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**STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION**

Resolution  
No. 2005-8

**A resolution approving Amended Conditions No. 2005-19  
Kenneth Mari, applicant. Assessor Parcel Number 013-010-092.**

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WHEREAS an application for Amended Conditions No. 2005-19 was received on the 4<sup>th</sup> day of February 2005 from Kenneth Mari for a property located at the intersection of Mari Way and Pietra Lane in the Mariposa Town Planning Area also known as Assessor Parcel Number 013-010-092; and

WHEREAS the application requested an amendment to Condition No. 23 of the approved Land Division Application No. 2003-137; and

WHEREAS the approval of Land Division Application No. 2003-137 was by Planning Commission Resolution No. 2003-032; and

WHEREAS the Planning Department circulated the application for Amended Conditions No. 2005-19 among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a duly noticed public hearing was scheduled for the 4<sup>th</sup> day of March, 2005; 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, California Environmental Quality Act, and local administrative procedures; and

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

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Amended Conditions Application No. 2005-19, amending Condition No. 23 of Land Division Application No. 2003-137; and

BE IT THEREFORE FURTHER RESOLVED THAT this action is based upon the findings set forth in Exhibit 1 and the conditions set forth in Exhibit 2; and

BE IT THEREFORE FINALLY RESOLVED THAT this action to amend conditions for the land division does not affect other conditions established by the Planning Commission for Conditional Use Permit and Design Review application No. 2003-139 in Planning Commission Resolution No. 2003-032.

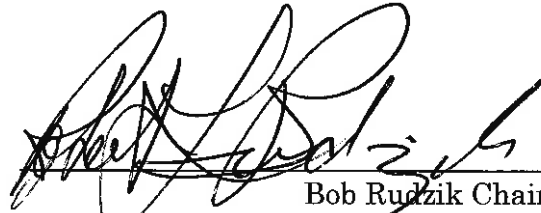
ON MOTION BY Commissioner Skyrud, seconded by Commissioner Crain, this resolution is duly passed and adopted this 4<sup>th</sup> day of March, 2005 by the following vote:

AYES: Ludington, Ross, Rudzik, Skyrud and Crain


NOES: None

EXCUSED: None

ABSTAIN: None

  
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Bob Rudzik Chairman  
Mariposa County Planning Commission

Attest:

  
\_\_\_\_\_  
Tracy Gauthier, Secretary to the  
Mariposa County Planning Commission

## Exhibit 1 - Findings

Pursuant to Mariposa County Subdivision Ordinance, Section 16.16.040, the following findings are made:

1. Based on the project design, the engineered development plans and engineered construction plan requirements, and the availability of community sewer and water services, the site is found to be physically suited for the townhouse project, provided that all applicable conditions of approval are met.
2. The site is physically suited for the density of the proposed project, based upon the engineered development plans for the project, and based upon applicable Hillside Development Standards for development and construction of the project.
3. Pursuant to Section 15182 of the California Environmental Quality Act (CEQA) Guidelines and Section 65457 of the California Planning and Zoning Laws, the project is exempt from the requirements of CEQA. This finding is supported by the following:
  - a) As documented by the staff report, the project is consistent with the Mariposa TPA Specific Plan for which an Environmental Impact Report (EIR) has been certified.
  - b) Substantial changes have not occurred with respect to the circumstances under which the EIR was certified.
  - c) There is no new information which demonstrates the project will result in significant or adverse environmental impacts not discussed in the EIR or significant impacts which are substantially more severe than discussed in the EIR.
4. This land division will be served by community sewer and water services, a paved and maintained access road, and a paid fire department. Future construction onsite will be regulated by the County Grading Ordinance and all applicable Building Codes and Fire Codes. This project will not cause any public health problems.
5. The proposed map is consistent with the Mariposa County General Plan and the Mariposa Town Planning Area Specific Plan. The land division has been reviewed in accordance with all applicable subdivision standards of the Specific Plan. The land division is an initial step to accomplish the General Plan's Housing Element overall goal to ". . . provide an adequate supply of sound, affordable housing units in a safe and satisfying environment for the present and future residents of the County . . ." The land division satisfies the following Housing Element Policy: "to ensure that there are adequate sites and facilities available to support future housing needs." The community and county have a serious need for additional housing opportunities for residents who need small residential units, in town near services, and which have organized mechanisms in place to conduct required maintenance.
6. The project density and design is consistent with standards contained in the General Plan, Specific Plan and the Zoning Ordinance.

