RESOLUTION - ACTION REQUESTED 2012-564

MEETING: November 13, 2012

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: GP/ZA 2011-108; LDA 2011-109; Dinnel - Resolution

**RECOMMENDATION AND JUSTIFICATION:**
PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109. Action Includes Adopting a Resolution with Findings Adopting a Mitigated Negative Declaration for This Project; Approving General Plan/Zoning Amendment No. 2011-108, an Equal Acre Exchange of 34.69 Acres of Land Zoned Mountain Home with a Residential Land Use Classification, with Adjacent Land Zoned Agriculture Exclusive with an Agriculture/Working Landscape Land Use Classification; and Approving Land Division Application No. 2011-109, the Division of 141.96 Acres into One Parcel of 34.69 and a Remainder of 107.27 Acres. Ron and Linda Dinnel, Project Applicants. Project Site is Located at 5556A Hornitos Road, Catheys Valley
(The Following Item is to Waive the First Reading and Introduce an Ordinance Amending the Mariposa County Zoning Map by Rezoning 34.69-Acre Portions of APN 011-311-007 with One Portion Rezoned from Agriculture Exclusive to Mountain Home and the Other Rezoned from Mountain Home to Agriculture Exclusive Pursuant to General Plan/Zoning Amendment No. 2011-108).

Justification of this request is based on the Planning Commission’s recommendation.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**
The Board has taken no action on this project

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**
A negative action would mean the project site would not be reclassified and rezoned and the property could not be subdivided as proposed.

**FINANCIAL IMPACT:**
none

**ATTACHMENTS:**
GPZA 2011_108 LDA 2011_109 Dinnel (PDF)
Attach 1_Initial Study_Proposed Mitigated Neg Dec (PDF)
Attach 2_Comments_Responses Initial Study (PDF)
Attach 3_PC Reso 2012_015 Recommend Approval (PDF)
Resolution - Action Requested 2012-564

Attach 4_Pertinent PC Minutes (PDF)
Attach 5 Pertinent Ag Minutes (PDF)
Attach 6 July 26_2012 Staff Memo to PC (PDF)
Attach 7 Aug 3_2012 Memo PC to Staff Matrix Scoring (PDF)
Attach 8 Memo Staff to PC Corrections to Conditions (PDF)
Attach 9 Correspondence (PDF)
Attach 10 Draft Board Resolution (PDF)
Attach 11 Draft Board Ordinance (PDF)
Communication from Sabra Abbate (PDF)
Email from Heather Bernikoff (PDF)
Land Capability Class Workbook Page (PDF)
Letter from Tony Toso (PDF)
Map that accompanied Proponent's presentation (PDF)

CAO RECOMMENDATION
Requested Action Recommended

[Signature]
Rick Benson, County Administrator/Office

RESULT: ADOPTED [UNANIMOUS]
MOVER: Jim Allen, District V Supervisor
SECONDER: Kevin Cann, District IV Supervisor
AYES: Lee Stetson, Lyle Turpin, Kevin Cann, Jim Allen
EXCUSED: Janet Bibby
A resolution approving General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109; Ron and Linda Dinnel, applicants

WHEREAS, an application for General Plan / Zoning Amendment (GP/ZA) No. 2011-108 was received on May 31, 2011 from Ron and Linda Dinnel, applicants for a property located at 5556-A Hornitos Road in the Catheys Valley area, also known as Assessor Parcel Number APN 011-311-007; and

WHEREAS, the General Plan / Zoning Amendment Application was submitted together with a Land Division Application (LDA) No. 2011-109; and

WHEREAS, the proposed GP/ZA project is an equal acreage exchange (34.69 +/- acres) within a 141.96 acre parcel between the General Plan Land Use designations of Residential and Ag/Working Landscape and the zoning classifications of Mountain Home and Agriculture Exclusive. The project “switches” the designations so that the Residential/Mountain Home portion of the project site will be located in the northwest portion of the project site instead of the southern most portion of the project site; and

WHEREAS, this equal exchange is pursuant to General Plan Implementation Measure 10-2a(4) which reads:

Implementation Measure 10-2a(4): Develop criteria for transfers of lands within the Agriculture/Working Landscape land use designation for lands within other land use designations which result in no net loss of like kind of agricultural lands (type and quality) and that demonstrates a benefit to agricultural lands; and

WHEREAS, following the amendment, the land division project proposes the division of the newly classified Residential / Mountain Home portion of the project site into one parcel of 34.69 acres and a remainder of 107.27 acres (the remaining Agriculture/Working Landscape and Agriculture Exclusive portion of the project site); and

WHEREAS, access to the project site from county-maintained Hornitos Road is from an existing 60 foot wide non-exclusive easement dedicated for public road and utility purposes. The easement runs through the Dunn Ranch Major Subdivision and is known as “Shooting Star Road”. A secondary emergency exit access to Hornitos Road is from an existing 60 foot wide non-exclusive easement for public road and utility purposes. The secondary easement is also through the Dunn Ranch Major Subdivision, and connects to “Dunn Ranch Road”. Improvement of the secondary easement was not found to be necessary for this project; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and
WHEREAS, the Agricultural Advisory Committee reviewed the projects at duly noticed public meetings on the 15th day of September 2011 and the 13th day of October 2011. The meeting included an on-site project inspection; and

WHEREAS, the Agricultural Advisory Committee recommended denial of General Plan / Zoning Amendment No. 2011-108; and

WHEREAS, based on the denial recommendation, the Land Division Application could not be supported; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 20th day of April 2012; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS, the Staff Report recommended denial based on the Agricultural Advisory Committee’s recommendation. The Staff Report contained findings to support the denial recommendation; and

WHEREAS, on the 20th day of April 2012, the Planning Commission continued the public hearing to the 4th day of May 2012 at the request of the applicant and agent; and

WHEREAS, a supplementary staff memorandum was prepared to the Planning Commission for their consideration and the memorandum was dated the 3rd day of May 2012. The memorandum discussed procedural issues related to General Plan Implementation Measure 10-2a(4) and other General Plan sections on which the denial recommendation was based; and

WHEREAS the Planning Commission did hold a public hearing on the continued date and considered all of the information in the public record, including the Staff Report, the supplementary staff memorandum, testimony presented by the public concerning the application, the comments of the applicant, the recommendation of the Agricultural Advisory Committee and comments from individual Agricultural Advisory Committee members made at the hearing; and

WHEREAS, on the 4th day of May 2012, the Planning Commission continued the public hearing on General Plan / Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109 in order that the “Criteria for Transfers of Agricultural Lands” could be developed and adopted by the Board of Supervisors and in order that an amendment to the General Plan could be initiated and adopted which clarified procedures for processing of General Plan Amendments proposing transfers of agricultural lands; and

WHEREAS, on the 10th day of July 2012, the Board of Supervisors adopted Resolution No. 2012-367 “Resolution Adopting “Criteria for Transfers of Lands Within the Agriculture/Working Landscape Land Use Designation” Pursuant to Mariposa County
General Plan Goal 10-2, Policy 10-2a”. The criteria was based on recommendations of both the Agricultural Advisory Committee and the Planning Commission; and

