

# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

1441 Schilling Place, South 2nd Floor  
Salinas, California 93901-4527

(831)755-4800

www.co.monterey.ca.us/rma

## MEMORANDUM

**Date:** August 25, 2017

**To:** Planning Commission

**From:** Elizabeth Gonzales, Associate Planner

**Subject:** Hugo PLN120587

<b>HEARING SUBMITTAL</b>	
PROJECT NO / AGENDA	PLN120587 #Lp
DATE RECEIVED	8/25/17
SUBMITTED BY/VIA	Staff
DISTRIBUTION TO DATE	PC / 8/25/17
DATE OF HEARING	8/30/17

For your information.

These attached letters were submitted to the Zoning Administrator prior to and at the Zoning Administrator.

:eag  
attachments

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AG#	PN 120587 #4
DATE RECEIVED	6/29/17
SUBMITTED BY VIA	Rubik @ hearing
DISTRIBUTION TO DATE	ZF 6/29/17
DATE OF HEARING	6/29/17

To Whom it may concern,

I have lived almost my entire life in the Jack's Peak community and there have been several neighbors that have rented their homes on a short term basis. This past practice has established a precedent for our community. I am the closest neighbor to the Hugo residence and have found the family to be responsible, respectful and an asset to Jack's Peak. I am completely in favor of any request that the Hugo family may have in regards to short term renting of their property.

Sincerely,

Mrs. Mathews  
PO Box 128  
Monterey 93942

Jeanne and Edward Gavrin  
571 Viejo Road  
Carmel, California 93923

June 27, 2017

Dear Monterey County Planning Administrator,

We are writing to voice our opposition to the use of the 8 bedroom house on Viejo Road, Carmel, as a short term rental. The Planning file number is PLN 120587. The Legistar File # ZA17-033 refers to the Hugo application.

Our environment on Jack's Peak is very fragile. Increased traffic would put pedestrians and bicyclists in more jeopardy on the narrow, windy, hilly road. Fire is one of our greatest fears raising concerns whether people here temporarily will be careful enough. Our community needs to remain only residential.

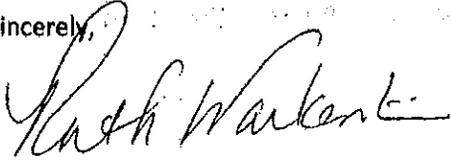
Sincerely,

Jeanne and Edward Gavrin

Members of the Planning Department,

I reside at 550 Aguajito Road in Jack's Peak and I am not in support of the application for short term rentals submitted by Mr. Hugo.

Sincerely,

A handwritten signature in cursive script that reads "Ruth Warkentin". The signature is written in black ink and is positioned below the word "Sincerely,".

Ruth Warkentin

Dear Zoning Administrator -

I am submitting this letter in opposition to the short term rental application pending for the residence located at 583 Viejo Road. I am not necessarily opposed to the concept of short term rentals in general, but feel this particular application should be denied.

Sincerely,

*Tricia E. Markusen* 6/6/2017  
Tricia Markusen



June 5, 2017

Liz Gonzales  
Associate Planner  
Monterey County Resource Management Agency - Planning  
168 West Alisal Street, 2nd Floor  
Salinas, CA 93901

Ms. Gonzales,

We have lived on Aguajito Road in Jack's Peak for the past 35-years and want to continue to live there in a great environment, so we wish to express our concern and opposition to the County granting the application to allow short term rentals at the residence located at 583 Viejo Road.

Title 21.64.280A(5) states: "If not properly regulated, such use of residential property may create adverse impacts on surrounding residential uses including, but not limited to, increases levels of commercial and residential vehicle traffic, parking demand, light and glare, and noise detrimental to surrounding residential uses and the general welfare of the County. Moreover, such use may increase demand for public services, including, but not limited to, police, fire, and medical emergency services and neighborhood watch programs." Each and every one of these issues is relevant to the pending application. The size of the residence allows for a multitude of people, even if the County elects to limit the number of overnight guests. Additionally, there is no mechanism for enforcement, which would ultimately cause conflict and dissension among neighbors.

Further, Title 21.64.280B states: "The purpose of this Section is to: 1. Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and safety in stable neighborhoods or owner-occupied residences." Again, this is equally applicable and supports denial of the application. We are a small community of neighbors and routinely allowing strangers to live in this large residence disrupts the peace and enjoyment of the other residents.

Regards,

A handwritten signature in black ink, appearing to be 'Bert Cutino', written in a cursive style.

