STATE OF CALIFORNIA COUNTY OF MARIPOSA PLANNING COMMISSION

Resolution No. 2008- 029

A resolution conditionally approving Land Division Application 2008-091, Horace Mayfield Eads and Joyce Marian Alvernaz, applicants. Assessor Parcel Number 014-250-017

- WHEREAS an application for Land Division Application 2008-091 was received on May 7, 2008 from Horace Eads and Joyce Alvernaz for a property located at 4953 Ashworth Road, also known as Assessor Parcel Number 014-250-017; and
- WHEREAS on the 11th day of July 2008, the applicant modified their application to reduce the proposed number of parcels created by the Land Division from three parcels to two parcels; and
- WHEREAS Land Division Application No. 2008-091 proposes the division of a 18.76 ± acre parcel into 2 parcels, Parcel A of 13.74 acres, and Parcel B of 5.02; and
- WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and
- WHEREAS a duly noticed public hearing was scheduled for October 3, 2008; and
- WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and
- WHEREAS a Staff Report and Initial Study were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and
- WHEREAS more detailed information regarding the location of the existing leach lines serving the residences on each of the proposed parcels became available approximately one week prior to the noticed public hearing based upon a thorough investigation of the site as conducted by the Health Department; and
- WHEREAS that information indicated that the existing leach lines would not comply with the Zoning Ordinance property line setback requirements established by Section 17.108.130, County Code; and
- WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Initial Study and Staff Report, a 10/3/08 Memorandum from Staff regarding options for addressing the leach line location issue, testimony presented by the public concerning the application, and the comments of the applicant; and

- WHEREAS the Planning Commission after reviewing the information regarding the existing septic systems, including leach lines and their location within the setbacks required by County Code of the proposed boundary lines, initiated proceedings for the issuance of a variance to allow the existing leach lines to be located within the proposed property line setbacks and that initiation was based upon the authority granted in Section 17.120.010 of Mariposa County Code; and
- WHEREAS the Planning Commission considered all of the information in the public record, including the memorandum dated October 3, 2008, testimony presented by the public concerning the application, the recommendations of the Health Department dated September 30, 2008, and the comments of the applicant and their agents; and
- NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby adopt a Negative Declaration.
- BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve a variance to the property line setback requirements established in Section 17.108.130 of Mariposa County Code, in order to allow the existing septic systems to be located as close as five (5) feet to the proposed property lines.
- BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application 2008-091.
- BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms and conditions set forth in Exhibit 2.
- ON MOTION BY Commissioner Rudzik, seconded by Commissioner Ross, this resolution is duly passed and adopted this by the following vote:

AYES:

Rudzik, Ross, Francisco, DeSantis, Skyrud

NOES:

None

EXCUSED:

None

ABSTAIN:

None

Skip Skyrud, Chair

Mariposa County Planning Commission

Attest:

Judy Mueller, Secretary to the

Mariposa County Planning Commission

EXHIBIT 1 PROJECT FINDINGS FOR Land Division Application 2008-091

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

EVIDENCE: Based on site inspection and the proposed division of the existing parcel into two parcels of greater than five acres each, the site is physically suited for low-density homes and appurtenant improvements provided that conditions of approval are met and considering the specific existing conditions and layout of the development on-site. The proposed parcels are already developed, each with a home, a well, and a septic system. Both septic systems are functioning and are located more than 100 feet from wells located on the project site. All of the improvements are located in the very small area of suitable location available for development on-site, and the possibility for further development, such as the addition of a second home is very slim. The proposed project is located within the Mountain Home zone and the Residential Land Use Classification. The subdivision density is designed in accordance with the Mountain Home zone and Residential classification.

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 and the conditions of approval, it would have a less than significant effect on the environment. This project is limited in its scope, and will result in one additional parcel being created. Both of the proposed parcels are already developed with residential improvements. Each of the proposed parcels already has functioning septic systems. There is access to the project site already, and minor work is all that will be required to comply with access requirements for the subdivision. The land is currently and will continue to be used primarily for residential purposes. The Biological Survey conducted for the project did not find any listed species, except for two elderberry shrubs which are habitat for the Federally listed Valley Elderberry Longhorn Beetle. However, due to their location and the topography where they are located as well as the existing developed condition of both parcels, impacts will not be significant. The Biological Survey also included an Oak Tree Survey and found that less than 1% of the oak trees on site would be removed for road improvement activities and therefore, the project will not create a significant impact. The California Department of Fish and Game stated that they had no comment and agreed with the findings and recommendations found in the Biological Survey. The project is subject to the California Department of Fish and Game filing fees for a negative declaration as required by California Fish and Game Code \$711.4(d)(4) and a County Clerk fee.