WHEREAS, on the 3rd day of August 2012, the Planning Commission did hold a continued public hearing on General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109. The hearing was a joint meeting with the Agricultural Advisory Committee to apply the criteria for Transfers of Lands pursuant to Resolution No. 2012-367 to General Plan/Zoning Amendment No. 2011-108; and

WHEREAS, the Agricultural Advisory Committee’s evaluation resulted in a negative score for the General Plan/Zoning Amendment project based on application of the criteria; and

WHEREAS, the Planning Commission’s evaluation resulted in a positive score for the General Plan/Zoning Amendment project based on application of the criteria; and

WHEREAS, as a result of the continued hearing and the Planning Commission's evaluation of GP/ZA No. 2011-108, the Planning Commission directed staff to prepare documents to enable the approval of the two projects; and

WHEREAS, the Planning Commission continued the public hearing to the 7th day of September, 2012; 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 was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS, on the 7th day of September 2012, the Planning Commission did hold a continued public hearing on General Plan/Zoning Amendment No. 2011-108 and Land Division Application No. 2011-109. The Commission considered all of the information in the public record, including the Initial Study, the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa adopted Resolution No. 2012-015 recommending the Board of Supervisors adopt a Resolution adopting a Mitigated Negative Declaration, approving General Plan/Zoning Amendment Application No. 2011-108 with the recommended findings, and approving Land Division Application No. 2011-109 with the recommended findings and conditions.

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 13th day of November 13, 2012; and
WHEREAS a Staff Report packet for the Board of Supervisors 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 noticed date and considered all of the information in the public record, including the Staff Report packet, Initial Study, testimony presented by the public and the applicant concerning the application, and comments and recommendations from the Planning Commission.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a Mitigated Negative Declaration and directs staff to file a Notice of Determination for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations.

BE IT FURTHER RESOLVED THAT the portions of the parcel which are hereby reclassified (portions of APN 011-311-007) are shown on the map in Exhibit 1 and legally described in Exhibit 2.

BE IT FURTHER RESOLVED THAT the Board of Supervisors does hereby approve General Plan/Zoning Amendment No. 2011-108 based upon the findings set forth in Exhibit 3.

BE IT FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Land Division No. 2011-109, based upon the findings set forth in Exhibit 3 and based upon the conditions and mitigation measures set forth in Exhibit 4, and monitoring for mitigation measures as shown in Exhibit 5.

BE IT FINALLY RESOLVED THAT the effective date of the approval of the land use reclassification of the property pursuant to General Plan/Zoning Amendment No. 2011-108 and Land Division No. 2011-109 shall be the effective date of the ordinance adopted pursuant to General Plan/Zoning Amendment No. 2011-108.

ON MOTION BY Supervisor Allen, seconded by Supervisor Cann, this resolution is duly passed and adopted this 13th day of November 2012 by the following vote:

AYES: Stetson, Turpin, Cann, Allen

NOES: None

EXCUSED: Bibby

ABSTAIN: None

APN: 011-311-007

November 13, 2012 Page 5 of 32 pages

By: Lyle Turpin, Vice Chair

Janet Bibby, Chair
Mariposa County Board of Supervisors

ATTEST:

Margie Williams,
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Steven W. Dahlem
County Counsel
General Plan/Zoning Amendment Map – Exhibit 1

General Plan/Zoning Amendment
No. 2011-108

Reclassified to Residential; Rezoned to Mountain Home
34.69 acres

Reclassified to Ag/Working Landscape; Rezoned to Agriculture Exclusive
34.69 acres

Map created on: October 23, 2012
Data Source: Mariposa County Assessor Parcel Map
Update September 2012

Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.
Exhibit 2

The portion to reclassified from Agriculture/Working Landscape to Residential and rezoned from Agriculture Exclusive to Mountain Home is legally described as follows:

A tract of land situated in a portion of Section 27, Township 5 South, Range 17 East, M.D.B. & M., Mariposa County, State of California, said tract of land also being a portion of that certain real property conveyed to Ronald A. Dinnel and Linda G. Dinnel, Trustees by Grant Deed recorded August 29, 2006 as Document Number 2065166 in the Official Records of Mariposa County, said tract of land being more particularly described as follows:

BEGINNING at the northwest corner of the Southeast quarter of the Northwest quarter (SE1/4 NW1/4) said Section 27, said SE1/4 NW1/4 being further delineated on that certain map entitled “Record of Survey for Steve Allison” filed March 22, 2007 in Book of Maps at Page 2755, Mariposa County Records; thence S83°07'40"E, along the north line of said SE1/4 NW1/4, for 1193.75 feet to a point, said point being located N83°07'40"W a distance of 78.00 feet from the northeast corner of said SE1/4 NW1/4; thence, leaving the north line of said SE1/4 NW1/4, S0°38'27"W for 1252.12 feet to a point on the south line of said SE1/4 NW1/4, said point being located N84°45'42"W a distance of 78.00 feet from the southeast corner of said SE1/4 NW1/4; thence N84°45'42"W, along the south line of said SE1/4 NW1/4, for 1197.93 feet to the southwest corner thereof; thence N00°58'12"E, along the west line of said SE1/4 NW1/4, for 1285.69 feet to the POINT OF BEGINNING.

The above-described tract of land contains 34.69 acres, more or less, and is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:

[Signature]
Richard A. Seaman, LS 5339

[Stamp]
STATE OF CALIFORNIA
LS 5339

[Date]
Exhibit 2 (cont.)

The portion to reclassified from Residential to Agriculture/Working Landscape and rezoned from Mountain Home to Agriculture Exclusive is legally described as follows:

A tract of land situated in a portion of Section 27, Township 5 South, Range 17 East, M.D.B. & M., Mariposa County, State of California, said tract of land also being a portion of that certain real property conveyed to Ronald A. Dinnel and Linda G. Dinnel, Trustees by Grant Deed recorded August 29, 2006 as Document Number 2065166 in the Official Records of Mariposa County, said tract of land being more particularly described as follows:

BEGINNING at the northwest corner of the Northeast quarter of the Southeast quarter (NE1/4 SE1/4) said Section 27, said NE1/4 SE1/4 being further delineated on that certain map entitled “Record of Survey for Steve Allison” filed March 22, 2007 in Book of Maps at Page 2755, Mariposa County Records; thence S84°45’42”E, along the north line of said NE1/4 SE1/4, for 1278.05 to the northeast corner thereof; thence, S0°01’13”E, along the east line of said NE1/4 SE1/4, for 1163.96 feet to the southeast corner thereof; thence N86°32’25”W, along the south line of said NE1/4 SE1/4, for 1282.17 feet to the southwest corner thereof; thence N00°19’11”E, along the west line of said NE1/4 SE1/4, for 1203.29 feet to the POINT OF BEGINNING.