Bert Cutino

**JAMES AND LANETTE PENNA**  
**534 Aguajito Road**  
**Carmel, CA 93923**  
**(831) 375-6301**

June 9, 2017

Monterey County Planning Department  
Salinas, CA

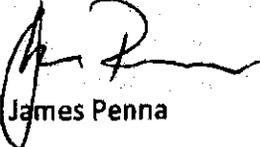
Dear Ms. Gonzales,

We are writing to urge you to deny the application to allow the residence located at: 583 Viejo Road, Carmel to be used for the purposes of a short term rental. Our concerns include the negative impact the rental would have on the residents and on our neighborhood. Jack's Peak is a very small community of residents who wish to preserve the low-density residential character of our properties.

We would appreciate you seriously considering the effects of allowing commercial activities in such a rural and unique area. It would be inharmonious with the stated purposes of Title 21 and the desires of the neighbors.

Thank you for your consideration.

Sincerely,

  
James Penna

June 16, 2017

Dear Members of the Planning Department -

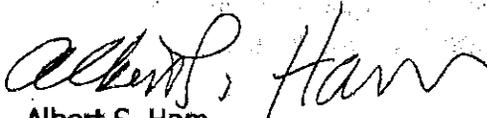
My name is Albert Ham and I sold the property to Mr. Hugo where the residence located at 583 Viejo Road currently exists. At that time, we entered into a purchase agreement and a road maintenance agreement.

It was never my intention that the easement provided to Mr. Hugo would be used for anything but residential purposes. In my opinion, allowing short term rentals, particularly for a house that contains eight bedrooms, is a commercial enterprise. There are bed and breakfast facilities that are smaller than Mr. Hugo's house and they require a type of permit that the County is not requiring of Mr. Hugo.

The new proposals being considered by the County for short term rentals take into consideration whether or not the driveway of the applicant begins from a public or private road. In this case, Mr. Hugo has an easement over the neighbor's property. The neighbor is rightfully opposed to the granting of the permit and their property rights should be honored.

I would never have provided any easement or road agreement if I had any idea it would be used for non residential purposes.

Sincerely,

  
Albert S. Ham

June 5, 2017

Monterey County Planning  
Monterey County Zoning Administrator  
Salinas, CA

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AGENDA	PLN120587 # 4
DATE RECEIVED	6/23/17
SUBMITTED BY/VIA	Public Stakeholder mail
DISTRIBUTION TO/DATE	2A 6/23/17
DATE OF HEARING	6/29/17

RE: PLN120587

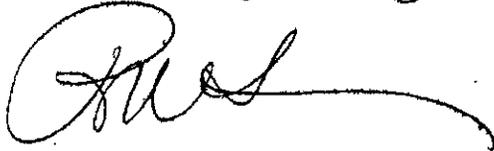
We are property owners on Viejo Road, Carmel, Ca 93923 and have received the Notice of Public Hearing in the above referenced project, as our property abuts the subject property.

We are opposed to this permit/zoning change being approved. The intended use of this property would be detrimental to our residential neighborhood, with increased traffic, noise and fire danger, to say the least.

We urge you to follow LUAC's recommendation to deny this property's requested use as a Short Term Rental, and consider the fact that the immediate neighbors to the project and other residents in Jacks Peak are also opposed to this property becoming "in fact a hotel" in our midst!

Sincerely,

  
Dirck Selvig

  
Robin Selvig

June 4, 2017

County of Monterey  
Planning Department  
168 W. Alisal St  
Salinas, CA 93901

Donna Hart Reid  
586 Viejo Road  
Carmel, CA 93923

RE: Hugo Permit  
#PLN 120587

To Whom It May Concern:

I am requesting that a permit not be issued to Mr. Hugo. My property (AP#103-021-011) only has access from Viejo Road. The Hugo property also only has access from Viejo Road.

Viejo Road is too narrow to be center lined in this section of its route to CA Hwy 1. I am one entry on the opposite side of the road from Mr. Hugo's entry.

The proposed use for the Hugo property will only add to the use of Viejo Road. I don't believe Viejo Road is suited for increased use the granting of a permit would allow.

Many thanks for your consideration of how I will be affected by the increased traffic and noise Mr. Hugo's rentals would cause due to my contiguous location.



Sincerely,  
Donna Hart Reid

KATIE CLARE MAZZEO

506 AGUAJITO ROAD

CARMEL, CA 93923

831-372-2233

katieclare@sonic.net

To Monterey County Planning Dept.  
re # PLN120587 Hugo Short  
Term Rental Permit application

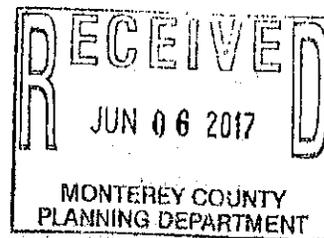
This is to register my  
opposition to this request. I am  
absolutely convinced this would  
change character of Jacks Peak  
neighborhood.

