

DEPARTMENT: Planning

BY: Damon Golubics, Senior Planner
PHONE: (209) 966-5151

RECOMMENDED ACTION AND JUSTIFICATION:

Waiving the second reading and adopting the ordinance is the final action that needs to be taken by the Board following the Board's action on October 11, 2011 to waive the first reading and introduce the ordinance and adopt a resolution adopting a Mitigated Negative Declaration and the Response to Comments, approving Amended Site Plan/Amended Conditions Application No. 2010-161 amending the site plan and amending and adding conditions for Conditional Use Permit No. 241 and approving General Plan/Specific Plan/Zoning Amendment No. 2011-43, amending the land use and zoning for a 5.02 acre portion of APN 010-410-013 in the Fish Camp Planning Area from Single Family Residential (5 acre minimum) to Resort Commercial. The effective date of the approval of the accompanying General Plan Amendment to reclassify the property from Single Family Residential-5 Acre Minimum Zone to the Resort Commercial Zone is the effective date of the ordinance.

BACKGROUND AND HISTORY OF BOARD ACTIONS

On September 20, 2011, the Board of Supervisors opened the public hearing on the project, listened to staff presentation, took public testimony and closed the public input portion of the public hearing. Board conducted deliberations and considered the Planning Commission's recommendations for action. Board continued hearing. On October 11, 2011, the Board of Supervisors adopted a resolution adopting the project Mitigated Negative Declaration and the Response to Comments document, approved General Plan/Specific Plan/Zoning Amendment No. 2011-43 reclassifying a 5.02 acre portion of APN 010-410-013 in the Fish Camp Planning Area from Single Family Residential (5 acre minimum) to Resort Commercial and approving Amended Site Plan/Amended Conditions Application No. 2010-161 amending the site plan and amending and adding conditions for Conditional Use Permit No. 241. The Board waived the first reading and introduced an ordinance amending the Fish Camp Specific Plan/Zoning Map by rezoning/reclassifying 5.02 acres of land (portion of APN 010-410-013) from the Single Family Residential-5 Acre Minimum Zone to the Resort Commercial Zone pursuant to General Plan/Specific Plan/Zoning Amendment No. 2011-43.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

None. Negative Action or not adopting the ordinance would jeopardize legal completion of this project as policy action has already been taken (resolution).

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No (X) Partially Funded		
Amount in Budget: \$ _____		List Attachments, number pages consecutively
Additional Funding Needed: \$ _____		1. Draft Board Ordinance
Source:		
Internal Transfer _____		
Unanticipated Revenue _____ 4/5's vote		
Transfer Between Funds _____ 4/5's vote		
Contingency _____ 4/5's vote		
() General () Other		

CLERK'S USE ONLY:

Res. No.: _____ Ord. No. 1082
Vote - Ayes: 5 Noes: _____
Absent: _____ Abstained: _____
MS Approved
() Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

_____ Requested Action Recommended
_____ No Opinion
Comments: _____

The foregoing instrument is a correct copy of the original on file in this office.
Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

CAO: _____

MARIPOSA COUNTY ORDINANCE NO. 1082
(Not to be Codified)

AN ORDINANCE AMENDING THE LAND USE MAP IN THE FISH CAMP SPECIFIC PLAN

WHEREAS, a proposal to amend the land use map in the Fish Camp Specific Plan was initiated by Delaware North Companies (DNC) on February 23, 2011, and

WHEREAS the application is known as General Plan/Zoning Amendment No. 2011-043. The application proposes to change the classification of a 5.02 acre portion of an 11.58 acre parcel of land on the Tenaya Lodge and Cottages site (portion of Assessor's Parcel Number 010-410-013). The 5.02 acre portion of the property's classification will be changed from the Single Family Residential 5-Acre Minimum to the Resort Commercial; and

WHEREAS, the Planning Commission held a duly noticed public hearing on General Plan/Zoning Amendment No. 2011-043 on the 8th day of July 2011, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on General Plan/Zoning Amendment No. 2011-043 on the 20th day of September and continued the public hearing to their meeting on October 11th, in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on General Plan/Zoning Amendment No. 2011-043 and its accompanying application, Amended Site/Amended Conditions Plan No. 2010-161, in accordance with the California Environmental Quality Act, a Mitigated Negative Declaration has been adopted and a Notice of Determination will be filed for the project.