The above-described tract of land contains 34.69 acres, more or less, and is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:

[Signature]
Richard A. Seaman, LS 5339

[Stamp]
L.S. 5339
STATE OF CALIFORNIA

[Date]
Project Findings – Exhibit 3

FINDINGS FOR
GENERAL PLAN/ZONING AMENDMENT NO. 2011-108

Pursuant to Mariposa County Zoning Ordinance, Section 17.128.040 C, and based on the evidence presented in the staff report, comments provided at the public meetings and public hearings, and deliberation during the public hearings, the following Findings are recommended:

1. FINDING: That such an amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare;

EVIDENCE: The amendment to the Mariposa County zoning map and the Mariposa County General Plan land use diagram pursuant to General Plan/Zoning Amendment No. 2011-108 is in the general public interest as there is no decrease in the amount of acreage in the Agriculture Exclusive (AE) zone or the Agriculture/Working Landscape (A/WL) land use, there is no net loss of like kind of agricultural lands (type and quality), and the project results in a consolidation of agricultural lands and consolidation of residential lands. There is no evidence that the project will have any impact on the general public health, safety, peace, and welfare.

2. FINDING: 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: The amendment is desirable for improving the General Plan as it will result in the division and separation of the Residential Land Use / Mountain Home zoned portion of the site from the Agriculture/Working landscape land use / Agriculture Exclusive zoned portion of the project. Having one land use and zoning designation on a parcel is desirable for the purpose of applying land use policies and zoning regulations to future development proposals as there is no question about which land use or zone applies to a potential project.

3. FINDING: That such an amendment conforms to the requirements of state law and county policy;

EVIDENCE: The processing of General Plan/Zoning Amendment No. 2011-108 conforms to the requirements of state law and county policy. The General Plan Amendment for a Transfer of Agricultural Lands has been found to comply with the Criteria for Transfers of Agricultural Lands pursuant to Board of Supervisors Resolution No. 2012-367.
4. FINDING: 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 Goal 10-2 and Policy 10-2a of the General Plan. The project will not result in a loss or decrease in the amount of acreage in the Agriculture Exclusive (AE) zone or the Agriculture/Working Landscape (A/WL) land use and agricultural lands are retained. Implementation Measure 10-2a(4) has been met; the identified consequence of which is to provide for the consolidation of agricultural lands. There is evidence in the record that there is no net loss of like kind of agricultural lands (type and quality). The Planning Commission and Board of Supervisors' evaluation of the Criteria for Transfers of Agricultural Lands, Resolution No. 12-367, resulted in a positive score.

The project is consistent with Goal 5-2 and Policy 5-2a of the General Plan. The project will result in a land use density and development pattern to manage growth – the project ensures that development shall occur first where services are located. The project will result in the Residential Land Use portion of the project site being adjacent to other, already divided, Residential lands. The project will result in the Residential Land Use portion of the project site being accessed by an existing improved road and dedicated public road and utility easement.

5. FINDING: In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map, 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: Based on the review of the amendment concurrently with Land Division Application No. 2011-109, it can be found that the subject parcel is physically suitable for the proposed land uses.

The land division project, which proposes a division of the Residential Land Use / Mountain Home zoning on the northwesterly portion of the project site from the remainder of the parcel, is conditioned to meet all land division conditions. All Subdivision Ordinance and General Plan requirements for access can be met. The project is consistent with State Fire Safe Regulations. The project will comply with soils testing for on-site septic disposal and proof of water. The proposed Mountain Home portion is suited for moderate residential densities based on suitability of terrain, location nearer population centers and service areas, and frontage to a recorded easement within which a road is fully improved, providing access to a paved county maintained road. The project will result in one large lot Mountain Home parcel, which will be adjacent to agricultural lands and 5 acre sized parcels recently created through a major subdivision project.
The Agriculture/Working Landscape Land Use / Agriculture Exclusive zoned portion of the project is physically suitable for agricultural uses and low density appurtenant housing. It is located further away from a recorded easement providing access to a paved county maintained road than the proposed Residential / Mountain Home portion. It is surrounded by Agricultural lands and one large lot Mountain Home property.

6. **FINDING:** In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map, that the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

**EVIDENCE:** If the general plan/zoning amendment is approved, the proposed Residential Land Use / Mountain Home zoned portion of the project will be divided into one parcel which will provide additional housing opportunities for the residential population of Mariposa County.

---

**FINDINGS FOR LAND DIVISION APPLICATION NO. 2011-109**

1. **FINDING:** The site is physically suitable for the type and density of development.

**EVIDENCE:** The site is physically suited for low-density homes and appurtenant improvements. Upon completion of General Plan/Zoning Amendment No. 2011-108, a portion of the proposed project is located within the Mountain Home zone and the Residential Land Use and a portion is within the Agriculture Exclusive and Agriculture/Working Landscape Land Use. The subdivision density is found to be designed in accordance with these zones and land uses. The subdivision divides the property between the zoning and land use boundaries which is described in Mariposa County Resolution No 82-75. Although Resolution No. 82-75 was adopted prior to the current General Plan, the resolution has not been rescinded.

2. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**EVIDENCE:** The Initial Study prepared for the project found that based on the approved project description, the project would have a less than significant effect on the environment with mitigation. The project may have an adverse impact on wildlife resources and potential habitat areas, and is therefore subject to the California Department of Fish and Game filing fees for a negative declaration as required by AB 3158 and Senate Bill 1535 and County Clerk fees.

3. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.
EVIDENCE: This land division and its subsequent use for low-density residential purposes are not likely to cause serious health problems. Future residential uses will be required to comply with all Building Code regulations and Health Department standards for the proper installation of wells and sewage disposal systems. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. All future residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection.

4. FINDING: The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.

EVIDENCE: The land division is the initial step in the process to help accomplish Mariposa County General Plan's Housing Element overall goal to "Provide opportunities for an adequate supply of sound, affordable housing units for ownership and for rent in a safe and satisfying environment for the present and future residents of the County." The land division satisfies the following Housing Element Objectives, including: "Provide Adequate Sites and Services". The parcel is located within the boundaries of the Catheys Valley Planning Area. Hornitos Road and Shooting Star Road have adequate capacity for the additional traffic generated by the new parcel created by this project.

5. FINDING: The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

EVIDENCE: The minimum parcel size, minimum density, and building intensity proposed by the project are consistent with standards contained in the Residential Land Use of the General Plan and the Mountain Home zone of the Zoning Ordinance. The project divides the property along the zoning and land use boundaries. Resolution No. 82-75 allows for the division of property split by land use lines resulting in one parcel not in compliance with minimum parcel size standards. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The project site is within the boundaries of the Catheys Valley Planning Area.

6. FINDING: The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

EVIDENCE: The project will not conflict with any public easement.
**Project Conditions – Exhibit 4**

**CONDITIONS/MITIGATION MEASURES FOR LAND DIVISION APPLICATION NO. 2011-109**

1. The existing variable width easement that runs along the northern property line of Parcel A and into the Remainder shall be shown on the parcel map. Additionally, within this easement, a 40 foot wide non-exclusive easement shall be created and centered along the alignment of the access road to the Remainder (see condition No. 27 for the Remainder). The 40 foot easement shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state the dedications are for "public road and utility purposes." Additional easement width may be required to encompass the required road improvements, including turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy.