Katie Clare Mazzeo

6/2/17

June 2, 2017

Ms. Liz Gonzales  
Associate Planner  
Monterey County Resource Management Agency – Planning  
168 West Alisal St., 2<sup>nd</sup> Floor, Salinas, CA 93901



Dear Ms. Gonzales:

I am writing to voice my opposition to the application for an Administrative Permit for the residence located at 583 Viejo Rd., Carmel, CA. (AP 103-031-004-000).

My husband and I have lived in the Jacks Peak neighborhood for 13 years and I have worked and lived in Monterey County most of my life.

The use of the Administrative Permit process to enable short term rentals of very large homes in residential areas has enormous consequences for neighborhoods all over Monterey County. If approved, this Administrative permit would set a very important and destructive precedent for the neighboring property owners, and opens the door to future approval of commercial enterprises in other residential areas.

I have read the supporting documents prepared by staff and note that the approval of this permit can only take place if ***“there are no adverse impacts on surrounding residential uses including, but not limited to, vehicle traffic, parking demand, light and glare and noise detrimental to the surrounding neighborhood.”***

In the recommendation by staff to approve the permit it is stated that all of these concerns have been addressed. The staff focused on how the number of people occupying the property would remain around the same. ***However, there is a fundamental difference between a large family's use of a property over the course of a year, and the use of that same property by a large group of people that changes each week of the year.*** One use is compatible with our current rural residential neighborhood and the other is not.

I ask the Zoning and Planning Departments to carefully consider the consequences of approving this permit. Not only will you be immediately adversely affecting the quality of life of neighbors in the Jacks Peak area, you will have effectively blurred the line between commercial and residential land use designations throughout Monterey County. Allowing this project to proceed will fundamentally change land use in the heart of one of Monterey County's oldest and most serene neighborhoods.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Ajeska".

Susan Ajeska  
P.O. Box 4176, Carmel, CA 93921

June 6, 2017

Monterey County Resource Management Agency – Planning  
Attn: Mike Novo, Zoning Administrator  
168 West Alisal Street, Second Floor  
Salinas, CA 93901

Dear Mr. Novo-

Please consider my objections to the granting of an Administrative Permit for transient use of the property located at 583 Viejo Road.

- Monterey County Code 21.62.280(D)(2)(b) states: “The number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Uniform Housing Code and other applicable State and County regulations for residential structures **based on the number of bedrooms within the unit.** (Emphasis added.) The residence located at 583 Viejo Road has eight bedrooms and consequently the decision by the County to allow Mr. Hugo to alter his application and allegedly limit the number of bedrooms available to five is contrary to the plain reading of the text. The County exceeded its legal authority by permitting such an election and the applicant should be required by law to apply for the appropriate permit pursuant to Monterey County Code 21.64.100.
- The size of the applicant’s home is in excess of 12,000 square feet which includes eight bedrooms and baths, a movie theater, a pool room, a game room, and other amenities. The outdoor portion includes in excess of 16,000 square feet of lawn and patio, a waterfall and pond, and a custom outdoor fire pit with seating. This is more consistent with a hotel and/or bed and breakfast. Limiting the number of occupants who can spend the night does not take into consideration the number of people who can be present during the day and evening. Allowing this property to be used as a short term rental would convert the residence from residential to commercial and would necessarily result in an intensification of use.
- The applicant has had innumerable code violations since owning the property. Although there are currently no open code enforcement violations, applicant’s repeated disregard for the law is certainly indicative of his future conformity to the limitations of any permit that may be granted.
- Monterey County Code 21.62.280(A)(2), (3) and (5) recognize that the use of residential property for remuneration must be “compatible with

residential and other surrounding land uses” and that transient lodging “has impacts on residential areas”. Specifically, “such use of residential property may create adverse impacts on surrounding residential uses including, but not limited to, increased level of commercial and residential vehicle traffic, parking demand, light and glare, and noise detrimental to surrounding residential uses and the general welfare of the County. Moreover, such use may increase demand for public services, including, but not limited to, police, fire, and medical emergency services, and neighborhood watch programs.” The vast majority of these concerns are relevant to the pending application. There will be increased vehicle traffic on roads that are narrow, windy, and very poorly maintained. Noise from the renters will necessarily travel and impact that peace and tranquility of the neighborhood. Services are limited in the Jack’s Peak area due to its rural character. Emergency response time is significantly longer than in the surrounding cities.