7. The project will not conflict with any public easement.
8. This land division application has been processed and reviewed in accordance with standards set forth in the Subdivision Map Act, Mariposa County Code Title 16, the County Subdivision Ordinance, and Mariposa County Ordinance No. 823 establishing subdivision requirements for projects in the Mariposa Town Planning Area. When the required conditions are met, the project will be in compliance with the Subdivision map Act and the County Subdivision Ordinance.
9. The amendment to the Condition No. 23 is necessary to find that the constructed project substantially conforms to the conditions of approval. This finding is based on the fact that the original project proposed its own front yard setbacks of five feet. Based upon the constructed project, a setback of two feet from the front yard property lines / edge of easement of is necessary. The building design and project density is unchanged, the site plan and building layout is substantially unchanged, and the overall effects of the project are unchanged. The location of a portion of one of the buildings closer to the street does not pose a safety hazard, and the only condition of approval proposed for revision is the required front yard setback. There is no potential for any other building within the approved project to be located closer to the front yard property line than 5 feet, as originally approved. The revised project substantially conforms to the approved project, and the amended condition will not affect the applicant's approved parking plan.

## Exhibit 2 – Conditions of Approval

1. This subdivision is approved for the sale of individual attached residential townhouse unit. The subdivision shall comply with all applicable provisions of the State Business and Professions Code and the State Civil Code for Common Interest Developments.
2. This subdivision is approved in conjunction with Conditional Use Permit and Design Review Application No. 2003-139. All applicable conditions of Conditional Use Permit and Design Review Application No. 2003-139 shall be met, as determined by the Planning Director, prior to recordation of the final map for the subdivision.
3. Prior to recordation of the final map, the foundations for the residential townhouses shall be constructed and signed off by the Mariposa County Building Department. Any protrusions from the foundations, such as re-bar, shall be protected during non-construction periods to minimize the potential for accidental injury.
4. All land which is not subject to “separate interest” as defined by California Civil Code shall be in common ownership among the property owners of the individual townhouse units.
5. The Common Area Lot 13 public utility easement shall be made non-exclusive. The public utility easement shall be offered for dedication to the County of Mariposa and shall specifically state that the dedication is for public utility purposes only.
6. The portions of Mari Way, from Highway 49 North to Pietra Lane, where subgrade failure has occurred shall be repaired. The repair work shall entail removing surface and subgrade material until sound material is reached, and backing filling and compacting the repair areas with aggregate and asphalt concrete. The required road repair work shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards.
7. The surfacing of Pietra Lane, where cracking has occurred, shall be crack filled. The portions of Pietra Lane where vegetation is encroaching through the asphalt concrete surfacing shall be repaired. The required repair work shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards.
8. Bella Sienna shall be improved to provide a 12-foot wide, paved road, and shall meet this standard at the time of final map recordation. The County Fire Department has approved this road width, subject to the following additional provisions:
  - The entry point of the one-way road shall be marked with unit numbers and addresses fixed at the entry.
  - Each building shall be provided with a corresponding number.
  - No parking signs shall be posted to maintain a clear 12-foot travel width.
  - The applicant shall install a fire hydrant conforming to Mariposa Public Utility District specifications located at the intersection of Bella Sienna and Pietra Lane. This shall be in addition to any fire hydrant or hydrants

required by the Mariposa Public Utility District, as described in Condition No. 17.

Angled parking as submitted on the engineered site plans is approved if necessary to provide a minimum of two (2) parking spaces for each townhouse unit. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards for town class paved roads, however curb, gutter, and sidewalk are not required. The final specifications for the road construction shall be reviewed and approved by the County Engineer and County Fire Chief prior to construction onsite.

9. All grading and road improvement work required as a condition of approval for this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein, unless otherwise specified in the project conditions. The County Engineer has indicated that he will require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. The plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.
10. The proposed road name for the onsite alley, Bella Sienna, is approved in accordance with the criteria of County Resolution No. 92-541. The name of the road shall be shown on the final map. Road name signs shall be installed at the intersection of Bella Sienna and Mari Way, and Bella Sienna and Pietra Lane.
11. 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. A representative from MPUD, County Fire, and other utility companies may also attend. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County Engineer shall verify that this condition has been met prior to the scheduling of any onsite inspection of road improvements.
12. Upon completion of the required road improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Natural Resources Conservation Service/ Resource Conservation District (NRCS/RCD). The applicant shall also contact NRCS/RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter shall be submitted to the County Surveyor by NRCS/RCD stating that the re-vegetation control provisions have been completed.
13. A drainage easement for the existing drainage along the northerly portion of the project site shall be established and shown on the final map. The width of the easement shall be 15 feet from the centerline of the drainage, which may be reduced to a lesser width at the northeast corner of Common Lot No. 12, to ensure that Common Lot No. 12 is not within the easement. A statement shall be recorded in Official Records concurrently with the final map and referenced on the final map which states that buildings and fill placements, except as provided for by Section 17.336.015(c) of the County Zoning Ordinance, shall be prohibited within the