(Section 16.12.160.B, County Subdivision Ordinance; Road Standard Cross-Sections, Road Improvement and Circulation Policy)

2. A turnaround easement with a radius of a minimum of 60 feet shall be provided to encompass the required turnaround improvements within or near the Remainder. The location of the turnaround shall be approved by CalFire. The turnaround easement shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state the dedications are for "public road and utility purposes." If the Remainder is not included on the filed parcel map, the easement may be recorded by separate document prior to the recordation of the Certificate of Compliance.

(Section 16.12.160.B, County Subdivision Ordinance; Road Standard Cross-sections, Road Improvement and Circulation Policy)

3. The off-site portion of Shooting Star Road from Hornitos Road to the project site shall be improved (or found to comply) with the following: Shooting Star Road from Hornitos Road to the southwestern boundary of Dunn Ranch Lot 7 shall be improved to a Rural Class II SRA “B” standard. Shooting Star Road from the southwestern boundary of Lot 7 to the project site shall be improved to a minimum Rural Class I SRA “A” standard. The off-site portion of Shooting Star Road shall meet these standards at the time of parcel map recordation. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer at the time of recordation of the parcel map. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.

(Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.A, Road Improvement and Circulation Policy)
4. A road maintenance association shall be formed for the maintenance of the on-site easement road. Maintenance shall include, but not be limited to, drainage and erosion control devices, fuel modification, and upkeep of road surfaces. The Road Maintenance Association provisions shall be developed by the applicant so those parcels served by the easement roads (Parcel A and the Remainder) shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to the filing of the map and shall:

a. Be in effect for the life of the project unless said maintenance is taken over by the County, a special district, or other governmental entity.
b. Provide for annual maintenance and the immediate correction of emergency and hazard situations.
c. Include 100% of the parcels in the subdivision served by the access road.
d. Provide a mechanism for the road maintenance association to collect delinquent payments or assessments for the maintenance described above by filing a lien on the delinquent properties.
e. Provide a mechanism for new parcels to be added to the association.

-OR-

The applicant shall join into the existing Road Maintenance Association for Shooting Star Road. If the applicant elects this alternative, the applicant shall provide evidence that the subject parcels (Parcel A and the Remainder) and the on-site extension of Shooting Star Road is legally “joined” into the existing association. The applicant shall also provide information about the association and private Road Maintenance organization for Shooting Star Road. If the existing association doesn’t agree to extend their maintenance responsibilities to include the subject parcels and road expansion, the applicant shall form a separate association for the subject parcels as described in the first part of this condition.

(PUBLIC WORKS DEPARTMENT RECOMMENDATION; ROAD IMPROVEMENT AND CIRCULATION POLICY)

5. The applicant shall join into the existing Road Maintenance Association for maintenance of the off-site portion of Shooting Star Road. The applicant shall provide evidence that the subject parcels are legally “joined” into the existing association as required by this condition.

(PLANNING DEPARTMENT RECOMMENDATION; ROAD IMPROVEMENT AND CIRCULATION POLICY)

6. If the on-site easement is accepted by the County for public access but not for maintenance, a sign stating “THIS ROAD IS NOT COUNTY MAINTAINED” shall be at the intersection of the Hornitos Road and Shooting Star Road. The design and specifications of the sign shall be in accordance with the County Improvement Standards. If there is an existing sign at this intersection at the time of parcel map filing, this condition is not applicable.
(SECTION III.A.4, ROAD IMPROVEMENT AND CIRCULATION POLICY)

7. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permits for the required improvements, a consultation meeting with the Public Works Department, the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted on-site. This consultation meeting shall be setup by the applicant and/or agent. 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 permit required for this project and prior to the scheduling of any on-site inspection of encroachment improvements. Prior to the consultation meeting, the easements shall be flagged or identified in the field.

(PUBLIC WORKS DEPT. AND PLANNING DEPT. RECOMMENDATION)

8. All required signs shall be installed on metal, break-away type posts. The design and placement of signs shall be approved by the County Engineer prior to installation.

(PUBLIC WORKS DEPARTMENT RECOMMENDATION)

9. Verification of taxes paid shall be submitted to the County Surveyor prior to the parcel map recordation.

(MARIPOSA PLANNING RECOMMENDATION)

CONDITIONS OF APPROVAL / MARIPOSA PLANNING

10. Project approval is valid for a period of three years from (project approval date). This approval shall expire on (3 years from project approval date).

[MARIPOSA COUNTY SUBDIVISION CODE SECTION16.12.430]

11. The on-site easement shall be named in accordance with County Resolution No. 92-541. The name of the road shall be Shooting Star Road. A Road Name Request application shall be submitted to the Planning Department and be approved by the Planning Director. The name of the road within the project site shall be shown on the parcel map.

(COUNTY RESOLUTION NO. 92-541)

12. An address shall be obtained from the Assessor/Recorder’s Office for Parcel A on the newly named road prior to or as part of the process of recordation of the parcel map, and the existing address of 5556 A Hornitos Road shall be retired. A letter from the Planning Director shall be submitted to the Assessor/Recorder’s Office together with the final version of the parcel map for recordation which requests that the Assessor/Recorder’s Office hold recordation of the parcel map until this condition is met. No changes may be made to the parcel map once an address has been assigned.
(PLANNING DEPARTMENT RECOMMENDATION)

13. The Property 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.

(COUNTY ORDINANCE NO. 1017)

14. Prior to filing of the parcel map, all fees associated with the County’s processing of the map and filing of associated documents shall be paid. The Department of Fish and Game filing fee ($2,101.50 as of 1/1/12) and the County Clerk fee ($50.00 as of 1/1/10) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, _____), 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, _____ the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of $2,151.50 (effective 1/1/12), and that it be in the form of a cashiers 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 to 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.

§16.12.390, MARIPOSA COUNTY SUBDIVISION CODE; 711.4(C) OF THE STATE FISH AND GAME CODE)

15. All fees for processing of this project shall be paid within forty-five (45) days of the date of
billing.

(MARIPOSA PLANNING RECOMMENDATION)

16. Subdivision Map Act Section 66434.2 applies to the filing of the parcel map for this project.

(PLANNING DEPARTMENT RECOMMENDATION)

17. The applicant shall record a disclosure statement concurrently with the parcel map and referenced on the parcel map or shall include the disclosure statement on an additional map sheet which indicates its relationship to the parcel map. The statement shall be the following:

“This notice is not intended to affect record title interest. A Certificate of Compliance must be obtained prior to issuance of a development permit on the designated Remainder as shown hereon this Parcel Map for ___, filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records, in accordance with Section 16.04.030 of Mariposa County Code.”

