

**Before the Monterey County Planning Commission
in and for the County of Monterey, State of California**

In the matter of the application of:

HUGO (PLN120587)

RESOLUTION NO. 17 - 039

Resolution by the Monterey County Planning
Commission:

- 1) Finding the project statutorily exempt per Section 15270 of the CEQA Guidelines; and
- 2) Deny an Administrative Permit to allow transient use of an existing two-story, 8 bedroom/8 bathroom single family residential property for remuneration (aka Short Term Rental), pursuant to Monterey County Code Section 21.64.280.

[583 Viejo Road, Carmel, Greater Monterey Peninsula Area Plan (APN: 103-031-004-000)]

The HUGO application (PLN120587) came on for public hearing before the Monterey County Planning Commission on August 30 and September 27, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **INCONSISTENT** - The proposed project and/or use is inconsistent with the requirements of the applicable zoning ordinance (Title 21), specifically Monterey County Code (MCC) Section 21.64.280.D.2.b, related to land use development and number of occupants for transient use.

EVIDENCE:
 - a) The applicant, Hugo, H and Linda, TRS, requested approval to use an existing two-story, 8 bedroom/8 bathroom single family residential property for remuneration (aka Short Term Rental), for transient use (short-term rental), consistent with the requirements of MCC Section 21.64.280.
 - b) The property is located at 583 Viejo Road, Carmel (Assessor's Parcel Number 103-031-004-000), Greater Monterey Peninsula Area Plan. The parcel is zoned "RDR/5.1-UR-D-S" or Rural Density Residential, 5.1 acres per unit, Urban Reserve, Design Control, and Site Plan Review. The RDR portion of the zoning allows residential development, and the site has existing residential development.
 - c) Monterey County RMA-Planning and RMA-Building Services records were reviewed, and the County is not aware of any current or active violations existing on the subject property. A previous code enforcement violation 11CE00141 for advertising a short term rental was closed in 2011 when the County was unable to verify. The

subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the MCC.

- d) On June 29, 2017, the project was referred by the Zoning Administrator to the Planning Commission because it involved policy issues relative to short-term rentals. The current zoning ordinance allows the Transient Use of a residential property for remuneration with an Administrative Permit; however, this is a 10,384 square foot home with 8 bedrooms and 8 bathrooms. Because of the ongoing discussions regarding short term rentals with the Planning Commission, and, pursuant to Chapter 21.04, of Monterey County Code, the Zoning Administrator referred the project to the Planning Commission because the code requires projects which may establish precedence or standards by which other projects will be measured be heard by the Planning Commission. A key question for the Planning Commission was if there should be a limitation on the number of rooms or occupants.
- e) The Planning Commission held a duly noticed public hearing on August 30, 2017, adopted a motion of intent to deny the project, and continued the hearing to September 27, 2017 for staff to return with a resolution for denial. A key factor for the denial is the size of the structure and number of bedrooms. Specifically, Section 21.64.280.D.2.b of Monterey County Code provides, *“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. Each permit shall specify the maximum number of occupants allowed.”* The California Building Code limits the maximum number of guestrooms that can be permitted for “lodging houses” in dwellings with the R-3 (residential) building classification to five (5) guestrooms. More than five (5) guestrooms changes the building occupancy from R-3 to R-1, which changes the nature of use from residential to commercial (e.g.; hotel/motel/bed & breakfast). The house exceeds the five guestroom limit and imposing a limitation to allow only partial use of a single family dwelling would not be feasible to enforce. Additionally, approving this size of a structure with 8 bedrooms for a short term rental could set a precedent that would incentivize purchasing of large homes for use as short term rentals. The Planning Commission finds that the project is more like a bed and breakfast, which requires a Use Permit and should be analyzed as such.
- f) The Planning Commission’s denial of the application for an Administrative Permit is without prejudice so the applicant could apply for a Use Permit.

- g) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN120587.
2. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review.
EVIDENCE: California Environmental Quality Act (CEQA) Guidelines Section 15270 statutorily exempts projects which a public agency rejects or disapproves.
3. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Monterey County Board of Supervisors.
EVIDENCE: Pursuant to Section 21.80.040.D of Title 21, the Board of Supervisors shall consider appeals from the discretionary decisions of the Planning Commission.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Monterey County Planning Commission does hereby:

- A. Find the project statutorily exempt per Section 15270 of the CEQA Guidelines; and
- B. Deny an Administrative Permit to allow transient use of an existing two-story, 8 bedroom/8 bathroom single family residential property for remuneration (aka Short Term Rental, pursuant to Monterey County Code Section 21.64.280.

PASSED AND ADOPTED this 27th day of September, 2017, upon motion of Commissioner Diehl seconded by Commissioner Duflock, by the following vote:

AYES: Ambriz, Diehl, Duflock, Getzelman, Hert, Padilla, Roberts, Vandever
NOES: Mendez
ABSENT: None
ABSTAIN: Rochester



Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON OCT 02 2017.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE OCT 12 2017.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.