Resolution
No. 2015-017  A resolution conditionally approving Variance 2015-145, Don Fuhrer Applicant, Assessor Parcel Number 006-160-0560.

WHEREAS, an application for Variance No. 2015-145 was received on October 15, 2015 from Donald M Fuhrer for a property located at 1157 Lyell Way in Foresta, California, also known as Assessor Parcel Number 006-160-0560; and

WHEREAS, Variance No. 2015-145 proposes a Variance to setback requirements to install a replacement leach field for a failing septic system for an existing single family residence within the setback requirements of Lyell Way and Second Street and the north facing rear yard setback requirement; 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 Planning Commission public hearing was scheduled for December 18, 2015; and

WHEREAS, a Staff Report and Notice of Exemption were 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, Notice of Exemption, 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 find that the project is categorically exempt from environmental review and approve a Notice of Exemption.

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Variance No. 2015-145.

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1, and conditions set forth in Exhibit 2.

ON MOTION BY Commissioner Harter, seconded by Commissioner Becker, this resolution is duly passed and adopted this December 18, 2015 by the following vote:

AYES:  Harter, Becker, Kennec and Harris

NOES:  None

EXCUSED: None

ABSTAIN: None
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Larry Harris, Chair
Mariposa County Planning Commission

Attest:

Susan Hunter, Secretary to the
Mariposa County Planning Commission
EXHIBIT 1

PROJECT FINDINGS FOR Variance No. 2015-145

1. FINDING: There are exceptional or extraordinary circumstances or 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. (§17.120.050.A, Mariposa County Code)

EVIDENCE: This project site is developed with a single family residence, which is allowed on all other privately owned parcels in Foresta. The existing on-site sewage disposal system is failing and the property owner desires to repair the system. Mariposa County Health Codes require a septic system to be located one hundred (100) feet from the well. Mariposa County Zoning Codes require a setback of twenty-five (25) feet from the front yard property line and fifty-five (55) feet from the centerline of the road. This property has two (2) front property lines. These setback requirements along with the rear yard required setback creates an exceptional and extraordinary circumstance to a parcel that is only 100 by 100 feet that do not generally apply to a residential property or residential use in the same zone in other parts of the county. Most properties in the rural parts of Mariposa County, which are designed or approved for residential development, are significantly larger than 10,000 square feet.

2. FINDING: The granting of such variance 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. (§17.120.050.B, Mariposa County Code)

EVIDENCE: Standards for construction of a residential septic system are established by the Health Department to ensure no significant impacts to adjacent properties, to the public, or to the environment. There are no wells in a 100 foot radius of the proposed septic or replacement leach field. County Health Codes considers 100 foot distance between septic system and wells as a safety standard.

3. FINDING: The granting of such variance will not adversely affect the comprehensive general plan. (§17.120.050.C, Mariposa County Code)

EVIDENCE: The property is located within the General Plan Residential Land Use classification. The applicant is proposing residential development consistent with the land use. The Variance is a process that is permitted by county code, and state law, if appropriate as determined by special physical characteristics of the site. The granting of this Variance to repair a failing septic system will not adversely affect the General Plan if the Planning Commission finds that the individual site conditions warrant a deviation from the residential setback standards.
4. **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 under the identical zone. (§17.120.050.D, Mariposa County Code)

**EVIDENCE:** The applicant is required to meet the established County Health Code by placing the proposed replacement leach field and well 100 feet apart from each other. A strict application of Zoning Ordinance ¶17.108.130.A & C (Structure location) would not allow the lot to have a leach field replacement. Without the variance the owner will not be able to repair his failing septic system and therefore, would not be able to occupy the existing residence and use the property for residential uses.

5. **FINDING:** The granting of such variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. (§17.120.050.E, Mariposa County Code)

**EVIDENCE:** As this property is not the only one in the immediate vicinity that faces these particular development challenges, the granting of this Variance is not a grant of special privilege. By granting this Variance, the applicants' home will be receiving privileges already enjoyed by other property owners in Foresta. If other parcels do have similar circumstance then they would have the ability to apply for a Variance to determine if deviation from the standards is appropriate.

6. **FINDING:** This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) CEQA Guidelines.

This project is a variance, which will not result in the creation of any new parcel.
**Project Conditions for Variance No. 2015-145**

**Project Name:** Don Fuhrer  
**File Number:** Variance No. 2015-145

The following conditions were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented.

### Sign-Off Checklist for Conditions of Approval

<table>
<thead>
<tr>
<th>CONDITIONS OF APPROVAL</th>
<th>MONITORING DEPARTMENT</th>
<th>VERIFIED IMPLEMENTED</th>
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<tbody>
<tr>
<td>1. Project approval is valid for a period of three years from December 18, 2015. A building permit shall be issued prior to the project expiration date of December 18, 2018. A one and a half year (1.5) time extension may be granted for the project if a complete time extension application is submitted prior to the expiration of approval. (County Code Section 17.08.170 and 17.08.180)</td>
<td>Mariposa Planning</td>
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<td>2. This approved Variance is for the repair to an existing failed septic system and replacement leach field to be located no closer than five (5) feet to the west property line, seventeen and one-half (17½) feet to the south property line and ten (10) feet to the north property line in substantial compliance with the plans on file with the Mariposa Planning Department pursuant to Map of Survey for Donald &amp; Susan Fuhrer dated 10/27/2015 showing area for leach line locations. (Zoning Ordinance §17.108.130.A &amp; C, Structure location)</td>
<td>Mariposa Planning</td>
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<td>3. Parcel Merger No. 2015-146 must be completed prior to the issuance of a Health Department permit for the septic repair/installation of the leach lines. (Planning Department Requirement)</td>
<td>Mariposa Planning</td>
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<td>4. The applicant will comply with and obtain all required permits from the Health Department prior to the commencement of any construction work for the septic repair/installation of the leach lines. (Planning Department Requirement)</td>
<td>Mariposa Planning/ Health Dept.</td>
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5. All staked property corners and property lines in the area of construction to remain in place at the time of the septic repair/leach line repair.

(Planning Department Recommendation) County Code Section 17.120.050.F