RESOLUTION - ACTION REQUESTED 2020-718

MEETING: December 8, 2020

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: GP/SP/ZA Amendment No. 2019-216 and DR No. 2020-208 (Brown Bear Project)

RECOMMENDATION AND JUSTIFICATION:

Action is the Planning Commission's recommendation.

See Staff Report for detailed information.

The Staff Report attached to this item is prepared for two agenda items, this item and the subsequent item for General Plan/Specific Plan/Zoning Amendment No. 2019-216 and Design Review No. 2020-008 for the Brown Bear Hotel & Conference Center and Multi-family Housing Project.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
None related to this project.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Alternatives: Amend findings and/or conditions.
Negative Action: Deny project (basis for denial recommended would have to be established, considering required findings). A negative action would result in inability for hotel, conference center and housing project to be completed.

ATTACHMENTS:
Staff Report (PDF)
RESULT: ADOPTED [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
Resolution No. 2020-718


WHEREAS, an application for a General Plan/Area Plan/Zoning Amendment was received on the 23rd day of December 23 2019 from MRCC Properties, LLC for a portion of a property located at 4987 Brown Bear Lane (APN 013-050-059) and an adjacent Unassigned Parcel (APN 013-050-060) in the Mariposa Town Planning Area; and

WHEREAS, an application for a Design Review was received on the 21st day of January 21 2020 from MRCC Properties, LLC for the proposed Brown Bear Lodge & Conference Center located at 4987 Brown Bear Lane (APN 013-050-059), 5243 Highway 140 (APN 013-050-009), and adjacent Unassigned Parcels, (APNs 013-050-060, 013-050-057) and the proposed Multi-Family Residential housing project located on Unassigned Parcels (APN 013-050-008 and 013-071-003); and

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

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

WHEREAS, a Staff Report and Initial Study were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 20th day of November 2020; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Initial Study and Staff Report, testimony presented by the public concerning the application, and the comments of the applicants; and

WHEREAS, the Planning Commission did recommend that the Board of Supervisors adopt a mitigated negative declaration for the project and approve General Plan/Specific Plan/Zoning Amendment No. 2019-216 and Design Review Application No. 2020-008 with findings, amended conditions, and mitigation measures; and

WHEREAS, a duly noticed Board of Supervisors’ public hearing was scheduled for the 8th day of December 2020; and

WHEREAS, a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and
WHEREAS, the Board of Supervisors did hold a public hearing on the hearing date and considered all the information in the public record, including the staff report packet and testimony from the public.

NOW THEREFORE BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a Mitigated Negative Declaration and approve General Plan/Specific Plan/Zoning Amendment No. 2019-216 and Design Review No. 2020-008.

NOW BE IT THEREFORE FURTHER RESOLVED THAT, the project approval is based on the findings as shown in Exhibit 1 and the conditions of approval and mitigation measures as shown in Exhibit 2.

NOW BE IT THEREFORE FINALLY RESOLVED THAT, this resolution shall take effect on the effective date legally prescribed when the following Ordinance is adopted: Amendment to the Mariposa County Zoning Map introduced on December 8, 2020.

ON MOTION BY Supervisor Long, seconded by Supervisor Jones, this resolution is duly passed and adopted this 8th day of December 2020 by the following vote:

AYES: SMALLCOMBE, JONES, LONG, CANN, MENETREY

NOES: NONE

EXCUSED: NONE

ABSTAIN: NONE

Kevin Cann, Chair
Mariposa County Board of Supervisors

Attest:

René LaRoche,
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM

Steven W. Dahlem
County Counsel
Exhibit 1
Findings for Approval GP/SP/ZA No. 2019-216 and Design Review No. 2020-008

In accordance with Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for General Plan/Specific Plan/Zoning Amendment Application No. 2019-216 and Design Review No. 2020-008. Additional findings relate to reduced parking standards and design review for the project (Findings as recommended by the Planning Commission).

1. **FINDING:** This 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 General Plan/Zoning amendment allows for the construction of the project, which will expand the amount of hotel/conference center amenities currently available in the community of Mariposa. It will serve the tourist economy of Mariposa County. The project will supply much needed multi-family residential housing in the community of Mariposa and will provide employment opportunities. The project will be implemented in accordance with all requirements contained in state and local codes relating to building construction, roadway/driveway and parking lot construction and signage and will comply with all requirements for encroachment off Highway 49N. Mitigation measures have been applied to the project to reduce potentially significant environmental impacts to less than significant levels. The project will comply with all applicable design review standards within the community of Mariposa to ensure compatibility with the surrounding area. The project has been designed to address public safety in the event of an emergency.