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. Existing residential uses were required to comply with all Building Code regulations and Health Department standards for the proper installation of

the existing sewage disposal systems on the project site. These septic systems are currently functioning and no work on them was recommended. Both proposed parcels also have wells installed, that are of sufficient distance from existing septic systems. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. The project will be required to comply with requirements of Cal Fire. All existing and future residential uses were required or 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: This project was submitted on May 7, 2008. On August 11, 2008, this application was deemed complete for processing pursuant to Government Code Section 65943. Consequently, this project has been processed in accordance with the Mariposa County General Plan. The land division is the initial step in the process to help 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." There is no specific plan governing this property.

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

EVIDENCE: The minimum parcel size proposed by the project is consistent with standards contained in the General Plan and the Zoning Ordinance. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The General Plan does not state specific setbacks that must be complied with for structure location, nor does it specify that septic systems must be located at certain distances. Therefore, the unique situation encountered with the existing septic systems of the proposed parcels would not be incompatible with the General Plan. The project site is not in an area governed by a Specific Plan.

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. The project will cause no permanent conflict with public access rights. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

7. **FINDING:** There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the conditions applicable to the property involved, or to the intended use of the conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.

EVIDENCE: The majority of this property consists of steep slopes that range from a few small areas of 5 to 10 percent slopes, to slopes that exceed 60%. Most of the developable areas on the property are already developed with homes, wells, and septic systems. Based on the topography of the site, there are only a few areas on the property that can support septic systems. The existing septic systems are already located in one of these areas. The only other areas that may be

available for a septic system, would serve as reserve areas. From a public and environmental health perspective, it is preferable to maintain the existing functioning septic systems on-site as they are currently located, rather than to try to modify the systems or move the systems to try to comply with the Zoning Ordinance setback requirement.

8. **FINDING:** Allowing non-conforming setbacks from the property lines for the septic systems will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the property is located.

EVIDENCE: Both existing septic systems are functioning for the existing residential uses, and the Health Department had no concerns about them. Based on the size of the parcels, there is still ample separation between the project site and adjacent properties. The Uniform Plumbing Code allows for setbacks as small as five feet from the property line for septic systems, which the proposed parcel boundaries will meet or exceed. The existing Zoning Ordinance allows for less than twenty five foot property line setbacks in specific situations, when approved by the Health Department. Both properties already have existing wells that are of sufficient distance from the existing septic systems, and the purpose of applying the property line setback standard to septic systems is not pertinent based on the layout of existing development on the parcels.

9. FINDING: There are special circumstances applicable to the property in which the strict application of zoning ordinance regulations will deprive the property of privileges enjoyed by other property in the vicinity and zone in which such property is situated.

EVIDENCE: The topography of the site, as well as the fact that both proposed parcels were developed long before a land division application was submitted create special circumstances which are applicable to this project. Both proposed parcels have existing functioning septic systems. Due to the limited areas in which septic systems could be installed, it is not recommended by the Health Department that a functioning system be removed or moved to other locations where it is unknown whether or not those locations can support septic systems. Deviations from the 25 foot setback for septic systems from the property line have been allowed in the past through the variance process. Section 17.108.130 of Title 17 of Mariposa County Code allows for septic systems to be built within the setback areas as well, or to have the 25 foot setback reduced. Setbacks can be reduced to ten percent of the lot width or depth, which in some cases means that structures including septic systems are only required to be 8 or 9 feet away from the property line. Septic systems can also be built within the setback area (but no closer than 5 feet to the property line) if the property is served by public water. The project site is served by wells, but they are already installed and of sufficient distance from the existing septic systems. Based on the layout of the existing development on-site, the purpose of the 25 foot setback is not pertinent to conditions on these parcels.

10. FINDING: The Planning Commission has approved this project based upon site specific and project specific conditions, and has conditionally approved existing septic systems to be located closer to the property lines than required by the Zoning Ordinance, which requires a 25 foot setback from the property line. The reduced setback standards for the existing septic systems will not violate Health Department Policy, as long as a minimum of five feet setbacks from the property line are observed. This action is based upon consideration of unique site conditions for LDA No. 2008-091, and is not to be considered a precedent for future projects.