(SECTION 16.04.030, COUNTY SUBDIVISION ORDINANCE)

18. The applicant shall record a disclosure statement concurrently with the parcel map and referenced on the parcel map or shall include the disclosure statement on an additional map sheet which indicates its relationship to the parcel map. The statement shall be the following:

“This notice is not intended to affect record title interest. There shall be no county development permit (including, but not limited to a well permit, a septic permit, a grading permit, an electrical permit, and/or a structure permit) issued to the Remainder as shown hereon this Parcel Map for ___, filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records, until all of the subdivision conditions for the Remainder as established by the Planning Commission have been met. The Remainder is not a parcel available for sale, lease or finance until all of the subdivision conditions for the Remainder have been met. The Remainder may or may not be surveyed.”

(PLANNING DEPARTMENT RECOMMENDATION)

CONDITIONS OF APPROVAL / HEALTH DEPARTMENT

19. Soil profile holes shall be excavated on Parcel A to the standards of the County Health Department and in the presence of the County Environmental Health Specialist, his authorized representative, or an authorized consultant to verify the feasibility of installing an on-site septic system on the parcels. If the County Environmental Health Specialist approves the parcels for septic disposal based on the soil profile holes, a letter from the County Environmental Health Specialist stating no additional tests are required and this condition has been fulfilled for that parcel shall be submitted to the County Surveyor.

If the results of the soil profile holes do not demonstrate to the approval of the County Environmental Health Specialist that a conventional septic system can be installed on the
parcel, percolation tests and additional soils analysis tests shall be performed on the parcel in accordance with Health Department rules and regulations. The results of these tests shall be submitted to the Mariposa County Health Department and be approved by the County Environmental Health Specialist prior to recording of the parcel map. A letter from the County Environmental Health Specialist shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcel(s). If the Health Department approves the use of Standard Septic Systems then a statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

“Approved percolation tests and soils analysis tests have been performed on Parcel __ as shown hereon this Parcel Map for ____, to verify the feasibility of installing an on-site septic disposal system. A map identifying the location of the approved percolation tests is on file in the County Health Department. If an on-site septic system is proposed for a portion of a parcel that has not had an approved percolation tests, additional percolation tests and design recommendations may be required.”

If the Health Department approves the report based on the use of special design or engineered septic system then a statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

“Percolation tests and soils analysis tests show that conventional on-site sewage disposal systems cannot be constructed on Parcel __ as shown hereon this Parcel Map for __________, based upon limiting soil conditions; however, the test results meet the Health Department Land Division policy requirements for use of engineered, alternative design on-site sewage disposal systems. The State of California is in the process of developing Statewide on-site sewage disposal regulations that could affect the future installation of engineered, alternative design on-site sewage disposal systems; therefore, buyers are encouraged to check with the Mariposa County Health Department regarding State or local regulation changes that could affect the installation of an on-site sewage disposal system on this parcel.

Additionally, if the Health Department approves the report based on the use of a special design or engineered septic system a notice shall be filed concurrently with the parcel map and referenced on the parcel map which states:

“The property described as Parcel __ as shown hereon this Parcel Map for __________, is required to be served by an alternative design on-site sewage disposal system which is to be installed in the exact area tested and approved by the Health Department unless the Health Department approves an alternate location as described below. Construction plans for the alternative design on-site sewage disposal system must be submitted to and approved by the Mariposa County Health Department prior to the issuance of a development permit for any construction activities other than a private well. A map showing the approved location and a report including percolation test and soil profile analysis results is on file at the Mariposa County Health Department. The alternative design on-site sewage disposal system is to be maintained in accordance with Mariposa County Health Department Policy 03-01 which states, “A maintenance entity shall be
required prior to approval and installation of a special design sewage disposal system on a land division. In lieu of a public entity, an operation and maintenance protocol may be submitted for approval by the manufacturer of a specific technology." Said maintenance entity shall be created to provide maintenance on the engineered sewage disposal systems prior to issuance of a development permit for residential construction activities other than a private well.

In the event that additional soils testing is conducted demonstrating that an alternative design on-site sewage disposal system is not necessary, the Mariposa County Health Department may allow the use of a conventional on-site sewage disposal system in the newly tested area. Any newly tested area requiring the use of an engineered alternative design on-site sewage disposal system must meet the same minimum soils requirements of Health Department policy 03-01 as a newly created parcel."

(SECTION 16.12.330, COUNTY SUBDIVISION ORDINANCE; HEALTH DEPARTMENT RECOMMENDATION)

20. Prior to filing of the parcel map, the applicant shall prove to the satisfaction of the Health Department that Parcel A and the Remainder have a supply of potable water meeting requirements for quantity and quality. Proof is as follows:

a. an approved connection from an approved public water provider; or
b. a proposed connection to a shared well which has been pre-approved by the Health Department; or
c. a well, for which appropriate permits and inspections have been approved by the Health Department, has been drilled on the subject property and developed with appropriate casings, and for which improvements may or may not include permanently installed pump equipment; or
d. a demonstration that there can be a source of water capable of producing a sustained potable water supply with storage of at least 1,000 gallons per twelve (12) hour day per dwelling unit, which will be contained within any combination of (a) a potable water storage tank, (b) a static water supply in the well; or
e. other satisfactory proof and wells drilled and tested prior to sale to demonstrate the quantities described in "Section d." above.

The well or wells relied upon to comply with this condition shall be tested for both quantity and quality per Health Department for approval. Any requirements of the Health Department as a result of testing shall be met prior to filing of the parcel map.

Additionally, if the property is to be served in the future by a well, the applicant shall record a disclosure statement concurrently with the parcel map and referenced on the parcel map or shall include the disclosure statement on an additional map sheet which indicates its relationship to the final map. The statement shall be the following:

"This notice is not intended to affect record title interest. Water supplies for residential lands are derived from a private well on Parcel A and the Remainder as shown on the Parcel Map for ____. Mariposa County groundwater supplies are found in fractures in the
bedrock. The costs associated with drilling and developing a private well is highly variable because it is unknown how much or if any additional water can be found on the parcel. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map.”

[MARIPOSA COUNTY GENERAL PLAN, SECTION 5.3.02.E(4)]

21. During all construction activities for this project, the following air pollution conditions shall apply:

- No truck will be allowed to idle on the site for more than five minutes. All drivers will be required to turn-off and restart the engines should the truck idle more than 5 minutes or they expect that they will idling for more than five minutes.

- Prior to any ground disturbance, sufficient water must be applied to the area. It is to be prepared to prevent visible dust from leaving the site.

- Areas to be graded or excavated must be kept adequately wetted to prevent visible emissions from crossing then property line.

- Storage piles must be kept adequately wetted, treated with a chemical dust suppressant, or covered when material is not being added to, or removed from the pile.

- Equipment must be washed down before moving from the property onto paved public road.

- Visible tracks out on the paved public road must be cleared using wet sweeping or HEPA filter equipment vacuum devise within 24 hours.

- Earthmoving activities must be suspended if wind speed exceeds 10 MPH.

- Applicant must obtain a burn permit if any site clearing will involve burning of brush or other vegetation.

Health Department Recommendation

CONDITION OF APPROVAL:

CALIFORNIA DEPARTMENT OF FOREST AND FIRE PROTECTION

22. Prior to filing of the parcel map, the applicant shall have complied with all applicable SRA Fire Safe Regulations. A letter shall be submitted to the County Surveyor from CalFire to confirm this requirement.