2. **FINDING:** This 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:** Amending the zoning on a portion of the land from Multi-family Residential to General Commercial will not impact the County’s ability to achieve or goal of providing multi-family residential housing in accordance with the 2019-2024 Housing Element contained in the General Plan. It will not impact the county’s ability to meet its Regional Housing Assessment Needs. Roughly 6.8 acres will be available for the construction of the multi-family residential component of the project. It will expand commercial uses in the community Mariposa in accordance with the General Plan, which mandates that commercial businesses intended to serve the greater County population, a regional or greater customer base, are to be located within Town Planning Areas. The project will provide much needed housing opportunities in the community of Mariposa.

3. **FINDING:** This amendment conforms to the requirements of State law and County policy.

   **EVIDENCE:** State law governing the adoption of general plans requires that the adopted plan include provisions for amendments. Those provisions are included in the adopted Mariposa County General Plan and in the Mariposa County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

4. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.
EVIDENCE: The development of a multi-family housing project is consistent with the goals and policies contained in the Housing Element. Policies include achieving an adequate number of housing units to meet the needs of its citizens and housing that is affordable to all economic segments of the community. Rezoning a portion of the project site from Multi-Family residential to General Commercial will not have a significant impact on the County's ability to meet its Regional Housing Needs Allocation as established by the California Department of Housing and Community Development. The project will provide 96 multi-family residential housing units. The amendment is for a significant commercial and housing project to be in the town of Mariposa, where adequate access, utility and public service infrastructure exists to support the project, thus complying with General Plan policy. The amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan. The project will be subject to all applicable to all land use development policies contained in the General Plan.

5. FINDING: 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 project is considered large-scale for the area. However, the project site is located in an area that has been developed with commercial, multi-family, mobile home park, office and single-family residential uses. The property in the area is zoned for professional office, commercial, and residential purposes. The site is physically suited to the type of development proposed. There are no physical constraints that would preclude the implementation of the project. Site development will conform to all applicable standards contained in the Mariposa Town Planning Town Plan and additional regulations relating to grading practices. The project is subject to the entirety of the comprehensive set of design review and development standards for the Mariposa Town Planning Area.

6. FINDING: The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

EVIDENCE: The proposed zoning is logical and desirable in that it provides much needed employment and housing opportunities for residents of the county. It will expand basic services available to the touring public. Amenities at the hotel/conference center portion of the project will fill a need in and around the community of Mariposa for wedding venues and conference space.

7. FINDING: Development of this project is within the Design Review Overlay Zone. The project has been reviewed and conditioned to ensure that it conforms to the architectural theme and development guidelines established by the board of supervisors pursuant to Subsection (G) of Section 17.66.010 of the Mariposa County Zoning Ordinance.

EVIDENCE: Based upon the recommended conditions, the project design complies with Sections 17.366.060 of the Mariposa County Zoning Ordinance and conforms to applicable Architectural Theme and Development Review Guidelines and Design Review Overlay Zone requirements as follows:

- Proposed building color schemes include recommended options which are generally light colors in warm tones with lighter and/or darker trim in accordance with code.
Proposed buildings architectural treatments show mixed material surfaces including stone veneer, stucco, exposed wood posts and beams, that are similar to and found on other buildings in the design review district.

Proposed buildings include foundations that incorporate stepped aspects together with the architectural treatments and layout to minimize a monotonous appearance.

The project incorporates retaining walls with split face block or stone veneer and landscaping to compliment the color scheme and materials of the buildings.

Landscaping is proposed to enhance architectural features, screen unsightly areas and provide an attractive transition from street to building and between adjacent developments.

Planting areas for interior landscaping are designed to maximize provision of shade throughout the parking area during the summer months.

Project lighting is proposed to meet International Dark Sky Standards reducing off site glare and lighting impacts in accordance with the County General Plan.

The project signage will be reviewed for compliance with standards.

8. **FINDING:** Based on review of the project design and project components, it is found that parking reductions for the commercial component of the project and modification to parking standards for the multi-family residential component of the project are appropriate in accordance with County Code Section 17.336.030(B)(3), and Section 17.336.030(B)(3)(b)(i) of Title 17.

**EVIDENCE:** Shared Parking: There are two or more commercial uses associated with the hotel/conference center/restaurant component of the project. The users of the hotel, the conference center, and the restaurant will overlap. Guests at the hotel will attend conferences and use the restaurant facilities for meals. Therefore, the project is eligible to implement the shared parking provisions of code.

Parking Standards Modification: The development standards require that at least one of the parking spaces for a multi-family housing project be within 200 feet of each unit. The project engineer has amended the site plan/project plans several times; the parking lots have been spaced out around the units and additional breezeways within the apartment complexes have been added. The amended designs achieve this standard for 90% of the units. The closest space for the other 10% of the units will be between 275 to 352 feet of the units. This is reasonable within a mountain community, on a development site which is not flat, and represents a minor modification of the standards.

The reduction and modification do not compromise the intent of providing adequate parking, and there will be no adverse impact on access or circulation.