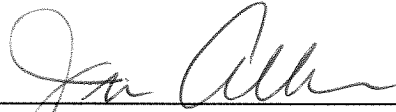
NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend the land use map in the Fish Camp Specific Plan pursuant to General Plan/Zoning Amendment No. 2011-043. The property to be reclassified on Assessor's Parcel Number 010-410-013 is shown on the site plan in Exhibit A.

BE IT FINALLY ORDAINED, this action is based on the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as shown in Exhibit B

SECTION II: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

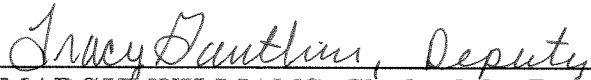
PASSED AND ADOPTED on this 25th day of October, 2011 by the following vote.

AYES:	STETSON, TURPIN, BIBBY, CANN, ALLEN
NOES:	NONE
ABSTAINED:	NONE
EXCUSED:	NONE



Jim Allen, Chair
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

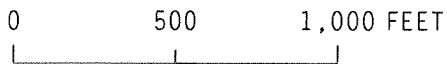
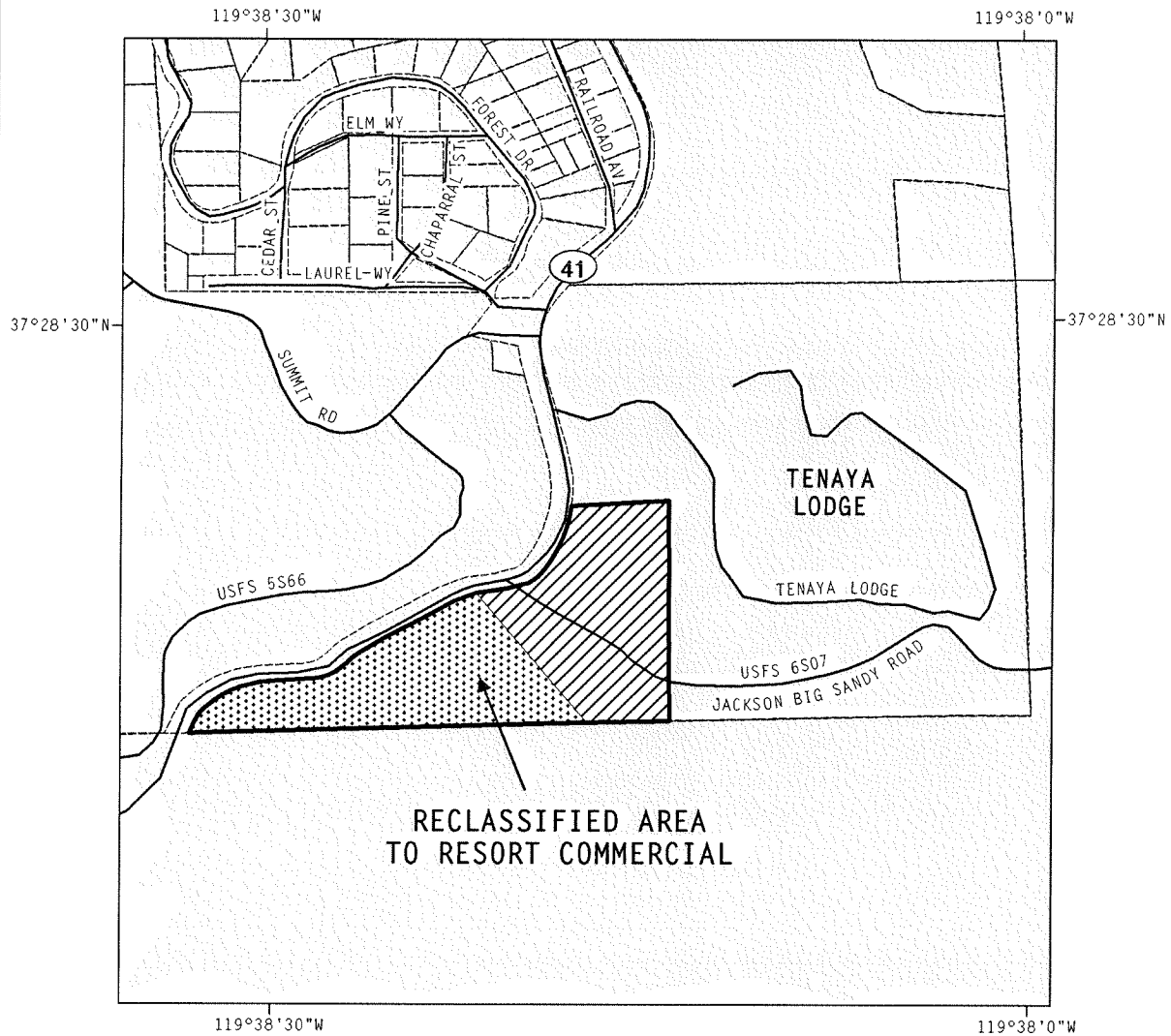
APPROVED AS TO FORM:







