Responsibility Area Firesafe Requirements for driveway standards, gate standards, road standards, emergency water
supply standards, fire hydrant standards, defensible space standards, and as otherwise specified in 14 CCR §1270 et. seq.

35. All refuse containers shall comply with County Code Chapter 8.44 requirements for bear preventative/control measures. Refuse containers shall be sited and maintained to remain accessible during snow periods.

36. All Health Department requirements for the proposed uses including proposed food/kitchen uses shall be met prior to commencement of the activities including food service activities proposed by the project. A verification letter from the Health Department to the Planning Director certifying this condition has been met shall be required prior to operation of Phase 1 and/or Phase 2 of the Summerdale dining portion of the project or both as deemed applicable by the County Health Department.

37. Prior to issuance of any building or grading permits, the permit holder shall provide the Director of Public Works with a Plan for Annual Maintenance of all on-site access travelways, pathways and/or roads. The Plan For Annual Maintenance shall include, at a minimum:

   a. Provisions for snow removal on all on-site roads, including the emergency access road.

   b. Provisions maintaining access to refuse containers and the on-site wastewater and water system infrastructure.

   c. The method by which the Plan will be implemented through regular facility employees or by contract. Copies of executed contracts may be submitted with the Plan.

   d. Provisions for the exclusive use of non-contaminated sand during winter months.

   e. Evidence of any necessary easements or contractual access agreements with offsite property owners, if necessary.

38. Prior to the issuance of any building or grading permits, the permit holder shall submit restoration surety in a form satisfactory to the County Counsel. The amount of surety shall be 10% of the total construction cost of the project or equal to an engineer’s estimate of the cost of site preparation and grading, whichever is greater plus a 50% contingency. This amount of the surety is to be confirmed by the Department of Public Works and guaranteed by an appropriate agreement with the County. Upon completion of the grading and building final approval by the County, the required security shall be returned to the permit holder.

Hydrology, Water and Wastewater

39. Mitigation Measure 9-a Install Permanent Stormwater Controls And Water Quality BMPs
The project applicant shall implement the following stormwater controls and water quality BMPs:

- Best management practices for the containment and isolation of products, and use of non-toxic products whenever possible would reduce the quantity of contaminants exposed to stormwater.

- Recognizing that in some instances it is impossible to isolate all contaminants from stormwater discharges, stormwater controls shall be implemented to reduce the amount of runoff that discharges directly to surface water. Water quality treatment facilities/best management practices (BMPs)/low impact development (LID) measures shall be designed according to the guidance of the California Stormwater Quality Association Stormwater Best Management Practice Handbooks for Construction, for New Development/Redevelopment, and for Industrial and Commercial as well as the Mariposa County Erosion and Sedimentation Policies for Construction Activities and the Fish Camp Specific Plan Topography and Soil Erosion requirements. Final site plans shall illustrate stormwater controls and water quality BMPs as a condition of project approval.

- Storm drainage from on- and offsite impervious surfaces (including roads) shall be collected and routed through specially designed vegetated swales, infiltration trenches, water quality inlets, detention basins, filters, etc. for entrapment of sediment, debris and oils/greases or other identified pollutants. BMPs shall be designed at a minimum in accordance with the Mariposa County Erosion and Sedimentation Policies for Construction Activities and the Fish Camp Specific Plan Topography and Soil Erosion requirements.

- No stormwater controls or BMPs shall be permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals.

- All BMPs shall be maintained as required to insure effectiveness. The applicant shall provide for the establishment of vegetation, where specified, by means of proper irrigation. Proof of ongoing maintenance, such as contractual evidence, shall be provided to Mariposa County upon request. Maintenance of these facilities shall be provided by the project owner/permittee. Contractual evidence of a monthly parking lot sweeping and vacuuming, and catch basin cleaning program shall be provided upon request. Failure to do so will be grounds for discretionary permit revocation.