9. **FINDING:** The project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened or has been determined that the significant effects are unavoidable and acceptable due to overriding concerns.

**EVIDENCE:** The Initial Study and a Mitigated Negative Declaration were prepared for General Plan/Specific Plan/Zoning Amendment (GP/SPZA) No. 2019-216 and Design Review (DR) No.
2020-008 for the Brown Bear Hotel & Conference Center and Multi-Family Housing Project pursuant to the California Environmental Quality Act (CEQA). Approval of the project with significant impacts requires that findings be made by the lead agency pursuant to CEQA guidelines and 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 General Plan/Specific Plan/Zoning Amendment (GP/SPZA) No. 2019-216 and Design Review (DR) No. 2020-008 Brown Bear Hotel & Conference Center and Multi-Family Housing 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 and monitoring program are incorporated herein by reference.
Exhibit 2

Project Conditions and Mitigation Measures for Design Review No. 2020-008

Project Name: Brown Bear Hotel and Conference Center and Multi-Family Residential Project
File Number: GP/SP/ZA No. 2019-216 and Design Review No. 2020-008
Project Approval Date: December 8, 2020

The following conditions were established for this project in order to ensure compliance with county codes and policies and compliance with CEQA.

1. General Plan/Specific Plan/Zoning Map Amendment Application (GP/SP/ZA) No. 2019-216 and Design Review Application No. 2020-035 changes the land use designation of all of a 7.02 acre parcel (APN 013-050-060) and a portion (0.18 +/- acre) of a split zoned 0.39 acre parcel (APN 013-050-059) from Multi Family Residential to General Commercial. The property site encompasses 17.97 acres and involves six parcels. The rezoning of the property will allow for the construction of:

   - a hotel/conference center that will provide 180 rooms, including 124 standard rooms, 14 nightly suites, and 42 extended stay suites
   - a 5,300± sq. ft. Conference Center seating 250 for banquet style dining and including high quality operable partitions allowing for flexible space and multiple breakout meeting and conference rooms
   - an 1,800± sq. ft. restaurant seating 122
   - a 1,125± sq. ft. lobby/lounge
   - a 420± sq. ft. fitness center
   - an outdoor pool, a garden area, outdoor wedding venue and outdoor barbecue area
   - A total of 130,743± sq. ft. of space for the hotel/conference center uses

The residential component of the project will be constructed on 6.77 acres in the Multi-Family residential zone and includes 96 multi-family units in three (3) three-story structures. The housing units will target living-wage, single- and small-family households. The units will provide housing not only for project employees, but also for the community of Mariposa and Yosemite employees.

(Planning Department Recommendation)

2. Minor amendments to the approved site plan, exterior design, color, or materials of any structure or landscaping or in the configuration and materials of the proposed development may be approved by the Planning Director provided that any expansion does not exceed 10% of the size of area of the approved facility (any amount of a reduction in size of area of the facility may be allowed), and provided a finding can be made that the modification does not create impacts which were not addressed in the original project approval. The Planning Director may impose any conditions and/or requirements it finds necessary to guarantee compliance with the project approval findings. No increase in the number of hotel units and/or apartment units may be approved.

(Planning Department Recommendation)
3. This project approval is effective as of January 21, 2021. This approval shall expire January 21, 2024. If the conditions of approval are not completed by that date and a building or grading permit has not yet been issued for any component of the project, the applicant may request one or more-time extensions of up to eighteen (18) months each. The applicant must make this request in writing prior to January 21, 2024. Time extension fees may be required.

(Planning Department Recommendation)

4. The Design Review shall be activated (vested) by the issuance of the first building or grading permit within 36 months (or additional months, if time extensions have been granted) from the effective date of approval of the project. Once the whole of the project is activated (vested) by issuance of a permit, there is no deadline for completion of the project, other than timelines associated with building permits.

(Planning Department Recommendation)

5. Prior to the issuance of any site disturbance, building or grading permits, the applicant shall submit final site plans based on construction plans. The final site plans shall be clearly labeled and shall comply with the approved design review site plans. Prior to issuance of any building permits, the applicant shall submit final architectural plans, which comply with the approved design review plans. All physical construction for the project shall be in substantial conformance with the approved plans.

(Planning Department Recommendation)

6. A project development/construction schedule shall be submitted to the Planning Director prior to issuance of grading and/or building permit for the project. The project schedule shall include:

- Outside agency permitting timeline
- Projected overall construction schedule
- Estimated completion

(Planning Department Recommendation)

7. Prior to issuance of a Certificate of Occupancy or commencement of project operation, the Planning Director shall verify that all conditions and mitigation measures have been satisfied.