(TITLE 14, CA CODE OF REGULATIONS, PUBLIC RESOURCES CODE 4290)
23. The Remainder may be shown on the parcel map in order for all required easements to be created. If the Remainder is not shown on the recorded parcel map, then the applicant or agent shall provide the County Surveyor with a legal description (typed, stamped, and signed legal descriptions along with lot closure computations) of the Remainder. The legal description must be approved by the County Surveyor prior to recordation of the Certificate of Compliance.

(PLANNING DEPARTMENT RECOMMENDATION)

24. Upon completion of all conditions applied to the Remainder, a Certificate of Compliance shall be recorded on the Remainder, in accordance with Section 16.04.030, County Subdivision Ordinance. Fees associated with the recordation of the certificate of compliance shall be paid by the applicant. If the Remainder is not shown on the parcel map, a legal description prepared by a land surveyor or other qualified individual will be required.

(PLANNING DEPARTMENT RECOMMENDATION)

25. The applicant shall record a disclosure statement concurrently with the Certificate of Compliance and referenced on the Certificate of Compliance or shall include the disclosure statement on the Certificate of Compliance. The statement shall be the following:

“This notice is not intended to affect record title interest. Water supplies for residential lands are derived from private wells on the Remainder as shown hereon this Parcel Map for ____. Mariposa County groundwater supplies are found in fractures in the bedrock. The costs associated with drilling and developing a private well is highly variable because it is unknown how much or if any additional water can be found on these parcels. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map.”

This requirement may also be met at the time the parcel map is recorded (if the notice includes reference to the Remainder).

[MARIPOSA COUNTY GENERAL PLAN, SECTION 5.3.02.E(4)]

26. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project, a consultation meeting with the Public Works Department, the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted on-site. This consultation meeting shall be setup by the applicant and/or agent. 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 permit required for this project and prior to the scheduling of any on-site inspection of encroachment improvements.
Prior to the consultation meeting, the easements shall be flagged or identified in the field.

(PUBLIC WORKS DEPT. AND PLANNING DEPT. RECOMMENDATION)

27. The on-site easement along the northerly boundary of Parcel A which connects the off-site portion of Shooting Staff Road to the Remainder shall be improved to a Rural Class I SRA “A” standard and shall meet this standard at the time of Certificate of Compliance recordation. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer at the time of recordation of the Certificate of Compliance. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements. All costs associated with the Public Works review and inspection of this condition shall be the responsibility of the applicant.

Prior to commencement of this construction and prior to the on-site consultation meeting described in Condition No. 26, the northerly boundary of the property line for Parcel A shall be staked in the field by the project surveyor. The staking of the road shall be maintained during road construction activities. The purpose of the staking is to ensure that all required road improvements are contained on-site.

(Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy; Planning Department Recommendation)

28. Immediately upon completion of the required road improvements, the applicant shall re-vegetate all exposed soils and install other erosion control 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 shall be submitted to the County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed prior to the recordation of the Certificate of Compliance.

(Road Improvement and Circulation Policy)

29. If not shown on the parcel map, a turnaround easement with a radius of a minimum of 60 feet shall be provided to encompass the required turnaround improvements within or near the Remainder. The location of the turnaround shall be approved by CalFire. The turnaround easement shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state the dedications are for “public road and utility purposes.” The format and content of the offer document shall be approved by the County Surveyor prior to recordation.

(Section 16.12.160.B, County Subdivision Ordinance; Road Standard Cross-sections, Road Improvement and Circulation Policy)
30. A cul-de-sac shall be constructed at the terminus of the required road improvements on the Remainder or in an alternative location as approved by CalFire. The cul-de-sac shall be improved to meet county standards and shall meet these standards at the time of Certificate of Compliance recordation. The required cul-de-sac improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be inspected and approved by the County Engineer at the time of recordation of the Certificate of Compliance. At the time of recordation of the Certificate of Compliance, the County Engineer shall confirm that this condition has been met. All costs associated with the Public Works review and inspection of this condition shall be the responsibility of the applicant.

(Section 11.4(B)(9) County Improvement Standards)

CEQA MITIGATION MEASURES (shall apply to BOTH Parcel Map and Certificate of Compliance for Remainder, as specified)

31. Prior to commencement of any construction occurring on Shooting Star Road that may occur between April 15 and August 31, the nesting period for the western pond turtle, the project applicant shall have a qualified biological consultant survey the whole of the area to be disturbed to determine if there are any active western pond turtle breeding nests in this area. If active nests are located within the disturbance area the project applicant shall implement protocol as recommended by the biological consultant to reduce impact to the nesting turtles to a less than significant level. Prior to the road construction consultation meeting as required by project conditions of approval, the project applicant shall provide a written statement to the Public Works Department from the biological consultant that either no active nests were found, or if found, that protocol has been implemented to protect active nests.

Prior to any road construction on Shooting Star Road during any time of the year, the project applicant shall have a qualified biological consultant survey the whole of the area to be disturbed to determine if there are any western pond turtles in the disturbed area. If road construction occurs over multiple days, the consultant shall be on-site on each day of disturbance to determine if pond turtles are present in the area to be disturbed. If turtles are found in this area the project applicant shall implement protocol as recommended by the biological consultant to reduce impact to any extant turtles to a less than significant level. The project applicant shall report to the Public Works Department (written or oral) on each day of construction that the qualified consultant has approved construction within the proposed disturbed area.

(Mitigation Measure 4.a.1)

32. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map, and shown on the face of the Certificate of Compliance for the Remainder, as follows:

"Residential driveway construction or other construction encroaching within 60 feet of the centerline of Raster Gulch and its tributaries on Parcel A and the Remainder as shown on
the Parcel Map for ______ filed in Book____ at Page _____. Mariposa County Records, including expansion of any existing crossings, may be subject to a Stream Alteration Agreement (SAA) with the Department of Fish and Game. Owners of these parcels are encouraged to contact the Department of Fish and Game to determine if an SAA is needed prior to any residential driveway construction or other construction within these areas.

Depending upon the location and nature of the construction, grading, or disturbance within these areas, the parcel owners may be required to have a wetland delineation prepared by a qualified wetland scientist and verified by the Army Corps of Engineers (ACOE). A permit from the ACOE under the Section 404 of the Clean Water Act may be required. If required, this permitting process will require a Section 401 Water Quality Certification from the Regional Water Quality Control Board. The parcel owner is encouraged to contact appropriate agencies prior to disturbance. Mariposa County is not a party to and does not enforce Section 404 and Section 401 permitting, and is not a party to and does not enforce Stream Alteration Agreements.

The restrictions in this measure do not apply to road construction, road improvements, or road maintenance occurring within the easement on the project site. The restrictions in this measure do not apply to the portion of Raster Gulch which drains the pond on Parcel A and which is located west of the pond."