STEVEN W. DAHLEM, County Counsel

Exhibit A

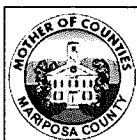
TENAYA LODGE & COTTAGES PROJECT SITE REZONED AREA ORDINANCE NO. 1082



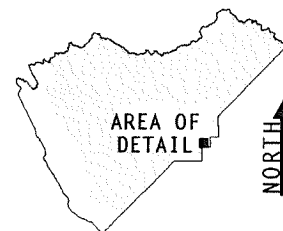
MAP CREATED ON: OCTOBER 25, 2011
 DATA SOURCE: MARIPOSA COUNTY ASSESSOR PARCEL MAP
 UPDATE SEPTEMBER 2011

-  PROJECT LOCATION
010-410-013 +/- 11.58 ACRES
-  REZONED AREA
-  RESORT COMMERCIAL
-  ASSESSOR PARCEL MAP

MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.



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MAP CREATED BY: EE MERIAM

Exhibit B

Policies for General Plan/Specific Plan/Zoning Amendment No. 2011-43

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

Policy 1:

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

Project Consistency: The specific plan amendment is consistent with the overall goals and objectives of the Fish Camp Specific Plan and the goals, policies, and implementation measures of the Mariposa County General Plan. These goals, policies and implementation measures are discussed in the specific findings below.

Policy 2:

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

Project Consistency: An Initial Study was prepared for the proposed wastewater treatment facility, specific plan amendment and accompanying amended site plan in accordance with the California Environmental Quality Act. The study found potentially significant impacts relating to biological and cultural resources at the site. Mitigation is proposed to reduce potentially significant impacts to a less than significant level.

The environmental impact report certified for the Fish Camp Specific Plan found that since sewage disposal in Fish Camp is provided for entirely by individual septic tanks and leach field systems, proper performance of these systems is of critical importance to the community considering the proximities of Big Creek and other tributaries. The EIR proposed mitigation measures requiring that proposed resort commercial developments must provide adequate septic disposal on a year round basis and all resort commercial uses, except those with existing sewage treatment systems, should be required to hook up to a community sewage system facility when it is constructed. The project applicants are essentially replacing their existing outdated septic and leach field system for the Tenaya Cottages and replacing it with a state-of-the-art wastewater treatment facility that will

have no impact on the Fish Camp community and deliver reclaimed water to DNC properties.

Findings for General Plan/Specific Plan/Zoning Amendment No. 2011-43

The following findings are made, in accordance with Section VIII.B.2 of the Fish Camp Specific Plan.

FINDING 1:

The amendment will further the goals and objectives of the Fish Camp Specific Plan and the Mariposa County General Plan.

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

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

The proposed wastewater treatment facility, specific plan amendment and accompanying amended site plan, which is necessary to allow the Tenaya Lodge and Cottages to remediate their existing sewage disposal system, was subject to environmental review and the initial study prepared did not find evidence that the implementation of the wastewater treatment facility/plant project that would be allowed by the specific plan amendment would have any potentially significant impact on the issues described above.