EXHIBIT 2 CONDITIONS OF APPROVAL AND MITIGATION MEASURES FOR

Land Division Application 2008-091

Project Name: Horace Eads and Joyce Alvernaz File Number: LDA No. 2008-091

Project Approval Date: October 3, 2008

The following conditions of approval and mitigation measures were approved for this project in order to ensure compliance with county codes and policies, and to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist indicates that the conditions have been complied with and implemented.

Sign-Off Checklist for List of Conditions of **Approval and Mitigation Measures** Monitoring Verified Implemented Dept. CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT 1. The easement from Ashworth Road to the north easterly property Public Works line of Parcel B shall be improved to a Rural Class I SRA "A" standard and shall meet this standard at the time of parcel map recordation. If turnaround is required to be placed beyond the north easterly boundary of Parcel B, the easement shall be improved to a Rural Class I SRA "A" all the way to the turnaround. 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 the recordation of the parcel map. The County Engineer may require engineered improvement plans prepared by Registered Civil Engineer for any improvements required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements. §16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy. 2. A cul-de-sac shall be constructed at the terminus of the on-site **Public Works** easement roads. The cul-de-sac shall be improved to meet county standards and shall meet this standard at the time of parcel map recordation. The required cul-de-sac improvements shall be

completed in accordance with the Road Improvement Circulation Policy and the County Improvement Standards and shall be inspected and approved by the County Engineer prior to recordation of the parcel map. If construction of a cul-de-sac is impractical due to the on-site terrain as determined by the County Engineer with the concurrence of Cal Fire, the applicant may request permission to construct a hammerhead T turnaround. Prior to recordation of the parcel map, the County Surveyor shall confirm that this condition has been met. **Cal Fire requirements will have to be met. **Cal Fire has tentatively approved the construction of a hammerhead T turnaround in lieu of a cul-de-sac. Public Works Recommendation Prior to the commencement of any road improvements, road Public Works construction, or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permit for the improvements, a consultation meeting with the Public Works Department, the applicant, the agent, road contractor, and Cal Fire This meeting shall be conducted on-site. shall occur. consultation meeting shall be setup by the applicant and/or agent. Any and all costs associated with the consultation meeting shall be the responsibility of the applicant. The County Engineer shall verify that this condition has been meet prior to issuance of any road improvement or encroachment permits required for this project and prior to the scheduling of any on-site inspection of road improvements. (Public Works Recommendation) The boundaries of the off-site easement from the eastern Public Works boundary of Parcel A to Ashworth Road shall be staked in the field by the project surveyor prior to the on-site consultation meeting described in Condition No. 3. The staking of the edge of the easement shall be maintained during road construction activities. The purpose of the staking is to ensure that all required road improvements are contained within the existing easement. (Planning Department recommendation) Public Works 5. An encroachment permit shall be obtained from Public Works prior to any work being done on or adjacent to Ashworth Road. All grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. 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 encroachment improvements shall be completed as required by Public Works. All encroachment permit requirements shall be completed to the satisfaction of Public Works by the applicant prior to recordation of the parcel map. Chapter 11, County Improvement Standards Public Works 6. A road maintenance association shall be formed to provide for the maintenance of the onsite and offsite 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 shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to recordation of the parcel map and shall: Be in effect for the life of the project unless said maintenance a. is taken over by the County, a special district, or other governmental entity. h. Provide for annual maintenance and the immediate correction of emergency and hazard situations. Include 100% of the parcels in the subdivision served by the c. access roads. 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. Provide a mechanism for new parcels to be added to the association. Public Works Recommendation Public Works 7. Immediately upon completion of the required road and encroachment improvements, and the driveway 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. §15.28.120, Mariposa County Buildings and Construction Code **Public Works** 8. All grading and road improvement work required as a condition

of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvement required as a conditional of approval for this project. If engineered improvement plans are required, the plan shall be approved by the County Engineer prior to commencement of construction work on the required road improvements. Mariposa County Improvement Standards		
	Public Works	
9. All signs required by the conditions of approval for this project shall be installed on metal, break-away type posts prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation.	Fublic Works	
Public Works Recommendation		
10. A stop sign shall be placed at the intersection of easement road and Ashworth Road. The stop sign shall be installed on a metal breakaway type post prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation.	Public Works	
Public Works Recommendation		
11. A sign stating "THIS ROAD IS NOT COUNTY MAINTAINED" shall be installed onsite at the intersection of easement road and Ashworth Road prior to map recordation. The design and specifications of the sign shall be in accordance with the County Improvement Standards and shall be approved by the County Engineer prior to installation.	Public Works	
Section III.A.4, Road Improvement and Circulation Policy		
12. A road name sign for the easement road shall be placed at the intersection of the easement road and Ashworth Road. The design and specifications of the signs shall be in accordance with the Mariposa County Improvement Standards and shall be approved by the County engineer prior to installation.	Public Works	
§16.12.175, Mariposa County Subdivision Code		
13. A Verification of Taxes Paid Form, acquired no sooner than 30 days prior to the recordation of the parcel map, shall be submitted to the County Surveyor.	Public Works	
§16.12.395, Mariposa County Subdivision Code		3
CONDITION OF APPROVAL / MARIPOSA PLA	NNING	
14. Project approval is valid for a period of three years from October 3, 2008. This approval shall expire on October 3, 2011.	Mariposa Planning	
§16.12.430, Mariposa County Subdivision Code		