(Planning Department Recommendation)

**Traffic/Access, and Circulation:**

8. A commercial road/driveway encroachment permit for Highway 49N shall be obtained from the California Department of Transportation (Caltrans) prior to issuance of grading and/or building permit and/or prior to any construction within the Highway 49N right-of-way. All required encroachment improvements for the project (including access and any utilities) shall be completed and approved by Caltrans prior to issuance of a Certificate of Occupancy. The project applicant shall provide evidence of Caltrans approval of the encroachments to the Planning Department prior to the issuance of a Certificate of Occupancy for any component of the project.

(Caltrans requirement)

9. Frontage improvements, including a commercial width sidewalk, shall be required along the project parcel’s frontage of Highway 49N. These improvements must meet the County Code requirements and applicable County Improvement Standards. Engineered plans shall be required. An encroachment
permit for frontage improvements shall be obtained from Caltrans. Plans for any required frontage improvements shall require County Engineer approval prior to issuance of a grading or building permit, and prior to issuance of the Caltrans encroachment permit. All required encroachment improvements shall be completed and approved by Caltrans prior to issuance of a Certificate of Occupancy.

(Planning Department Recommendation)

10. Prior to the commencement of any grading, building, encroachment improvements, road improvements, frontage improvements, construction or other maintenance activities required as a condition of approval for the project a consultation meeting with the Public Works Department, the Planning Department, the applicant, the agent, the road/construction contractor, Caltrans, MPUD and CALFIRE shall occur. The Agricultural Commissioner, a representative from Pacific Gas & Electric, a representative from Sierra Telephone, a representative from the Environmental Health Unit and a representative from the Mariposa County Resource Conservation District shall also be invited to attend. All costs associated with the consultation shall be the responsibility of the applicant.

(Planning Department Recommendation)

11. All grading and/or road improvement work required of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. Engineered improvements plans prepared by a Registered Civil Engineer are required for any improvement required as a condition of approval for this project. The plans shall be approved by the County Engineer prior to commencement of construction of the required improvements.

(Planning Department Recommendation)

12. The applicant shall submit a dimensioned parking plan showing all parking space dimensions and aisle width dimensions. The parking plan shall meet all requirements of Section 17.336.030 Parking Standards of County Code, except for the following:

a. A parking reduction for shared parking has been approved. A total of 294 parking spaces are required and approved for the commercial component of the project.

b. A modification of the distance standard for the multi-family portion of the project has been approved. 86 spaces are approved to be within 200 feet of 86 apartment units; 10 spaces are not required to meet this standard. A minimum of 166 parking spaces are required and approved for the residential component of the project.

The plan shall show that all required parking improvements are entirely contained on-site. Verification by the Planning Director that the parking plan meets all Planning requirements shall be completed prior to issuance of a grading permit.

(Section 17.336.030, Mariposa County Code)

13. The parking lots shall comply with all handicapped accessibility requirements as established by Title 24 of the California Code of Regulations. The Building Director shall approve the parking lot pursuant to these regulations prior to issuance of a grading permit for the project. Verification by the Building Director that the parking lot meets Title 24 of California Code of Regulations shall be required prior to issuance of Certificate of Occupancy.

(Title 24, California Code of Regulations)
14. The project (all site improvements and all structures) shall meet all standards of PRC 4290, PRC 4291, Mariposa County Fire, and MPUD requirements. Prior to the issuance of any building or grading permits, the Mariposa Public Utility District (MPUD), the County Fire Chief and CAL FIRE shall provide the Planning Director with a letter certifying that the engineering design of the internal accessways are of adequate width, grade, surfacing, and construction design to meet the requirements of the fire protection agencies.

(State Fire Safe Regulations; MPUD requirements, County Fire and Planning Department Recommendation)

15. The construction of any of the required access and/or frontage improvements for this project shall not permanently negatively impact any off-site improvements or parcels such as, but not limited to, existing driveways serving existing development. Minor and temporary impacts during construction may occur.

(Planning Department Recommendation)

16. All proposed road improvements shall be completed in accordance with the Mariposa County Improvement Standards. Brown Bear Lane shall be improved to a Town Class IV standard (with parking and sidewalk; a waiver to parking along the main access shall be considered if adequate parking is provided on-site) and shall meet this standard prior to issuance of a Certificate of Occupancy. The proposed road and sidewalks improvements shall be completed in accordance with the Road Improvement and Circulation Policy (RICP) and/or the County Improvement Standards or both, and shall be approved by the County Engineer or a licensed civil engineer with a signed, wet-stamped letter indicating that the improvements meet the RICP and the County Improvement Standards. Engineered improvement plans prepared by a Registered Civil Engineer shall be required and approved by the County Engineer prior to commencement on the proposed road improvements. If required, any necessary encroachment permits from the Public Works Department shall be obtained.

