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

Resolution
No. 2015-006

A resolution conditionally approving Variance 2015-102, Robert Ganem; Applicant, Assessor Parcel Number 006-080-059.

WHEREAS, an application for Variance 2015-102 was received on June 8, 2015 from Robert Ganem for a property located at 7312 Black Oak Lane, Yosemite West, California, also known as Assessor Parcel Number 006-080-059; and

WHEREAS, Variance 2015-102 proposes to construct and use three (3) off-street (and off-site) parking spaces within the right-of-way of Black Oak Lane, fronting the project parcel of Black Oak Lane for required transient rental parking; 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 August 21, 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 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 2015-102.

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.

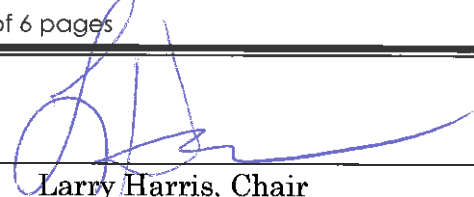
ON MOTION BY Commissioner Bernikoff, seconded by Commissioner Harter, this resolution is duly passed and adopted this August 21, 2015 by the following vote:

AYES: Kennec, Becker, Harter, Bernikoff and Harris

NOES:

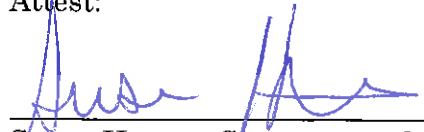
EXCUSED:

ABSTAIN:



Larry Harris, Chair
Mariposa County Planning Commission

Attest:



Susan Hunter, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Variance No. 2015-102

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: Most parcels in Yosemite West are steep and all parcels are limited in size. Less than ideal building and grading solutions are often incorporated into building projects to deal with the problems associated with living in a mountain community. Lot 194 is a narrow lot (95.4 feet), and the available building area is made even narrower by the 15 foot wide public utility easement along the southeastern property line. This would leave the property with only 80.4 feet of frontage to grade a driveway onto and within the sloped lot, thereby creating a situation where the applicant could no longer choose the gentlest alignment for the driveway. Consequently, the driveway would need to angle more towards the down-slope, resulting in a driveway that would be significantly steep and unsafe. Construction of any driveway on this parcel would also result in significant grading challenges and grading impacts. The grading could not be done on-site, without the use of significant retaining walls.

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: This project will not be materially detrimental to the public welfare or injurious to the property or surrounding improvements. The off-site parking strip that is being proposed for transient rental parking use is located on an already-existing widened shoulder which has served as roadside parking for many years. Public Works has approved the use of this area for parking for the project parcels, and has placed conditions on the encroachment permit, so that the area will be improved to Public Works standards. Also, many structures in Yosemite West have similar on-site parking challenges, which show the difficulty that comes with building in this mountain community. The surrounding parcels include vacant lots and developed parcels.

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 Residential Land Use. The applicant is proposing residential development consistent with the Residential

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 build a single-family residence with no on-site parking will not adversely affect the General Plan if the Planning Commission finds that the individual site conditions warrant a deviation from the residential on-site transient rental parking 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 Zoning Code)

EVIDENCE: As stated above, a significant number of transient rentals in Yosemite West already enjoy the benefits of off-site (off-street) parking. The strict application of this zoning ordinance would deprive the owner of the ability to operate a transient rental, a use maintained by others in Yosemite West for several years, including the neighbors on Black Oak Lane.

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 Yosemite West. Several homes in Yosemite West have no on-site parking and many have developed parking areas within the right of way or very close to it as this applicant has proposed. If other parcels do have similar a circumstance then they would be subject to the Variance process 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.

EVIDENCE: This project is a minor variance to the on-site parking standards for a transient rental. The variance does not create a new parcel and could not cause a significant effect on the environment. Based on the project proposal, there will be adequate off-street parking for the use. The Public Works Department has reviewed the proposal and has conditionally approved the use of the project site frontage for parking.

Project Conditions for Variance No. 2015-102

Project Name: Robert Ganem

File Number: Variance No. 2015-102

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		
CONDITIONS OF APPROVAL	MONITORING DEPARTMENT	VERIFIED IMPLEMENTED
<p>1. Project approval is valid for a period of three years from August 21, 2015. This approval shall expire on August 21, 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. The applicant must obtain a transient rental application approval and TOT Certificate, prior to the expiration date.</p> <p>(County Code Section 17.08.170 and 17.08.180)</p>	Mariposa Planning	
<p>2. This approved Variance is for the construction of an off-street (off-site) parking area to accommodate three (3) parking spaces located within the "right-of-way" along Black Oak Lane for a three bedroom transient rental on APN 006-080-059. The parking fronts the project site. Because the parking is approved within the Black Oak Lane "right-of-way", a public access and utility easement, use of the improved parking area cannot be signed or restricted to the project parcel.</p> <p>(Approved Project Description) County Code Section 17.120.050.F</p>	Mariposa Public Works / Mariposa Planning	
<p>3. The applicant shall obtain an encroachment permit for the approved parking area and all improvements within the Black Oak Lane "right-of-way". All conditions required by Public Works through the encroachment permit process shall be met as required by Public Works and prior to the issuance of a Certificate of Occupancy to the residential structure.</p> <p>(Board of Supervisors Resolution No. 2013-1100)</p>	Mariposa Public Works	

<p>4. Prior to any construction, a licensed land surveyor or other qualified professional will post the property corners and lines in the area of construction, in accordance with all requirements of Public Works, and will provide project layout staking for the structure and parking improvements. This staking shall be in place at the time of the Public Works inspection to ensure that the off-site parking is located within the approved construction area.</p> <p>(Planning Department Recommendation) County Code Section 17.120.050.F</p>	<p>Mariposa Public Works</p>	
<p>5. A Declaration shall be recorded in Mariposa County Official Records, within 30 days of approval of Variance No. 2015-106. The Declaration shall be made appurtenant to APN 006-080-066 and shall state:</p> <p>“This notice is not intended to affect record title interest. This declaration is appurtenant to the property known as APN 006-080-066, Lot No. 102 of Yosemite West Unit No. 1, as said lot is delineated on Map entitled, “Yosemite West Unit No. 1”, filed August 1, 1967 in the office of the County Record of Mariposa County, as Map No. 1511. Variance Application No. 2015-106 has been approved by the Planning Commission, allowing required parking for the development on this parcel to be located partially or wholly within the Right-of-Way for Yosemite Park Way. The current and future property owners are notified that there shall be no special provisions made for street maintenance or snow removal operations as a result of the approved location of these parking spaces. All issues associated with the existence and/or removal of snow berms resulting from plowing operations, including but not limited to the potential damage to vehicles, handrails, etc. resulting from street maintenance activities (including snow removal) shall be the sole responsibility of the property owner.”</p> <p>All costs associated with preparing, executing and recording the above declaration shall be the responsibility of the applicant.</p> <p>The applicant shall provide a copy of the recorded declaration to the Planning Director.</p>		
<p>6. The applicant shall communicate with potential customers/tenants about the limited parking situation and encourage them to limit the number of cars to 3 or less.</p>	<p>Mariposa Planning</p>	