- The applicant has an easement over the property owned by my wife and me. The individual who granted the easement is submitting a letter indicating that he had no intention that the driveway would ever be used for such a purpose. Although not dispositive, the fact that the applicant has an easement, and the fact the owners of the land object to the intended use should be given enormous weight. Our family will be the most impacted by the short term renters due to the shared driveway. We have three children and have genuine safety concerns with the introduction of innumerable strangers onto our property. There is no way to monitor the renters, or to ascertain their backgrounds or intentions. It would threaten our sense of security and undermine our enjoyment of our property.

Monterey County Code 21.64.280(B)(1), (3), and (4) defines the purpose of the section as follows.

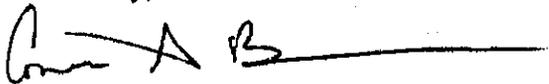
1. Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and safety in stable neighborhoods of owner-occupied residences.
- 3 ...restrict transient use of property for remuneration, which use may be inharmonious with and injurious to the preservation of the character and environment of the various zoning districts
4. Promote the public health, safety, and general welfare of the County

None of these stated purposes would be furthered by the granting of the application. On the contrary, permitting the use of the property for short term rentals would contravene the stated purposes.

- There is a value to the residents in maintaining the residential character of the neighborhood. The outpouring of letters in opposition demonstrates the legitimate concerns of the vast majority of effected neighbors who strenuously oppose this application due to it detrimental and incompatible impact on the neighborhood and residents.
- Applicant's property rights and desire to increase his personal wealth should be balanced against the property and privacy rights of the home owners. He currently has the ability to rent his home for 30 days at a time without the necessity of obtaining any permit. He previously listed his home for rent for thirty day periods for \$45,000. This would allow him to obtain rental income of over half a million dollars a year. Denying the application clearly would not deprive him of the ability to obtain a very significant amount of money by renting his property. Contrast applicant's financial gain with the negative impact of the rentals on each and every one of the neighbors, and the balancing necessarily weighs against the applicant.
- The neighbors are united in their opposition and have submitted numerous letters for consideration. These are the people who will have to live with the consequences of the short term rental.
- Property values will be adversely affected. Nobody wants to buy a home next to a short term rental.
- The County will not independently investigate how the property is being used, whether it is in compliance with the permit, or whether there are violations of the permit. Enforcement will be left to the neighbors, which is contrary to public policy. Creating conflict among neighbors is something the County should attempt to limit, not increase.
- The Land Use Advisory Committee has twice unanimously recommended the application be denied. Their stated concerns are appropriate and legitimate.

There are innumerable reasons to deny the application and I respectfully request you take my sincere concerns and opposition into account.

Sincerely,



Corey Butler

June 5, 2017

Mike Novo  
Zoning Administrator  
Monterey County Resource Management Agency - Planning  
168 West Alisal Street, 2nd Floor  
Salinas, CA 93901

Dear Mr. Novo,

We are writing in opposition to the short term rental application submitted by Mr. Hugo. Jack's Peak is a very special area where there are a limited number of homes and consequently residents. Neighbors appreciate the peace and tranquility provided by living in a densely forested area.

Increased traffic and noise is a very significant concern. Additionally, people unfamiliar with the roads create specific dangers due to the conditions of the roadways, which are narrow, windy, and poorly maintained.

The Land Use Advisory Committee has independently reviewed the application and recommended denial. This recommendation should carry significant weight.

We wish to preserve the residential character of the neighborhood, which is a stated purpose of Title 21. And although we understand the applicant's desire to obtain remuneration from renting his residence, the detrimental impact to the neighborhood outweighs the individual benefits.

Sincerely,

Dr. & Mrs. Albert B Janko

June 6, 2017

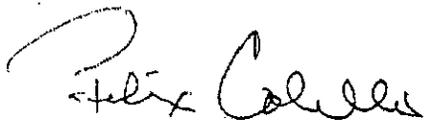
To Whom it May Concern in the Planning Department:

Please consider our opposition to the granting of the requested Administrative Permit for transient use of a residence for remuneration sought by Mr. and Mrs. Hugo. Those of us who reside in Jack's Peak are protective of our neighborhood. We enjoy the quiet and solitude that is the hallmark of the area.

We all want our neighbors to get along and we all attempt to limit activities that are disruptive. Allowing a large home to be used for short term rentals would be detrimental to the rest of the residents. Necessarily it would increase the need for services, increase the use of limited resources, increase traffic, and increase noise. People unfamiliar with the area would be driving on dangerous streets, endangering the safety and security of the residents.