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15. The onsite and offsite easement road shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and be approved by the Planning Director. The name of the road shall be shown on the parcel map. Prior to the filing of the parcel map, the existing residences served by the unnamed easement road shall obtain a new address from the County Assessor. County Resolution No. 92-541	Mariposa Planning	
16. 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 (\$1,876.75 as of 1/1/08) and the County Clerk fee (\$50.00 as of 1/1/08) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, June 13, 2008), 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, October 10, 2008 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 \$1,926.75 (effective 1/1/08), 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.	Mariposa Planning	
§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code		
17. The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another	Mariposa Planning	

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. §16.36.030, Mariposa County Subdivision Ordinance		
3 20.00.000, Manapoon County Subarvision Ordinance		
18. Prior to the recordation of the parcel map, the Certificates of Compliance required to complete Lot Line Adjustment No. 2008-060, which was approved April 21, 2008 shall be recorded.	Mariposa Planning	
CONDITIONS OF APPROVAL/ MARIPOSA COUNTY HE	ALTH DEPART	MENT
19. The proposed property line shall be reconfigured to the satisfaction of the Health Department to maintain the maximum possible setback from the existing septic systems, but it may not encroach closer than 5 feet upon either of the existing leach fields and it shall not eliminate the naturally suited replacement areas on either parcel. The Health Department shall review and approve the modified parcel configuration to ensure compliance with this condition.	Health Department	
(Health Department Recommendation)		
20. A declaration shall be filed with the parcel map, referenced on the map and made appurtenant to Parcels A and B. The declaration shall state the following: "Existing septic systems, including leach lines on Parcels A and B as shown on the Parcel Map for, filed in Book at Page, Mariposa County Record, have been allowed to maintain reduced setbacks from the property lines, due to site and project specific circumstances. This reduced setback is only applicable to the existing septic systems and any future structure including septic systems and leach lines, or expansions of the existing septic systems and leach lines must comply with standards established in Mariposa County Code, or have an approved variance application." (Planning Department Recommendation)	Health Department/ Planning Department	
21. The applicant shall record a disclosure statement concurrently with the parcel map and referenced on the parcel map stating the following:	Health Department	

CONDITIONS OF APPROVAL/CALIFORNIA DEPARTMENT OF FORESTRY & FIRE PROTECTION						

AGENCY	CONTACT	PHONE NUMBER	SITE ADDRESS	MAILING ADDRESS
		EMAIL		
Mariposa Planning	Alvaro Arias	209-742-1218	5100 Bullion Street	P.O. Box 2039
		aarias@mariposacounty.org	Mariposa CA 95338	Mariposa CA 95338
Public Works	Јетту	209-966-5356	4639 Ben Hur Road	Same as site
	Freeman		Mariposa CA 95338	
Health Department	Dave	209-966-2220	5100 Bullion Street	P.O. Box 5
	Conway		Mariposa CA 95338	Mariposa CA 95338
Regional Water Quality Control Board	JoAnne Kipps	559-445-5035	1685 E Street Fresno CA 93706	Same as site
Mariposa County	Dawn	209-966-3431	5009 Fairgrounds Rd	P.O. Box 746
Resource Conservation District	Afman		Mariposa CA 95338	Mariposa CA 95338
County Assessor	Sarah Wise	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35
			interpose Ort 75556	Mariposa CA 95338

October 3, 2008

County Fire	Jim Middleton	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal. Fire	Matt Watson	209-966-3622	5366 Highway 49 North Mariposa CA 95338	Same as site

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a			
Certificate of Completion.			
Environmental Coordinator	Date		

Explanation of Headings:

Monitoring Dept:

Department or Agency responsible for monitoring a particular mitigation measure.

Verified Implemented:

When a mitigation measure has been implemented, this column will be initialed and

dated.