(Applicant Proposal; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy)

17. The proposed 50-foot wide access easement to Phase II, the multi-family component of the project, shall be non-exclusive and encompass all of the proposed access road improvements, turn around, sidewalks, etc. from Highway 49N to the proposed property line between Parcel A and Parcel B. The 50-foot wide easement is a waiver of the County’s requirement that such an easement be 60-foot wide. The waiver shall be approved by the County Engineer/County Surveyor only if it can be shown that all improvements can fit within the proposed easement.

(Public Works Department Recommendation)

18. The secondary ingress/egress road on the project site shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and be approved by the Planning Director prior to issuance of a Certificate of Occupancy for the project site. Road name sign installation shall be required prior to Certificate of Occupancy, which may necessitate an encroachment permit from Caltrans. The residential portion of the project may need to be re-addressed (to the new road name), prior to occupancy.

(Planning Department Recommendation)
Grading and Drainage:

19. No site disturbance activities shall commence without the issuance of a building or grading permit, unless that activity is minor in nature and doesn’t necessitate a permit. All grading work and erosion control work shall meet Building and County Engineer Requirements prior to grading permit final. Grading and drainage system improvements on the project site shall also comply with applicable requirements contained in Appendix J, California Building Code. Verification by the Building Director and County Engineer that construction meets requirements shall be required prior to issuance of Certificate of Occupancy.

(Planning Department Recommendation/California Building Code Appendix J as Adopted by the Mariposa County Board of Supervisors; Section 17.336.080, Mariposa County Code)

20. Immediately upon completion of the required grading, road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control measures as recommended by the Resource Conservation District (RCD). The applicant shall also contact the RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter or other evidence shall be submitted to the Planning Department by RCD stating that the re-vegetation and erosion control provisions have been completed prior to building permit final and prior to the issuance of a Certificate of Occupancy.

(Resource Conservation District Recommendation)

21. Grading work for the project is encouraged to occur during the months of April through October. If grading work will occur between November 1 and April 1, a sediment control plan shall be prepared and shall meet the requirements of the Building Department and County Engineer. The sediment control plan shall include temporary erosion control measures to eliminate or minimize runoff during construction; these measures shall be installed prior to storm events and maintained throughout the rainy season.

(Planning Department Recommendation; Mariposa County Improvement Standards)

22. The project shall install and maintain on-site runoff attenuation facilities with sufficient capacity to reduce 100-year project storm water runoff rates to those currently generated by the project site. The project engineered grading plans shall include these facilities and include runoff from adjacent parcels. The project applicant shall provide a drainage study that meets all industry standards, including existing conditions hydrology; proposed conditions hydrology; clear calculations regarding the channel that flows between the apartment buildings; a 100-year ponding exhibit; information regarding the potential impacts of the project, and mitigation for those impacts; and the labeling and quantifying of any run-on of flow rates to the project. The proposed outflow rate should not exceed the existing flow rate. Detailed engineered plans for the on-site retention basins shall be approved by the County Engineer prior to issuance of a grading permit. The Plan requirements shall be incorporated into the grading permit. Prior to issuance of a building or grading permit, percolation tests shall be required to confirm that the water quality retention basins have proper filtration. The project applicant shall also obtain necessary permitting approval from all affected agencies prior to any construction activities related to the on-site bio-retention basins. The project applicant shall provide the Planning Director copies of all approvals from affected agencies prior to construction activities.

The project applicant shall also prepare a plan for the maintenance of the retention basins in perpetuity and submit the plan to the Public Works Department and any other affected agencies for review and approval. A copy of the approved plan shall be provided to the Planning Director prior to the issuance of a Certificate of Occupancy for the project.
Based upon basin outlet locations shown on Plan Sheet C-6, the project applicant may be required to obtain a drainage easement or execute an agreement with Mariposa County, owner of the property (APN 012-140-022) that lies between the lower bio-retention basin and Mariposa Creek, in order to allow stormwater from the basin’s outlets to flow across that property into Mariposa Creek. The easement or agreement, if required, shall be executed prior to the issuance of a grading or construction permit for the project. Evidence of the easement execution and recordation or execution of an agreement shall be provided to the Planning Director prior to the issuance of a grading or construction permit for the project.

(Public Works, Planning Department Recommendation)

23. All exposed and/or disturbed soils created by grading or construction activities shall be watered down or suppressed during grading operations to reduce the generation of dust, and other particulate matter. Any other applicable Air Pollution Control District (APCD) requirements, including but not limited to idling diesel engines shall be met prior to building or grading permit issuance, during construction, prior to occupancy, and during operation to the satisfaction of the County Air Pollution Control Officer. During non-grading periods, all stockpiles of debris, soil, sand, or other materials shall be protected from wind erosion. The project must comply with the requirements of the ASBESTOS AIRBORNE TOXIC CONTROL MEASURE FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS (https://www.arb.ca.gov/toxics/atcm/asb2atcm.htm) including but not limited to the submittal of a dust mitigation plan. (ASBESTOS AIRBORNE TOXIC CONTROL MEASURE FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS)