Enforcement would be limited if not nonexistent. Sadly, it would place neighbors in the position of monitoring the renters, which is contrary to the stated purpose of Title 21. This is not something that our neighborhood should have to endure.

Thank you for your consideration,



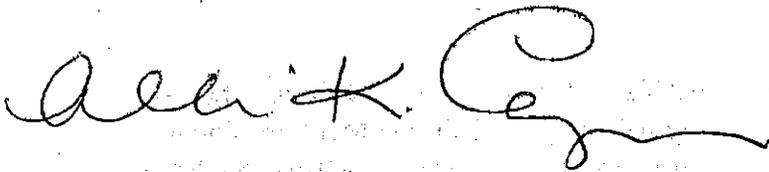
Felix and Betty Lou Colello

June 1, 2017

Dear Members of the Planning Department -

I am writing to express our opposition to the application of Mr. Hugo to use his residence for short term rentals. I reside with my husband and four children at 24105 Fairfield Place. It is important to my family and I to preserve the residential character of the area. Short term rentals are inconsistent with that goal and bring problems including increased traffic, noise, and other disturbances. Please take my position into consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Allison & Joseph Campos". The signature is fluid and cursive, with a large, decorative flourish at the end.

Allison & Joseph Campos  
24105 Fairfield Place  
Carmel, CA 93923



May 30, 2017

Monterey Planning Commission

Re: Hugo Application to Conduct Short-Term Rentals at Viejo Road

Dear Commissioners and Staff

We own 505 and 509 Valenzuela Rd, APNs 103-081-001-000 and 103-081-002-000, both of which neighbor the Applicants property.

While we empathize with the Applicants desire to generate additional revenues, and generally support short-term rental activities within incorporated municipalities, we oppose granting Applicants request at the subject property. We feel that the rural, forested character of the Aguajito neighborhood is unique, that residents live here because they are drawn to its tranquil and remote character, and that allowance of short-term rentals will only jeopardize that tranquility. We feel that the presence of short-term tenants will increase accidental fire risks and hazards in an area grappling with extreme forest fire danger. We feel that, unlike higher-density incorporated cities, including Pacific Grove and Monterey, which have dedicated law enforcement and administrative staffs, complaints regarding potential code violations by non-resident tenants within unincorporated Jacks Peak risk being investigated with less haste and resources, and on a lower priority basis than within city-limits.

We recommend denial of the application,

Respectfully submitted,

The Matheson Family

June 3, 2017

Dear Mr. Novo:

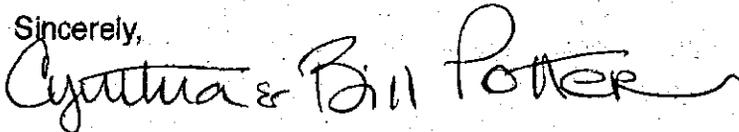
It is my understanding that in the capacity of Zoning Administrator, you will make a decision on whether to approve an Administrative Permit that allows for the transient use of residential property in the Jack's Peak area. My husband and I reside at 580 Viejo Road, which is the next driveway after Mr. Hugo's, the applicant. We bought our home in Jack's Peak due to the rural setting and the peace and tranquility afforded by living in the woods.

We oppose the approval of the permit for a variety of reasons. It would be inconsistent with the residential nature of the neighborhood. The roads are narrow and dangerous and short term rentals would inevitably increase traffic. The size of the home, even if the number of overnight guests is limited, lends itself to large gatherings of people. Noise travels in the hills and impacts the tranquility of the adjoining residents.

There are numerous benefits to residences occupied by owners, including increased safety and security. Viejo Road is particularly unique because it is rarely used by non residents. Unfamiliar vehicles are uncommon. Neighbors are respectful of each other and value the privacy associated with living on five acre parcels.

Please consider our concerns and the impact the permit would have on our neighborhood. It is the residents who will most affected and who will have to deal with the difficulties associated with short term renters.

Sincerely,



Cynthia Potter

June 6, 2017

To: Monterey County Planning Department  
Attn: Liz Gonzalez

From: Eric and Teresa Del Piero  
562 Aguilero Road  
Carmel, CA 93923

Re: High property  
Permit PLN170587  
583 Viejo Road  
Carmel, CA 93923

To whom it may concern:

We are members of the Aguilero Property Owners' Association and we have lived in our home at 562 Aguilero Road since 1987. We are opposed to the use of the above property at 583 Viejo Road for short term rentals. This property with its eight bedrooms has been the site of multiple disruptive parties and events held by nonresident groups. The loud noise and amplified music pollutes the entire Aguilero area for miles. The short term rental use would make this property a small hotel and this would be entirely inappropriate for any residential neighborhood. The uncontrolled traffic, with the proposed use, increases the risk of injury to nearby residents.