(Mitigation Measure 4.b.1)

33. As shown on the tentative map an open space setback of fifty (50) feet from the approximate high water mark of the pond on Parcel A shall be established and shown on the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

"This notice is not intended to affect record title interest. No structure shall be constructed and no grading or disturbance of any kind, except for facilities not requiring any grading such as docks, decks, elevated walkways necessary to support boating or swimming activities on the pond, and similar structures (as determined by the Planning Director) shall occur within the open space setback on Parcel A as shown hereon this Parcel Map for ______ filed in Book ______ at Page _____. Mariposa County Records, unless all required permitting described below is obtained prior to construction, grading or disturbance. Depending upon the location and nature of the construction, grading, or disturbance within the setback area not excepted above, the parcel owner may be required to have a wetland delineation prepared by a qualified wetland scientist and verified by the Army Corps of Engineers (ACOE). A permit from the ACOE under the Section 404 of the Clean Water Act may be required. If required, this permitting process will require a Section 401 Water Quality Certification from the Regional Water Quality Control Board. Such disturbance may also require the property owner to enter into a Stream Alteration Agreement with the California Department of Fish and Game. The parcel owner is encouraged to contact appropriate agencies prior to disturbance. Mariposa County is not a party to and does not enforce Section 404 and Section 401 permitting, and is not a party to and does not enforce Stream Alteration Agreements. This setback shall be in perpetuity and shall restrict the use of the land within the setback."
The restrictions in this measure do not apply to road construction, road improvements, or road maintenance occurring within the easement on the project site."

(Mitigation Measure 4.c.1)

34. Any tree removal or pruning that is necessary to implement the project’s conditions of approval relating to easement road construction shall occur between September 15 and January 31, the time-frame which is outside of the general avian nesting season. Should such tree removal or pruning occur between February 1 and September 15 a pre-construction survey conducted by a qualified biologist/botanist shall be required to determine if such removal violates the provisions of Fish and Game Code sections 3503, 3503.5 and 3513. The survey shall be conducted no more than 30 days prior to tree removal or pruning. A copy of the survey shall be submitted to the California Department of Fish and Game, Region 4. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures established by the qualified biologist/botanist in consultation with the California Department of Fish and Game shall be implemented to reduce impacts of this tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any required mitigation measures have been implemented prior to such tree removal/pruning on the site.

(Mitigation Measure 4.d.1)

35. Open space setbacks of 10 feet from the perimeter of the historic foundations as identified in the Cultural Resource Survey prepared for the project site dated May 2011 shall be established and shown on the parcel map for the project. A document shall be recorded and referenced on the parcel map stating the following:

“This notice is not intended to affect record title interest. No structure shall be constructed within the open space setbacks as shown hereon this Parcel Map for ______ filed in Book____ at Page _____, Mariposa County Records. No portions of a sewage disposal system shall be constructed within the open space setbacks. No grading shall be allowed within the setback. The setbacks shall be in perpetuity and shall restrict the use of the land within the setbacks.”

This measure shall apply only to the parcel on which these resources are located.

If the resource location is not included in the area shown on the parcel map, the open space setback shall be established by recorded document prior to or concurrently with the recordation of the Certificate of Compliance for the remainder. The format and content of the recorded document shall be approved by the County Surveyor and Planning Director.

(Mitigation Measure 5.a.1)
36. A historic preservation setback running the full length of and for five (5) feet on both sides of the rock walls on the project site shall be shown on the parcel map. The Mariposa County Planning Director shall approve the location of the setback prior to the filing of the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and shall be referenced on the parcel map as follows:

“This notice is not intended to affect record title interest. No structure shall be constructed within the open space setbacks for historic rock walls as shown hereon this Parcel Map for _______ filed in Book_____ at Page _____, Mariposa County Records unless approved by the Mariposa County Planning Director. No portions of a sewage disposal system shall be constructed within the open space setbacks. No grading shall be allowed within the setback unless approved by the Planning Director. The setbacks shall be in perpetuity and shall restrict the use of the land within the setbacks.”

This measure shall apply only to the parcel on which the resources are located.

If the resource location is not included in the area shown on the parcel map, the historic preservation space setback shall be established by recorded document prior to or concurrently with the recordation of the Certificate of Compliance for the remainder. The format and content of the recorded document shall be approved by the County Surveyor and Planning Director.

(Mitigation Measure 5.a.2)

37. Open space setbacks of 10 feet from the perimeter of the area described as DIN-3 in the Cultural Resource Survey prepared for the project site dated May 2011 shall be established and shown on the parcel map for the project. A document shall be recorded and referenced on the parcel map stating the following:

“This notice is not intended to affect record title interest. No structure shall be constructed within the open space setbacks as shown hereon this Parcel Map for _______ filed in Book_____ at Page _____, Mariposa County Records. No portions of a sewage disposal system shall be constructed within the open space setbacks. No grading shall be allowed within the setback. The setbacks shall be in perpetuity and shall restrict the use of the land within the setbacks.”

This measure shall apply only to the parcel on which the resources are located.

If the resource location is not included in the area shown on the parcel map, the open space setback shall be established by recorded document prior to or concurrently with the recordation of the Certificate of Compliance for the remainder. The format and content of the recorded document shall be approved by the County Surveyor and Planning Director.

(Mitigation Measure 5.b.1)
Additional condition of approval (shall apply to BOTH Parcel Map and Certificate of Compliance for Remainder)

38. 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 American Indian Council of Mariposa County shall be notified should human remains be discovered. Representatives of the American Indian Council of Mariposa County shall be requested to be on-site during disturbance and/or removal of human remains.

(Planning Department Recommendation)
Mitigation Monitoring—Exhibit 5

<table>
<thead>
<tr>
<th>Mitigation Measure No.</th>
<th>Mitigation Measure</th>
<th>Mitigation Monitoring</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.a.1</td>
<td>Prior to commencement of any construction occurring on Shooting Star Road that may occur between April 15 and August 31, the nesting period for the western pond turtle, the project applicant shall have a qualified biological consultant survey the whole of the area to be disturbed to determine if there are any active western pond turtle breeding nests in this area. If active nests are located within the disturbance area the project applicant shall implement protocol as recommended by the biological consultant to reduce impact to the nesting turtles to a less than significant level. Prior to the road construction consultation meeting as required by project conditions of approval, the project applicant shall provide a written statement to the Public Works Department from the biological consultant that either no active nests were found, or if found, that protocol has been implemented to protect active nests. Prior to any road construction on Shooting Star Road during any time of the year, the project applicant shall have a qualified biological consultant survey the whole of the area to be disturbed to determine if there are any western pond turtles in the disturbed area. If road construction occurs over multiple days, the consultant shall be on-site on each day of disturbance to determine if pond turtles are present in the area to be disturbed. If turtles are found in this area the project applicant shall implement protocol as recommended by the biological consultant to reduce impact to any extant turtles to a less than significant level. The project applicant shall report to the Public Works Department (written or oral) on each day of construction that the qualified consultant has approved construction within the proposed disturbed area.</td>
<td>This mitigation measure will be monitored by the Mariposa County Public Works Department through the project road construction permitting and inspection process.</td>
</tr>
<tr>
<td>4.b.1</td>
<td>A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map, and shown on the face of the Certificate of Compliance for the Remainder, as follows: “Residential driveway construction or other construction encroaching within 60 feet of the centerline of Raster Gulch and its tributaries on Parcel A and the Remainder as shown on the Parcel Map for _______ recorded in</td>
<td>This mitigation measure will be monitored by the Mariposa County Surveyor and the Mariposa County Planning Department through the parcel map filing process.</td>
</tr>
</tbody>
</table>
Book ______ at Page _______, Mariposa County Records, including expansion of any existing crossings, may be subject to a Stream Alteration Agreement (SAA) with the Department of Fish and Game. Owners of these parcels are encouraged to contact the Department of Fish and Game to determine if an SAA is needed prior to any residential driveway construction or other construction within these areas.