40. Mitigation Measure 9-b Prepare and implement a final drainage report that reduces runoff to pre-project conditions.

As part of the project approval process, the applicant shall submit a Drainage Report prepared by a Registered Civil Engineer that includes at minimum:
• written text addressing existing conditions,
• the effects of the proposed improvements,
• all appropriate calculations,
• watershed maps,
• changes in flows and patterns, and
• proposed on- and off-site improvements to accommodate flows from the project.

The final Drainage Report shall provide details showing that stormwater run-off shall be reduced to pre-project conditions (no net increase in runoff) through the installation of retention/detention facilities. Retention/detention facilities shall be designed to the satisfaction of the Mariposa County Public Works Department. The County may, after review of the project final drainage report, delete this requirement if it is determined that drainage conditions do not warrant installation of this type of facility. Maintenance of detention facilities by the property owner, or entity responsible for project maintenance shall be required.

No retention/detention facility construction shall be permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals.

41. The project shall install and maintain onsite pollutant control measures during project construction and operation as required ensuring NPDES compliance. The permit holder shall provide the Planning Director with a copy of its approved State Water Resources Control Board Construction Activity Storm Water Permits.

42. The project shall install and maintain onsite runoff attenuation facilities with sufficient capacity to reduce 100-year project stormwater runoff rates to those currently generated by the project site. The project engineered grading plans shall include these facilities.

43. Prior to the use or occupancy of any building, and on a continuing basis, the potable water supply from on-site wells shall meet or be treated to meet California Drinking Water Standards or shall be treated to meet those standards.

**Air Quality**

44. Prior to the issuance of any building or grading permits, the County Air Pollution Control Officer shall approve the project construction contract specifications shall meet all applicable Air Pollution Control District (APCD) requirements.

45. All applicable APCD requirements shall be met at pre-building or pre-grading permit issuance, during construction, prior to occupancy, and during operation to the satisfaction of the County Air Pollution Control Officer.
46. Prior to the use or occupancy of any building, the Environmental Health Division Director shall certify that wastewater storage, collection and transmission facilities incorporate appropriate equipment and design so that odors cannot be detected.

**Traffic, Access and Circulation**

47. Prior to the commencement of any on site access improvements, grading, road construction or other building or maintenance activities required as a condition of approval for this project or for the required improvements, a consultation meeting with the Public Works Department, the Planning Department, the applicant, the agent, the road contractor, County Fire and CALFIRE shall occur. The Agricultural Commissioner, a representative from Pacific Gas & Electric, a representative from the Health Department and a representative from the Mariposa County Resource Conservation District, Fish Camp Mutual Water Company and Picayune Rancheria of Chukchansi Indians shall be invited to attend. 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, grading and/or building permit required for this project and prior to the scheduling of any on-site inspections of road improvements.

**Aesthetics**

48. No changes to the approved site plan, exterior design, color, or materials of any structure or landscaping shall be permitted without review by and written approval of the Planning Director pursuant to applicable conditions for the project.

49. Site landscaping plans are required and shall be prepared by a licensed landscape architect. All species must be native species. Landscaping irrigation must comply with the State Model Water Efficient Landscape ordinance. Planning Director Approval is required of conceptual landscaping plans prior to grading permit issuance and final landscape plans required prior to building permit issuance.

50. All on-site lighting fixtures shall be designed to be in compliance with the model lighting code developed by the International Dark Sky Association and shall be approved by the Planning Director prior to the installation of any fixtures. The Director may require plan review by a lighting specialist to ensure condition compliance. Applicant shall pay all costs associated with this review.

51. Prior to building permit issuance project plans must be submitted and approved by the Planning Director that include the architectural elevations, color types and materials of the proposed structures. The proposed architectural features must include color themes of earth tones, standing seam metal roof material, exposed beams along porches and eave overhang features that are associated with mountain cabin or western theme design as are depicted in the proposed plans.