Please deny this request. It will be a nuisance that will permanently and irreparably affect our single family neighborhood. Do not allow a precedent to be set that will change our five acre residential zoning.

*Eric Del Piero*  
Eric Del Piero  
*Teresa Del Piero*  
Teresa Del Piero

**Attachments**

- Protest letter.jpg (71.90KB)

6 June 2017

FROM: Marc Del Piero, 4062 El Bosque Dr. Pebble Beach, CA. 93953 (831-261-0718)

TO: County of Monterey Resources Management Agency (RMA)

RE: OPPOSITION TO PLN 120587 - ATTN: Planner Elizabeth Gonzales

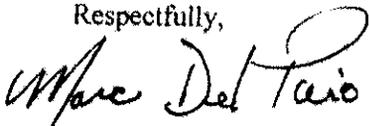
By this letter and as a property owner on Aguajito Road, I hereby object to the proposal to use the single family residence at 583 Viejo Road, Carmel, CA 93923 (PLN 120587) for short term rental purposes. This application constitutes a de facto attempt to circumvent, if not to completely ignore and avoid, the mandatory and mandated policies and ordinances as currently embodied in the Monterey County General Plan (Greater Monterey Peninsula area plan) and the Monterey County Zoning ordinance, and the laws of California as embodied in the California Environmental Quality Act (CEQA). Such an application/project for a significant and adverse change of residential land use into a massively commercial use in a rural residential area requires a full and complete environmental impact report, an amendment to the General Plan, and an amendment to the current zoning of the property, plus a new Use Permit.

It is important to note that the current zoning on the property is clearly and expressly for single family residential purposes. "Short-term rentals" are not for the residential purposes of single families. "Short term rentals" are expressly commercial in nature, and are intended for the same commercial purposes as the rental of motel rooms. There is no discernable difference.

Under the county's historic zoning for this property, and its General Plan policies, the rural and residential nature of the Aguajito/Jacks Peak area is clearly identified, recognized, and memorialized. The County, and other local governmental agencies, do not provide the types of governmental services to this area that are necessitated by the proposed intense commercial uses of this project. The absence of the preparation of a full and complete EIR prior to the consideration of this application ignores the significant adverse environmental impacts of this project due to unmitigated impacts on sheriff and fire services, of lack of MRWPCA sewer services, lack of project generated funding to repair and expand county roads due to anticipated increases in commercial and tourist traffic impacts, and anticipated adverse effects of increased noise and exterior lighting (to guide the hundreds of annual visitors to the house). An EIR must be prepared.

**Absent a full EIR, I strongly request denial of this project.**

Respectfully,

  
Marc Del Piero

Dear Members of the Planning Department-

June 29, 2017

### **USE PERMIT IS REQUIRED DUE TO NUMBER OF BEDROOMS**

In a memorandum dated March 29, 2017, addressed to Michael Harrington, the County permitted Mr. Hugo to elect between two options. The first option was to apply for an Administrative Permit for Transient Use of Residential Property for Remuneration limiting the short term rental use of his residence to no more than five of the existing eight bedrooms. The second option was to apply for a Use Permit for a use of a similar character, density, and intensity to a Bed and Breakfast. Mr. Hugo elected the former and agreed that any Administrative Permit would include a Condition of Approval limiting the number of bedrooms to five.

On June 26, 2017, the County informed Mr. Hugo and Mr. Harrington “staff will be recommending replacing the 5 bedroom limitation with a 10 transient occupancy limitation.”

Removing the 5 bedroom limitation **mandates** a Use Permit. The County has consistently conceded this in numerous written documents, including the staff report and the above referenced letter to Mr. Harrington.

The County has also conceded that the limitation of the use of bedrooms is essentially **unenforceable**. The stated purpose of the change in the recommendation reads: “...it was determined that limiting the number of bedrooms to 5 in an 8 bedroom home for this short term rental (STR) would be very difficult, if not impossible, to regulate.”

LUAC on both occasions recommended complete denial of the application, acknowledging that enforceability of the permit would be left to the neighbors, and that there was “no way to enforce use of only 5 rooms.”