Depending upon the location and nature of the construction, grading, or disturbance within these areas, the parcel owners may be required to have a wetland delineation prepared by a qualified wetland scientist and verified by the Army Corps of Engineers (ACOE). A permit from the ACOE under the Section 404 of the Clean Water Act may be required. If required, this permitting process will require a Section 401 Water Quality Certification from the Regional Water Quality Control Board. The parcel owner is encouraged to contact appropriate agencies prior to disturbance. Mariposa County is not a party to and does not enforce Section 404 and Section 401 permitting, and is not a party to and does not enforce Stream Alteration Agreements.

The restrictions in this measure do not apply to road construction, road improvements, or road maintenance occurring within the easement on the project site. The restrictions in this measure do not apply to the portion of Raster Gulch which drains the pond on Parcel A and which is located west of the pond."

4.c.1 As shown on the tentative map an open space setback of fifty (50) feet from the approximate high water mark of the pond on Parcel A shall be established and shown on the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:

“This notice is not intended to affect record title interest. No structure shall be constructed and no grading or disturbance of any kind, except for facilities not requiring any grading such as docks, decks, elevated walkways necessary to support boating or swimming activities on the pond, and similar structures (as determined by the Planning Director) shall occur within the open space setback on Parcel A as shown on the Parcel Map for ______ recorded in Book ______ at Page ______, Mariposa County Records, unless all required permitting described below is obtained prior to construction, grading

This mitigation measure will be monitored by the Mariposa County Surveyor and the Mariposa County Planning Department through the parcel map filing process.
or disturbance.

Depending upon the location and nature of the construction, grading, or disturbance within the setback area not excepted above, the parcel owner may be required to have a wetland delineation prepared by a qualified wetland scientist and verified by the Army Corps of Engineers (ACOE). A permit from the ACOE under the Section 404 of the Clean Water Act may be required. If required, this permitting process will require a Section 401 Water Quality Certification from the Regional Water Quality Control Board. Such disturbance may also require the property owner to enter into a Stream Alteration Agreement with the California Department of Fish and Game. The parcel owner is encouraged to contact appropriate agencies prior to disturbance. Mariposa County is not a party to and does not enforce Section 404 and Section 401 permitting, and is not a party to and does not enforce Stream Alteration Agreements. This setback shall be in perpetuity and shall restrict the use of the land within the setback.

The restrictions in this measure do not apply to road construction, road improvements, or road maintenance occurring within the easement on the project site."

4.d.1 Any tree removal or pruning that is necessary to implement the project’s conditions of approval relating to easement road construction shall occur between September 15 and January 31, the time-frame which is outside of the general avian nesting season. Should such tree removal or pruning occur between February 1 and September 15 a pre-construction survey conducted by a qualified biologist/botanist shall be required to determine if such removal violates the provisions of Fish and Game Code sections 3503, 3503.5 and 3513. The survey shall be conducted no more than 30 days prior to tree removal or pruning. A copy of the survey shall be submitted to the California Department of Fish and Game, Region 4. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures established by the qualified biologist/botanist in consultation with the California Department of Fish and Game shall be implemented to reduce impacts of this tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any required mitigation measures have been implemented prior to such
tree removal/pruning on the site.

5.a.1 Open space setbacks of 10 feet from the perimeter of the historic foundations as identified in the Cultural Resource Survey prepared for the project site dated May 2011 shall be established and shown on the parcel map for the project. A document shall be recorded and referenced on the parcel map stating the following:

“This notice is not intended to affect record title interest. No structure shall be constructed within the open space setbacks as shown on the Parcel Map for ______ recorded in Book____ at Page____, Mariposa County Records. No portions of a sewage disposal system shall be constructed within the open space setbacks. No grading shall be allowed within the setback. The setbacks shall be in perpetuity and shall restrict the use of the land within the setbacks.”

This measure shall apply only to the parcel on which these resources are located.

If the resource location is not included in the area shown on the parcel map, the open space setback shall be established by recorded document prior to or concurrently with the recordation of the Certificate of Compliance for the remainder. The format and content of the recorded document shall be approved by the County Surveyor and Planning Director.

5.a.2 A historic preservation setback running the full length of and for five (5) feet on both sides of the rock walls on the project site shall be shown on the parcel map. The Mariposa County Planning Director shall approve the location of the setback prior to the filing of the parcel map. A statement shall be recorded in Official Records concurrently with the parcel map and shall be referenced on the parcel map as follows:

“This notice is not intended to affect record title interest. No structure shall be constructed within the open space setbacks for historic rock walls as shown on the Parcel Map for ______ recorded in Book____ at Page____, Mariposa County Records unless approved by the Mariposa County Planning Director. No portions of a sewage disposal system shall be constructed within the open space setbacks. No grading shall be allowed within the setback unless approved by the Planning Director. The setbacks shall be in perpetuity and shall restrict the
use of the land within the setbacks."

This measure shall apply only to the parcel on which the resources are located.

If the resource location is not included in the area shown on the parcel map, the historic preservation space setback shall be established by recorded document prior to or concurrently with the recordation of the Certificate of Compliance for the remainder. The format and content of the recorded document shall be approved by the County Surveyor and Planning Director.

| 5.b.1 | Open space setbacks of 10 feet from the perimeter of the area described as DIN-3 in the Cultural Resource Survey prepared for the project site dated May 2011 shall be established and shown on the parcel map for the project. A document shall be recorded and referenced on the parcel map stating the following:

    “This notice is not intended to affect record title interest. No structure shall be constructed within the open space setbacks as shown on the Parcel Map for ______ recorded in Book _____ at Page ______, Mariposa County Records. No portions of a sewage disposal system shall be constructed within the open space setbacks. No grading shall be allowed within the setback. The setbacks shall be in perpetuity and shall restrict the use of the land within the setbacks.”

This measure shall apply only to the parcel on which the resources are located.

If the resource location is not included in the area shown on the parcel map, the open space setback shall be established by recorded document prior to or concurrently with the recordation of the Certificate of Compliance for the remainder. The format and content of the recorded document shall be approved by the County Surveyor and Planning Director.

This measure will be monitored by the Mariposa County Surveyor and the Mariposa County Planning Department through the parcel map filing process.