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

1. To provide for an orderly expansion of the community of Fish Camp.
2. To provide for, and promote, planned commercial and residential development within the Fish Camp Town Planning Area.
3. To promote the recreation and tourist industry of the community.
4. To preserve and protect the historical sites and structures of the community for the benefit of future generations.
5. To promote and provide an effective and safe circulation system within the community.
6. To preserve and protect the fragile ecology of the community specifically with respect to the hillsides of the Town Planning Area and Big Creek.
7. To promote and provide adequate and cost effective public services such as fire protection, public roads, water and sewer services, and snow removal.

8. To develop an adequate program for the evaluation of public buildings and facility needs.
9. To ensure a safe and healthful environment for residents and visitors alike.
10. To promote a diversity of housing types to meet the lifestyle of present and future residents.

The construction of a new wastewater treatment facility for the Tenaya Lodge and Cottages sites meets Objectives 1 and 2. It promotes an orderly operation of an existing commercial development in the community. The project is necessary infrastructure to support existing commercial development, which is consistent with Objective 3. The Initial Study prepared for the project is in accordance with the California Environmental Quality Act. The study found potentially significant impacts relating to biological and cultural resources at the site. Mitigation is proposed to reduce potentially significant impacts to a less than significant level, thus meeting Objective 4. The project would not have a negative impact on the community's circulation system based on project conditions and would be consistent with Objective 5.

Construction of a more efficient wastewater treatment system is consistent with Objective 6 in that better protection of the fragile ecology of the community would be recognized by this project. The initial study found that the wastewater treatment facility would have no impact on the area's hydrology or water quality.

The project is consistent with Objective 7. The new wastewater treatment facility would provide additional treatment capacity to accommodate peak wastewater flows that cannot be adequately treated on-site at the moment. All impacts associated with the project have been found to be found at less than significant levels. As it pertains to other aspects of this project, the project site has adequate access, parking and emergency ingress/egress via Jackson Road. There is adequate fire protection at the project site.

The initial study prepared for the project found that the project would have a less than significant impact on public services. Therefore, it is consistent with Objective 8.

The expansion project will be required to meet all construction standards and the wastewater treatment facility is required to maintain the facility in accordance with all applicable health and safety code requirements. Therefore, the project will be consistent with Objective 9.

No housing is proposed or impacted by this development request. Therefore, Objective 10 is not applicable to this project.

General Plan Issues:

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

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

Under Goal 5-4 of the General Plan, which states “*Designate land areas and establish siting criteria to enhance economic opportunities*”, Implementation Measure 5-4c(1) states, “*Accommodate appropriate siting and development standards for recreation and resort uses within the County.*” Implementation Measure 5-4c(2) states, “*Standards shall be included that protect visual character related to: viewsheds; structural design, landscaping and scenic environments; landform grading; site development; and lighting.*”

Section 6.1.05.A of the General Plan states that “*General Plan land use policies and the Economic Development Strategic Plan will encourage the development of destination resorts and the hotel facilities in appropriate locations in Mariposa County.*” Staff would interpret this to include infrastructure and facilities necessary to operate destination resorts or hotels.

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

Goal 9-5 of the General Plan states that “*Adequate water and wastewater services shall be provided to properties in the County.*” Implementation Measure 9-5a(1) states that “*No project shall be approved unless it is shown to have access to an approved source for wastewater treatment and disposal and a potable water supply meeting Health Department requirements.*”

Section 13.3.01 of the General Plan states that, “*The Land Use Element contains policies for development of resort and commercial recreation uses within sub-classifications of the Rural Commercial land use classification. These types of uses support the goals of the Regional Tourism Element by providing additional tourism destinations, including destination resorts and hotels in appropriate locations, and a wider range of recreational opportunities in the County.*”

Goal 13-5 of the General Plan states, *“Provide job growth and sustain County revenues by enhancing and expanding the visitor-serving sectors of the economy.”* Plans to construct a new wastewater treatment facility for the Tenaya Lodge and Cottages would supply this existing tourist facility with needed modern infrastructure to support the visitor experience.

The new wastewater treatment facility will allow for the treatment of 125,000 gallons per day of wastewater, which is sufficient to accommodate peak daily flows from the Lodge and Cottage properties. This is consistent with applicable goals, policies, and implementation measures contained in the Mariposa County General Plan.

FINDING 2:

All environmental impacts of the amendment can be satisfactorily mitigated.