Similarly, the County recognizes the severe limitations in their ability to regulate the compliance of short term rentals. The staff report reads, “Currently, enforcement is done on a reactionary basis, and prioritized by the level of threat to health, safety, and wellbeing. If Monterey County was made aware of this property being used or advertised for use online (eg: Air B&B) with more than 5 guest rooms, code enforcement would respond appropriately.” It is difficult to imagine a situation where a violation of a condition of a short term rental permit would be a high priority if the standard is the degree of threat to health, safety and wellbeing. Additionally, the County expresses no intention of initiating any enforcement procedures, which places the neighbors in the unenviable position of ensuring compliance of a permit all strenuously oppose.

This situation is contrary to one of the stated purposes of the regulation which is to, "Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and stable neighborhoods of owner-occupied residences" (21.64.280(B)(1). Nothing is more contrary to this concept than granting a permit that the vast majority of residents oppose, but are ultimately expected to monitor.

The County appears to have gone to extraordinary efforts to interpret the laws favorably to the applicant in an effort to allow him to apply for an Administrative rather than a Use Permit. However, the interpretations are contrary to the plain reading of Title 21 and other provisions of the law.

Occupancy is defined in the regulations based upon the number of bedrooms in the residence, NOT by the number of bedrooms the applicant or the County deems to exist. "The number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Uniform Housing Code and other applicable State and County housing regulations for residential structures based on the number of bedrooms within the unit." (Title 21.64.280(D)(2)(b).)

A residence with in excess of 10,000 square feet of living space, including eight bedrooms, with expansive outdoor patio and lawn areas, allows for significantly more guests than a smaller residence. The proposed limitation only applies to the number of occupants spending the night. It does not apply to the number of occupants who can be present throughout the day and evening. Consequently, limiting the number of occupants who sleep at the residence does not limit the negative impacts the rental will produce, nor is it possible to regulate or enforce.

### **NEIGHBORS' CONCERNS:**

There is a multitude of letters from the residents of Jack's Peak expressing legitimate and sincere concerns about the impact to the neighborhood if the application is granted. The concerns include:

- Increased Traffic
- Increased Noise
- Increased Demand for Public Services
- Decreased Water Availability
- Lack of Enforcement
- Negative Impact on Residential Character
- Negative Impact on Rural Character
- Lack of EIR
- Change from Residential Use to Commercial Use
- Increased Fire Danger
- Increased Danger Due to Narrow, Poorly Maintained, and Dangerous Roads
- Detriment to the Tranquility and Peace of Residents

- Impact of Shared Driveway
- Decreased Security
- Negative Impact on Property Values
- Public Policy Against Creating Conflict Between Neighbors
- Decreased Benefits of Owner-Occupied Residences

Although the staff report purports to address the neighbor's concerns, it fails to mention or provide meaningful solutions to the vast majority of the issues listed above. The overwhelming majority of residents on Viejo Road oppose the application. This should have significant weight on the ultimate decision. It is the residents who will suffer the repercussions of living near a short term rental granted to a residence significantly larger than most homes and small bed and breakfast facilities.

### **APPLICANT'S FINANCIAL GAIN VS. RESIDENTS' PEACE AND ENJOYMENT**

This application presents a situation where one resident seeks to increase his personal financial gain to the detriment of the neighbor's peace and enjoyment of their properties. He previously listed his house for rent for approximately \$40,000 a month, which would allow him to obtain approximately half a million dollars a year in rental income. That can be accomplished without the granting of the permit. Consequently, this fact should be weighed against the negative impacts a short term rental would impose on the neighbor's, who would receive absolutely no financial gain. The negative implications and consequences to the neighbors' use and enjoyment of their properties should significantly outweigh the applicant's desire to make additional rental income.

### **CEQA**

I object to the recommendation that the project be "Categorically Exempt per Section 15301 of CEQA Guidelines" for all the reasons stated in all the letters submitted, and the arguments made before the Zoning Administrator, including the cumulative impacts of this proposed action.

The County states, "The applicant has a large family and has generally up to 15 immediate family members at the home, and up to 30 people during holidays." This is simply not true. There are not, nor have there been in at least several years, anywhere near 15 people living at the residence. The County was specifically informed of this fact and has failed to make any effort to determine how many people were residing in the residence previously, or who are currently residing in the residence.

Because there are not many people residing in the residence, granting the application would necessarily result in an intensification of use.

## LUAC

On two separate occasions, the Land Use Advisory Committee unanimously recommended denial of the application. The staff report mentions some of their concerns as well as options which were discussed to address those concerns. However, the report fails to state that the members of LUAC voted unanimously to deny the application because there were inadequate ways to meaningfully alleviate those concerns.