Cultural and Historical Resources

52. Mitigation Measure 5-1a: Conduct archaeological monitoring outside of P 22 594/CA-MRP-280/H. Archaeological monitoring will be conducted in areas outside of site P-22-594/CA-MRP-280/H where there is likelihood that archaeological remains may be discovered but where those remains are not visible on the surface (per the confidential Cultural Resources Assessment on file at the county). Where necessary, the project proponent will include Native American monitoring, input and consultation.

53. Mitigation Measure 5-1b: Stop work in the event of an archaeological discovery outside of P 22 594/CA-MRP-280/H.

If potentially significant cultural resources are discovered outside of site P-22-594/CA-MRP-280/H during ground-disturbing activities associated with individual project preparation, construction, or completion, the project proponent will require the construction contractor to stop work in that area until a qualified archaeologist can access the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with appropriate agencies and interested parties. A qualified archaeologist will follow accepted professional standards in recording any find including submittal of the standard California Department of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and location information to the California Historical Resources Information Center office (Central California Information Center) for California projects. The consulting archaeologist will also evaluate such resources for significance per CRHR eligibility criteria (PRC Section 5024.1; Title 14 CCR Section 4852).

If the archaeologist determines that the find does contain temporally diagnostic materials and does not meet the CRHR standards of significance for cultural resources, construction may proceed. If the archaeologist determines that further information is needed to evaluate significance, the lead agency will be notified and a data recovery plan will be prepared.

54. Mitigation Measure 5-2: Stop work if human remains are discovered.

California law recognizes the need to protect Native American human burials, skeletal remains, and items associated with Native American burials from vandalism and inadvertent destruction. The procedures for the treatment of Native American human remains are contained in California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097.

If human remains are discovered during any demolition/construction activities, potentially damaging ground-disturbing activities in the area of the remains shall be halted immediately, and the project applicant shall notify the Mariposa County Coroner and the NAHC immediately, according to Section 5097.98 of the State Public Resources
Code and Section 7050.5 of California’s Health and Safety Code. If the remains are determined by the NAHC to be Native American, the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The project applicant shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant (MLD), if any, identified by the NAHC. Following the coroner’s findings, the archaeologist, and the NAHC-designated MLD shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.

55. Mitigation Measure 5-3 A Native American monitor shall be on-site for the duration of ground disturbance. During 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 (50) 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 the 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.

Noise

56. Mitigation Measure 12 a Noise Control Plan Required

As noise levels may vary slightly from day to day, as a result of various individuals operating the sound system or different musicians playing at the facility, it may be beneficial to establish a noise control plan. A description of the suggested noise control plan is provided below.

Noise Monitoring Requirements:

The noise monitoring program is intended to be coordinated by Tenaya Lodge staff, on an ongoing basis, during events utilizing amplified speech and music at the Summerdale Outdoor Dining Area.

The noise monitoring program should comply with the following requirements:
- Instrumentation: Tenaya Lodge staff shall obtain a sound level meter that meets the requirements of the American National Standards Institute for Type 1 or Type 2 sound level meters (ANSI S1.4-1971). The sound level meter must be capable of measuring A-weighted sound levels at “slow” meter response and recording the maximum sound level (Lmax) during noise sample periods. An appropriate acoustic calibrator shall also be obtained for use in field-checking the accuracy of the noise monitoring system. The sound level meter, microphone and calibrator shall be certified by the manufacturer or an accredited laboratory that they are in compliance with applicable standards at the time of purchase.

- Training: Tenaya Lodge staff that will be conducting noise monitoring during outdoor events with amplified speech and music (and any back-up staff) must receive “hands-on” training in the proper use of the noise monitoring equipment from a qualified acoustical consultant.

- Reference Noise Monitoring Site: An appropriate reference noise monitoring site must be identified for conducting noise monitoring during Summerdale events utilizing amplified speech.