Evidence: The initial study prepared for the new wastewater treatment facility, which would be allowed by the specific plan amendment, found that the only potentially significant impacts from project development were related to biological and cultural resources. Mitigation measures involving biological resources include inspection of trees selected for removal by a qualified biologist for potential dens for Pacific fisher, a pre-construction survey shall be required during the general avian nesting season if tree removal, site grading, etc. occur on the project site, and trees or snags on the site selected for removal shall be inspected by a qualified biologist for the presence of foliage-roosting bats or potential dens suitable for other special-status bats. A mitigation measure involving cultural resources has been included to stop all work on the project site should any signs of prehistoric, historic, archaeological, or paleontological resources. Mariposa Planning shall work with the American Indian Council of Mariposa County to identify appropriate mitigation measures to protect the find and ensure the mitigation measures are implemented by the project applicant. All mitigation measures pertaining to biological and cultural resources will reduce potentially significant impacts to a less than significant level.

FINDING 3:

The amendment will not result in the degradation of the community as a residential and commercial center.

Evidence: The initial study prepared for the project found that the project would have no potentially significant impacts on the residential component of the community. The proposed wastewater treatment facility will enhance operation of the commercial component within the community of Fish Camp.

FINDING 4:

The proposed amendment is needed to promote orderly growth within the Fish Camp community.

Evidence: The specific plan amendment will rezone 5.02 acres of land from the Single Family Residential (5-acre minimum) zone to Resort Commercial. The Single Family Residential (5-acre minimum) zoning does not allow for wastewater treatment facilities.

The specific plan amendment will specifically allow construction of a wastewater treatment facility within Resort Commercial zoned property on the project site. The amendment will allow for replacement of an antiquated leachfield and septic system wastewater with a modern wastewater treatment facility. The new wastewater treatment facility will be located in an area that is heavily forested and the development site will be below grade adjacent to Highway 41 and Jackson Road.

FINDING 5:

The area proposed for amendment is uniquely suited to the proposed use or density and that other areas are not presently available or usable for such use or density.

Evidence: This appurtenant use will be located in an area away from the Tenaya Lodge and Cottages development and the site, as noted under Evidence for Finding 5, will be located in an area that is heavily forested and the development site will be below grade adjacent to State Highway 41 and Jackson Road. The proposed development site is the only area available for such a facility and will have the least impact on existing operations of the Tenaya Lodge and Cottages and adjacent land uses. The new wastewater treatment facility will be in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan, and as stated in Conditional Use Permit No. 241. Sub-section 3.f. in Section VI – Land Use Policies and Standards, of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The existing lodging and additional development will be what is allowed within the Specific Plan and the open space would be 75% of the project site.

FINDING 6:

The amendment will not result in damage or have an adverse effect on the value of adjacent properties.

Evidence: The initial study prepared for the project did not find any potentially significant impacts on adjacent property owners. The new waste water treatment plant will maintain an adequate buffer between the project and neighboring property owners to the south and west. The project has a potential indirect positive effect on the value of adjacent properties as it will ensure the effluent is treated to tertiary standards. All work is done through permits and inspection. On-going operation of the facility is also monitored by a permit.

FINDING 7:

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

Evidence: The initial study found that the wastewater treatment project would not substantially affect the performance of the circulation system. Operation of the proposed wastewater treatment would not result in an increase in the number of employees or visitors to the Tenaya Lodge or Tenaya Cottages properties. The study concluded that

operation of the project would not be expected to generate additional vehicle trips to and from Tenaya Lodge or Tenaya Cottages.

The following findings are made in accordance with Section 17.128.050.C. of Title 17, Mariposa County Zoning Code.

FINDING 8:

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

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

FINDING 9:

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

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

FINDING 10:

That such an amendment conforms to the requirements of state law and county policy.

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

FINDING 11:

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

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

FINDING 12:

Due to the fact that the amendment amends the zoning classification on an individual parcel it must be found that:

The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

Evidence: The site is physically suited for the zoning amendment under these and additional criteria, which have been discussed in previous findings. To support this conclusion, the discussion in the Evidence sections of FINDINGS 2, 3, 5, 6, 7, and 8 is incorporated into this section by reference.