Further, LUAC mentioned that the application was neither consistent with the rural nature of the area, nor was it conducive to increased travel on roads they described as "narrow, unfamiliar, and winding." The shared driveway was described as a "negative" in their minutes. Finally, the lack of enforceability was a recurring topic of discussion.

## ROAD ISSUES

The County report and recommendation acknowledges that Viejo Road "is a county road that is narrow and winding". As mentioned above, the members of LUAC made the same observations. Innumerable letters submitted by the neighbors' express serious concerns about the increased traffic on roads that are poorly maintained, dangerous, narrow, and full of sharp curves and turns. Granting the application creates dangerous traffic conditions for both the residents as well as the renters.

## SHARED DRIVEWAY

Allowing a short term rental of a residence with a shared driveway necessarily results in an intensification of use of the driveway. The County should deny the application due to the lack of access. The owners of the driveway do not consent to the proposed use, and strenuously object to such use. Consequently, pursuant to the Proof of Access ordinance, the County is obligated to deny the application if it finds the Proof of Access ordinance applicable. (Title 21.64.320)

The shared driveway is actually owned by the neighbors and Mr. Hugo was granted an easement to share the driveway. The staff report states that the "shared driveway splits to the subject property before you can see the closest neighbor's home and is easily identified with a gate at the entrance."

The first idea expressed in the sentence implies that use of the shared portion of the driveway would have no impact on the neighbor. It fails to address the fact that my husband and I live with our three children who ride mini bikes, skateboards, bicycles, and roller blades up and down the entire driveway. The safety and security of these children

is jeopardized by increased traffic on the driveway as well as by use of persons who are unaware of their existence.

Our peace and sense of security is negatively impacted by having innumerable strangers driving up and down the driveway at all hours of the day and night throughout the year. The amount of stress and discomfort this would cause cannot be overstated.

The second idea expressed in the sentence implies that the renters would be able to easily identify the residence so as not to disturb the other resident who shares the driveway. Unfortunately, past experiences with Mr. Hugo renting his residence proves this not to be the case. Interestingly, and mentioned only to demonstrate the fallacy of this assertion, one of the members of LUAC passed the gated residence of the applicant and ended up in our front yard when making a site visit. Again, this disrupts our sense of security and enjoyment of our property.

### **APPLICANT HAS NUMEROUS PRIOR CODE VIOLATIONS**

The following is a list of Code Compliance Cases for APN 103-031-004-000, the residence of the applicant, all incurred since the time he purchased the property.

03/26/2015

15CE00098

March 16, 2015: Letter from Monterey Peninsula Water Management District Water Permit Requirement for 583 Viejo Rd. Single family dwelling constructed without a water permit.

12/04/2013

13CE00353

Code Compliance Cases - Short Term Rental

03/28/2011

11CE00141

Code Compliance Cases - Advertising a Short Term Rental

09/01/2010

10CE00324

Code Compliance Cases - Property use for vacation rentals and large scale social gatherings

07/30/2007

CE070265

Code Compliance Cases - Cutting Pine and Oak trees

09/24/2001

CE010337

Code Compliance Cases - Grading without permits

Additionally, in a prior hearing involving a request to build a barn on his property, Mr. Hugo made representations about a road on his property, which he claimed existed at the time he purchased the property. Planner Steve Mason was able to challenge Mr. Hugo's assertions by providing photos from Google Maps, which established the road did not exist at the time Mr. Hugo claimed. This occurred at a public hearing involving the Planning Department. The owner who sold the property to Mr. Hugo confirmed that no such road existed.

The relevance of the code violations and the example involving the road are particularly salient to many of the objections presented. It is often stated that the best way to predict future behavior is to observe past behavior. Mr. Hugo has a documented history, specifically with the County, of not complying with a myriad of rules and regulations, which are established for the health and safety of all. This reflects extremely poorly on his commitment to comply with any conditions placed on the granting of an Administrative Permit.

The applicant's practice and procedure of avoiding land use regulations suggests, if not guarantees, that enforcement will become a major issue if the application is granted. His history of the use of the property corroborates this concern.

### CONCLUSION

Under the unique circumstances of this particular case, the granting of the permit would be extremely detrimental.

- The vast majority of neighbors oppose the application
- Numerous negative impacts on both the neighbors and the neighborhood
- LUAC twice voted to unanimously deny the application
- The residence shares a driveway with a neighbor who does not consent to the proposed use
- The residence and surrounding landscaped areas are expansive and the residence contains eight bedrooms which allows for many people to congregate
- The applicant has a history of noncompliance with rules and regulations

Please consider these concerns and deny the application.

Respectfully submitted,

Pamela Butler