Reporting Requirements:

- Tenaya Lodge staff must complete a noise monitoring log that reports the time and date measurements were made and measured maximum noise levels during each sample. The noise monitoring log should describe actions that were taken if measured noise levels were found to be in excess of the determined Lmax noise level at the reference noise monitoring site. The noise monitoring log should also report weather conditions at the time of the activities and when the sound level meter was last calibrated. The noise monitoring log should be available for inspection by Mariposa County at any reasonable time. A sample noise monitoring log is attached (* in the appendices of the Noise study).

57. Mitigation Measure 12 a Reduce noise exposure to sensitive receptors from new stationary noise sources. The project applicant shall implement the following measures to reduce the effect of noise levels generated by onsite stationary noise sources:

- Routine testing and preventive maintenance of the emergency diesel generator shall be conducted during the less sensitive daytime-business hours (i.e., 7:00 a.m. to 5:00 p.m.). The generator shall be equipped with noise control (e.g., muffler) devices in accordance with manufacturers’ specifications.

- Any External mechanical equipment, including any emergency generator that may be included, shall incorporate features designed to reduce noise emissions below the County stationary noise requirements (i.e., 55 dB Leq during daytime hours and 45 dB Leq during nighttime hours). These features may include, but are not limited to, locating equipment within equipment rooms or enclosures that
incorporate noise reduction features, such as acoustical louvers, and exhaust and intake silencers. Equipment enclosures shall be oriented so that major openings (i.e., intake louvers, exhaust) are directed away from nearby noise-sensitive receptors.

* The Summerdale speaker system shall be located, oriented, and calibrated so that it operates at noise levels that do not exceed County requirements (i.e., 50 dB Leq during daytime hours and 40 dB Leq during nighttime hours) at any existing or planned sensitive receptor.

To ensure that Mariposa County noise requirements for non-transportation noise sources are not exceeded at any nearby sensitive land uses, the project applicant shall comply with the following:

* Prior to issuance of any grading or building permits for the project, a site specific noise study shall be submitted by a qualified acoustical engineer addressing County noise performance standards for non-transportation noises at the surrounding off-site sensitive receptors within 800 feet of the project site.

* A qualified acoustic specialist shall be selected by the County and hired at the project applicant’s expense to verify the effectiveness of all noise reduction measures. The noise study shall use approved calculation methodologies and include recommendations and measures to ensure compliance with County requirements. A copy of the report shall be filed with the County and copies shall be provided to all off-site residential receptors located within 800 feet of the project site. If through this mitigation measure it is determined that the reduction of sound at the surrounding sensitive receptors associated with the implementation of mitigation measures is not sufficient to comply with County requirements, the stationary noise source shall not be permitted.

* As part of the site-specific noise study, the applicant shall assess the level of noise generated by the Summerdale speaker system to ensure that it does not exceed County requirements (i.e., 50 dB Leq during daytime hours and 40 dB Leq during nighttime hours) at any sensitive receptor. The speaker locations and settings shall be reviewed and approved by the County. The clubhouse speaker system shall be recalibrated once a year to ensure that it continues to operate in compliance with the County requirements. The results of the calibration, including monitored noise levels, shall be provided to the County. If an exceedance of County standards occurs, the speaker system shall be recalibrated, volumes shall be lowered if necessary, and the system shall be re-reviewed by the County to demonstrate compliance.

58. Hours of Project amplified sound will be limited to between 10am and 10pm daily. Amplified sound may not be used at any other time. The hours of operation of the ZipLine and Challenge Course will be between 9 am and 8 pm.
Additional Conditions

59. 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.

60. All fees associated with the County’s processing of the project CEQA documents (applicable, general plan/specific plan amendment and conditional use permit amendments) shall be paid. The Department of Fish and Wildlife CEQA filing fee ($2274.75 as of January 1, 2018) and County Clerk fee ($50 as of January 1, 2018) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, June 22, 2018, 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, June 22, 2018 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 $2324.75 (effective January 1, 2018), 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.