(Section 17.336.080, Mariposa County Code, Environmental Health Unit Recommendation)

24. The applicant shall obtain a General Permit for Discharges of Storm Water Associated with Construction Activity from the Regional Water Quality Control Board (RWQCB) prior to initiation of any grading activities on the site. A copy of the approved permit shall be submitted to the Planning Department by the applicant prior to issuance of a grading permit. All provisions and requirements of the permit shall be completed prior to completion of the project. The applicant shall submit to the Planning Department evidence that the permit requirements have been met to the satisfaction of the RWQCB. The applicant shall also be subject to the following RWQCB requirements:

   a. Prior to issuance of the grading and/or building permit for the project, the applicant shall submit a SWPPP and a valid WID number issued by the State Regional Water Quality Control Board.

   b. Prior to issuance of a certificate of occupancy for the project, the applicant shall provide a sign off showing that all conditions have been met and accepted as well as a Notice of Termination from the State Regional Water Quality Control Board.

(State Water Quality Control Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System)

Public Services:

25. Connection to the Mariposa Public Utility District (MPUD) water and wastewater services and compliance with the MPUD Fire Protection Ordinance is required. The applicant shall meet MPUD requirements and shall provide evidence of such to the Planning Director prior to issuance of a building or grading permit. 

(MPUD, Planning Department Recommendation)
26. Provisions shall be made for the on-site storage of all solid waste and recyclable materials generated during construction and operation of the project. All solid waste shall be placed in trash bins to maintain the site in a safe and attractive condition. Solid waste or recyclable materials which cannot be contained in trash bins on site shall be removed from the site on a weekly basis.

(Planning Department Recommendation)

27. Prior to the issuance of any building or grading permits, the permit holder shall provide the Planning Director with recorded copies of access agreements or easements granted in favor of any and all utility owners or access easement right owners.

(Planning Department Recommendation)

Architectural/Design:

28. Prior to the issuance of a grading and/or building permit, the applicant shall submit a final landscaping plan for the project site. The landscape plan shall include landscaping to create a buffer between the project and adjacent residentially developed properties. The landscaping plans shall indicate existing native trees within the development site to be retained. The landscaping plan shall conform to Section 17.336.060.C of County Code, delineating the size, type, and location of landscape plantings as well as proposed irrigation methods. The landscaping plan shall provide for parking lot shading and the applicant shall submit evidence to ensure compliance with Section 17.336.060.C.6.a and 17.336.060C.6.b. The landscaping plan shall provide for building enhancement, and an appropriate transition from street to building in conformance with Section 17.336.060.C.6 of County Code. The landscaping plan shall include landscaping within the Caltrans right-of-way in accordance with Section 17.336.030.C.18. If plantings die, they shall be replaced on a one-to-one ratio until established. Irrigation shall meet the 2015 Model Water Efficient Landscape Ordinance (CCR Title 23, Chapter 2.7), as verified by Mariposa County. This plan must be approved by the Planning Director prior to the issuance of a grading or building permit. Landscaping must be installed prior to the issuance of a Certificate of Occupancy.

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

(Section 17.336.060, Mariposa County Code; Planning Department Recommendation)

29. Any retaining walls must meet design review requirements including a minimum of split face block with landscaping or to match building architectural veneer treatments as approved by the Planning Director. Plans shall include the treatments of all retaining walls on site and must meet Planning Director approval prior to issuance of grading or building permit, and installation must be approved prior to issuance of a Certificate of Occupancy for the project.

(Planning Department Recommendation)

30. Any site fencing, including security fencing, must meet design review requirements. Site fencing and security fencing shall be provided between the project site and adjacent residentially developed properties. Details regarding site fencing shall be provided to the Planning Department with final site plans, for review and approval prior to grading and/or building permit issuance. Final inspection and approval are required prior to occupancy.

(Planning Department Recommendation)
31. All utilities, except for propane storage tanks, shall be underground within the project site.

(Section 17.336.060(A)(8), Mariposa County Zoning Code)

32. All exterior mechanical equipment located on roof, building, and ground shall be enclosed or screened from public view either by utilizing materials compatible with the building or locating them away from public view. Anti-reflective colors or surfaces shall be used on all rooftop equipment. Proposed locations and screening of mechanical equipment shall be reviewed and approved by the Planning Department prior to issuance of a building or grading permit.

(Section 17.336.060(B)(7), Mariposa County Code)

33. Plans for swimming pools, spas or food service shall be submitted to the Environmental Health Unit and must receive Health Unit approval prior to the issuance of a building permit.

(Environmental Health Unit Recommendation)

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

(Section 17.336.060(B)(7), Mariposa County Code)

35. The applicant shall submit a final Sign Design Review Plan for the proposed signs, delineating the location, size, materials, colors, lettering, and lighting method for all on-site signage. The proposed signage shall be in conformance with Section 17.336.060.D of County Code. The Planning Director and County Engineer shall approve the design and location of the final sign plans prior to issuance of a building or grading permit.