- easement. The location of the easement shall be approved by the Planning Director and County Surveyor.
14. The existing public utility easement which traverses Propane Utility Lot 12 shall be shown on the final map, unless the affected public utility companies provide written approval to the County Surveyor for removing the easement.
  15. Prior to recordation of the final map, the unpaid portion of the existing Saxon Creek Assessment District 94-1 assessment shall be paid in full for the project parcel. As an alternative, a document acceptable to Mariposa Public Utility District Bond Counsel must be prepared and recorded to continue the lien on the new townhouse parcels. All costs associated with preparing this document, including engineering, shall be the responsibility of the property owner.
  16. Because the proposed project will exceed the benefit assessed for Assessment District 94-1, the benefit in excess of the original benefit assessment must be paid in full for the townhouse units prior to final map recordation. As an alternative, the applicant may propose a change in the assessment diagram and assessment roll for Assessment District 94-1. The property owner is responsible to pay all costs for apportionments and changes in the assessment diagram and roll, including engineering.
  17. Prior to recordation of the final map, water and sewer infrastructure (off-site and onsite, including water and sewer main extensions and individual water and sewer service lines) shall be installed to each townhouse unit. The infrastructure improvements shall be constructed in accordance with Mariposa Public Utility District (MPUD) specifications and requirements. In addition, fire hydrants shall be installed within the subdivision in accordance with MPUD specifications and requirements, and County Fire requirements. The installation of any required MPUD or County Fire improvements within the road easements or onsite shall not commence until road improvement and drainage plans are approved by the County Engineer, and MPUD required utility line plans are approved by MPUD.
  18. Prior to recordation of the final map for the project, electric and telephone services shall be installed to each townhouse unit in accordance with the specifications and requirements of the affected utility company. The infrastructure shall be installed underground from the nearest overhead line and shall be coordinated with road improvements construction. Construction work associated with utility improvements within road easements shall not commence until utility lay-out plans provided by the affected utility companies are submitted to the County Engineer and road improvement plans are approved by the County Engineer.
  19. An amendment to the existing private road maintenance association for Mari Way and Pietra Lane shall be made, to include the townhouse units. Evidence of the amendment shall be submitted to Mariposa Planning, prior to recordation of the final map.
  20. Verification of taxes paid shall be submitted to the County Surveyor prior to the recordation of the final map.

21. Prior to the recordation of the final map, evidence that the State Department of Real Estate's Public Report process has commenced shall be submitted to the County Surveyor. The public report does not have to be completed prior to map recordation. The public report must be completed prior to sale of individual units.
  
22. A Home Owner's Association shall be formed to provide for maintenance of shared facilities and common areas prior to recordation of the final map. Maintenance shall include all improvements within common areas including, but not limited to, landscaping, onsite water and wastewater facilities, other onsite utilities, drainage improvements, roads and parking areas, sidewalks, recreation areas, maintenance buildings, security lighting, other common areas, retaining walls, and any other aspect of the development which necessitates or potentially necessitates long term maintenance activities. These provisions shall be developed by the applicant so that the units included in the development shall be responsible for maintenance of the common areas and improvements. The provisions shall be reviewed and approved by the Planning Director and County Counsel prior to recordation of the final map and shall:
  - a) Be in effect for a period of not less than thirty (30) years 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 units in the subdivision.
  - d) Provide a mechanism for the home owners association to collect delinquent payments or assessments for the maintenance described above by filing a lien on the delinquent properties with the power of sale.
  
23. Pursuant to Ordinance No. 823, the following setbacks are approved for this subdivision:
  - Front Yard: Structures to be a minimum of 2 feet from the property line or street right-of-way, as long as sight distance requirements are met as determined by the County Engineer.
  - Side Yard: Structures to be a minimum of 5 feet from the property line.
  - Rear Yard: Structures to be a minimum of 5 feet from the property line.
  - Solid fences or walls less than 6 feet in height shall be permitted within the setback area, as long as sight distance requirements for traffic safety are met as determined by the County Engineer.
  - Individual Townhouse units may be attached.
  
24. A foundation soils report as required by Mariposa County Code, Subdivisions shall be prepared by the applicant and approved by the County Engineer prior to any onsite construction of improvements required as a condition of map recordation. This report may be waived by the County Engineer if he determines that previous



soils investigation data prepared in 1991 by Civil Engineer Roger Stephens is adequate.

25. Frontage improvements consisting of residential sidewalks shall be constructed along the project site's frontage of Pietra Lane and Mari Way above the gate.
26. All required signs, with the exception of street name 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.
27. Street signs shall be installed in accordance with applicable County Improvement Standards.
28. A declaration shall be recorded concurrently with the map and referenced on the map which reads as follows:

"The subdivision, which approved this project, approved the sale of individual attached residential townhouse units. Prior to the sale of any "lot" as shown on the final map for Kenneth Mari recorded as Map No. \_\_\_\_ in Record of Surveys Book \_\_\_\_, Mariposa County Official Records, the townhouse unit for the "lot" shall be constructed and certified for occupancy by the Mariposa Building Department."