(Planning Department Recommendation)

36. All exterior lighting fixtures shall be of a hooded type and shall be designed and located to confine lighting directly on the premises. Lighting should be of minimum, but adequate, intensity. The light fixtures shall be a “full cutoff” fixture as listed in the International Dark Sky Standards. A lighting plan showing the design and location of all exterior lights, including any lighting at sidewalk level, shall be submitted. The lighting plan shall specifically consider adjacent residentially developed properties. Lighting shall be designed to minimize impacts on adjacent residentially developed properties. Exterior lighting fixtures shall not shine light upon or directly illuminate any surface other than the area required to be lighted. The Planning Director shall approve the design of the lighting fixtures prior to issuance of the grading permit.

(Mariposa County General Plan; Planning Department Recommendation)

**General Conditions:**

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

(Planning Department Recommendation)
38. 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.

(Planning Department Recommendation)

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

(Planning Department Recommendation)

40. Prior to issuance of a grading or construction permit for the project, the project applicant shall submit and have approved a parcel merger application to merge APN nos. 013-050-009, 060, 570 and 590 into one parcel (the General Commercial portion of the site), and merge 013-050-008 and 013-071-003 into one parcel (the multi-family residential component of the site). The merger process shall be completed prior to occupancy of any structure on either portion of the project. The parcel merger process can be used to eliminate existing easements and create new easements.

(Planning/Public Works Department Recommendation)

41. Construction activities occurring outdoors shall not commence prior to the hours of 7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturdays. All construction activities occurring outdoors shall cease by sunset Monday through Saturday. No outdoor construction shall be permitted on Sundays. The Planning Department shall monitor noise through complaints by the neighbors. Any deviations from the construction hours shall require Planning Department consideration and approval prior to any changes to the hours other than allowed by this condition.

(Planning Department Recommendation)

42. Prior to issuance of permits, all fees associated with the County’s processing of the project and filing of associated CEQA documents shall be paid. The Department of Fish and Wildlife CEQA filing fee ($2,406.75 as of January 1, 2020) and County Clerk fee ($50 as of January 1, 2020) shall be paid by the applicant within five (5) working days of the approval of the application (by Monday, December 14, 2020), 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 Monday, December 14, 2020 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 $2456.75 (effective January 1, 2020), 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.

(State Fish and Wildlife Code)

43. Painting contractors employed during project construction shall use low-volatile organic compound (low-VOC) architectural coatings that comply with San Joaquin Valley Air Pollution Control District Rule 4601 – Architectural Coatings for application on project buildings. The current standard for flat paints is 50 grams per liter (g/l) and gloss paints is 100 g/l. Specialty coatings range from 100 g/l to 500 g/l.

(Mitigation Measure 3.c.1)

44. Prior to commencement of construction activities on the project site, the project developer shall obtain soil tests to determine if naturally occurring asbestos-containing rock exists on the site. If asbestos-containing materials are present in any of the soils tests, the developer shall notify Mariposa County. Once discovered, the applicant shall identify control measures to reduce potential exposure to asbestos for approval by Mariposa County. The applicant shall implement the approved control measures during earth-disturbing construction activities.

(Mitigation Measure 3.c.2)

45. A pre-construction clearance survey shall be conducted by a qualified biologist to ensure that the northwestern pond turtle will not be impacted during Project construction. The pre-construction survey shall be conducted no more than 14 days prior to the start of construction activities, including demolition and site clearing. During this survey, the qualified biologist shall search all potential nesting habitat on the Project site for active turtle nests. If an active turtle nest is found, the qualified biologist shall determine the extent of a construction-free buffer to be established and maintained around the nest for the duration of the nesting cycle. The biologist shall then work with construction personnel to install wildlife exclusion fencing along the buffer. This fencing should be a minimum of 36 inches tall and toed-in 6 inches below ground prior to construction activities. If fencing cannot be toed-in, the bottom of the fence will be weighted down with a continuous line of long, narrow sandbags or similar material, to ensure there are no gaps under the fencing where wildlife could enter. One-way exit funnels directed away from construction activities will be installed to allow turtles and other small wildlife to exit the fenced enclosure. Reports and evidence of mitigation installation shall be provided to the Planning Department prior to commencing construction activities.

(Mitigation Measure 4.a.1)

46. A pre-construction clearance survey shall be conducted by a qualified biologist to ensure that no roosting special-status bats will be disturbed during the implementation of the project. A pre-construction clearance survey shall be conducted no more than 14 days prior to initiation of construction activities, including demolition and site clearing. During this survey, the qualified biologist shall inspect all potential roosting habitat in and immediately adjacent to the impact areas, including tree snags and outbuildings. If an active roost is found close enough to the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a
construction-free buffer to be established around the roost. If work cannot proceed without disturbing roosting bats, work may need to be halted or redirected to other areas until the roost is no longer in use. Reports and evidence of mitigation installation shall be provided to the Planning Department prior to commencing construction activities.

(Mitigation Measure 4.a.2)

47. To the extent practicable, construction, including demolition and site clearing, shall be scheduled to avoid the nesting season, which extends from February through August.

If it is not possible to schedule construction between September and January, a pre-construction clearance survey for nesting birds shall be conducted by a qualified biologist to ensure that no active nests will be disturbed during the implementation of the Project. A pre-construction clearance survey shall be conducted no more than 14 days prior to the start of construction activities. During this survey, the qualified biologist shall inspect all potential nest substrates in and immediately adjacent to the impact areas, including within 250 feet in the case of raptor nests. If an active nest is found close enough to the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a construction-free buffer to be established around the nest. If work cannot proceed without disturbing the nesting birds, work may need to be halted or redirected to other areas until nesting and fledging are completed or the nest has failed for non-construction related reasons.

(Mitigation Measure 4.d.1)

48. In the event human remains, artifacts, or potentially significant cultural resources are discovered during ground disturbance on the project site, a Native American monitor shall be on-site for the duration of ground disturbance. During road grading, soil testing and/or construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and the Native American Heritage Commission shall be notified should human remains be discovered. If the remains are determined by the Native American Heritage Commission to be Native American, the NAHC guidelines shall be adhered to in treatment and disposition of the remains. Representatives of the Most Likely Descendant shall be requested to be on-site during disturbance and/or removal of human remains.

(Mitigation Measure 5.c.1)

49. The project applicant shall implement the following measures to reduce the effect of noise levels generated by on-site stationary noise sources:

Generators/Mechanical Equipment

Routine testing and preventive maintenance of any emergency backup 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. Prior to building permit issuance, project plans and submittal documents shall include documentation demonstrating the external mechanical equipment, including any emergency generator/s, meets requirements for testing schedule and noise reduction.

(Mitigation Measure 13.a.1)

50. Prior to issuance of building permits for the Brown Bear project, the project applicant shall provide for a minimum of two trained and certified emergency staff on premises or in the Mariposa community and available to respond to emergencies at all times. The supplementary staff shall be trained to meet Mariposa County Fire Department Volunteer Fire Service standards. Staffing may be provided by project employees who have completed the required training. The project owner shall provide personal protection equipment (PPE) and positive communication equipment for all firefighting and emergency service personnel provided by the project. PPE and communication equipment shall be stored in a central, secure location. Communication systems shall permit uninterrupted contact between all firefighters at all times and at all locations on or within the property. In addition, there shall be positive communication at all times between a fire officer and recognized Emergency Command Center (ECC). All equipment required shall be approved by and become property of Mariposa County and maintained per manufacturer and National Fire Protection Association (NFPA) standards by the project owner. The project applicant and Mariposa County shall negotiate a mutually agreeable project contribution to support the Mariposa County Fire Department apparatus inventory. This shall be included as a condition of permitting for the project. The above requirements, or equivalent as approved by the Mariposa County Fire Department, shall be included in a fully executed agreement between the Fire Department and the project applicant prior to the issuance of grading or building permit for the project.

(Mitigation Measure 15.a.1)

51. The project driveway access onto the project site shall maintain a minimum throat depth of 75 feet before any vehicular openings to the west of the parking lot.

(Mitigation Measure 17.b.1)

52. There are existing easements and utility infrastructure that traverse the project site that have the potential to be impacted by the project due to relocation of existing utility infrastructure and need for relocation and/or creation of new easements due to project construction and physical layout.

Therefore, due to the potentially significant impact to existing utility infrastructure and easements, a utility infrastructure, easement and abandonment relocation plan shall be required. The Plan shall at a minimum include:

1. Prior to grading or building permit issuance, project construction plans shall include existing and proposed easement and utility infrastructure relocation exhibits.
2. Prior to grading or building permit issuance for the project, applicable utility and easement holders shall approve the construction plans.
3. Any abandonment and/or relocation of easements or offers for dedication that may be required of the project, shall be required to meet County requirements for abandonments. Verification of the project meeting requirements for abandonments and/or relocations shall be required by the County Surveyor prior to grading or building permit issuance and prior to construction completion and/or occupancy of the project or equivalent as determined by the County Surveyor.

4. All costs associated with any utility relocation, easement changes or relocations and abandonments shall be the responsibility of the project applicant.

The utility infrastructure, easement and abandonment relocation plan (including any offers for dedication) shall be approved by the appropriate utility providers such as MPUD, Sierra Telephone, and PG&E, and the Mariposa County Planning Department prior to issuance of grading and/or building permits for the project.

(Mitigation Measure 19.a.1)