Mono County
Community Development Department

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October 4, 2017

To: June Lake Citizens Advisory Committee (CAC)

From: Wendy Sugimura, Senior Analyst

RE: ADDITIONAL INFORMATION FOR AGENDA ITEM #8 – RECOMMENDATION ON THE JUNE LAKE AREA PLAN UPDATE: SHORT-TERM RENTAL POLICIES

Please find enclosed the additional following documents:

1. Memorandum responding to various questions and issues raised at and since the last CAC meeting.

2. Three public comment letters received since the last meeting.

Please contact Wendy Sugimura (760.924.1814, wsugimura@mono.ca.gov) with any questions.

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October 4, 2017

To: June Lake Citizens Advisory Committee (CAC)

From: Wendy Sugimura, Senior Analyst

RE: QUESTIONS AND ADDITIONAL INFORMATION ON SHORT-TERM RENTALS

At the last meeting on September 6, 2017, the CAC received a presentation on potential policy and regulatory options for addressing short-term rentals (STRs) in June Lake. Several questions were asked at and following that meeting, and this memorandum is intended to provide a response and applicable information.

1. Can the CAC review STR applications in June Lake and provide either a pre-approval or recommendation to the Planning Commission?

The role of the CAC is to help develop and advise various decision-making bodies on local planning policy. By developing planning policies, the CAC establishes the vision, community character, and guidelines by which development projects are evaluated. The evaluation itself, however, is the role of the Planning Commission who is charged with certain approval authorities. One way to think of the system is that the CAC advises on setting the rules, and then the Planning Commission implements the rules. If the roles are not respected, the system does not function as intended.

2. Can STRs be banned?

Yes, STRs can be banned outright in June Lake, either in specific neighborhoods or in all single-family neighborhoods.

3. If STRs can be banned, why was it not the proposed policy at the last meeting? Certain people have been attending these meetings over and over to say the same thing, and are still not being heard.

The people in favor of banning STRs have been heard. Banning STRs was included as a policy option that could be selected, and was included as an option in the "Solutions" sticky dot exercise from Day One during the May workshops.

In the "Solutions" sticky dot exercise, "Prohibit STR Type I" and "Prohibit STR Type II" were available for people to select at all 10 neighborhood workshop meetings, meaning this data has enough integrity to represent input from all the meetings. None of the Clark Tract meetings resulted in a majority of sticky dots for prohibiting either rental type, although some workshops approached half (around the 40-50% range), particularly for Type II rentals. Only the Petersen Tract workshop resulted in a majority of sticky dots for

prohibiting Type II rentals. The number of "dots" in favor of prohibition dropped slightly from Type IIs to Type Is, indicating slightly fewer objections to Type I rentals. The raw data collected is as follows:

Solutions	Clark #1	Clark #2	Clark #3	Clark #4	Clark/Open	Petersen
Prohibit STR Type I	5	2	4	3	3	3
Prohibit STR Type II	8	7	4	4	3	6
Total Workshop Participants	38	15	10	15	7	10

**Note: Only the Clark and Petersen Tract meetings had enough participants to conduct the sticky dot exercise.*

Staff's role is to accurately record and represent the overall result of all input into this process. The information from the May workshops did not support a complete and outright ban of Type I and II rentals in any neighborhood, and therefore a ban was not the proposed policy. A case could be made, based on public opinion only, for banning Type II rentals in the Petersen Tract.

As was emphasized in the goals established by the Steering Committee for this process, there is a difference between "being heard" and "getting what you want." The people who would like to see STRs banned have been heard, and the workshop information does not support their position.

However, for those who continue to believe that "everyone" is in favor of prohibiting STRs in a neighborhood, an option does exist. Covenants, Conditions and Restrictions (CC&Rs) can be developed without forming a homeowner's association, and voted upon by residents. Residents can impose their own rules, provided a vote on the CC&Rs pass (which should be no problem if everyone does indeed agree), and ban STRs regardless of the County's policies.

4. **If the workshop input does not support prohibiting Type II rentals (except perhaps in the Petersen Tract), why is the policy solution for Type II rentals so onerous that it could result in a de facto ban? Changing the land use designation and meeting the minimum district size is not easy, and could result in a concentration of rentals that overly commercialize an area instead dispersing rentals and impacts.**

While the workshop information does not support a ban or prohibition on Type II rentals, there were higher numbers and more support for doing so. Logically, then, Type II rentals should be more limited than Type I rentals. Combined with the premise that STRs should be based on the old "sharing economy" model that benefits local residents and does not support a business model, Type II rentals then should be highly restricted.

The proposed policy to require changing the land use designation to a new designation (Single Family Residential – Short Term Rental) is more of a traditional "zoning" exercise. The concept is that if an area (a five-acre minimum, in this case) is deemed to have a character more compatible with visitor lodging uses, then the land use designation and permitted uses should reflect that character. Because of this character, more intensive rentals, such as Type II, would be compatible and eventually, the character of the area may indeed change to be more commercialized.

5. **Do other caps on the number of permits exist elsewhere? How were they established?**

A tremendous variety of caps exist, from the number of permits, to the number of days that a unit can be rented, to residency requirements before the unit can be rented, to other creative solutions, and the numerical range for the caps is very broad. The County does not have the resources to exhaustively research the issue, identify the range of caps, or contact individual jurisdictions to research their rationale. Instead, a few detailed studies that seem applicable to the County were identified and researched. Ultimately, if a cap is utilized, June Lake should select a limit that reasonably protects community character.

6. STR data summary from the Mono County Housing Needs Assessment and Residential Survey:

A housing needs assessment for Mono County and the Town of Mammoth Lakes is underway, and questions about STRs were included on a resident survey conducted earlier this year. A total of 860 residents responded to the survey, of which 284 were County residents.

Overall, one in 20 year-round resident homeowners who responded to the survey intend to convert their property to short-term rentals in the next five years. Most (82%) live in Mammoth Lakes. The remainder live in June Lake (13%) and Bridgeport (5%). Among seasonal homeowners, 8% plan to convert to STRs within the next five years, and half (4%) live in June Lake. According to the survey results, current owners who plan to convert their homes into rental units are most likely to choose long-term rentals (55%), followed by short-term rentals (32%), and then seasonal rentals (14%). Note the survey did not identify individual properties, and so whether the land use designation (e.g., Single-Family Residential or a designation where STRs are permitted) of these potential short-term rental conversions is unknown.

In general, the housing needs assessment is identifying and defining the housing problem, and the data indicates STRs represent a small impact overall. Other issues, such as the age, condition, affordability, and quantity of housing units appear to be more significant drivers. However, including incentives for property owners to convert STRs into long-term rentals is important, and is expected to be part of the housing policy toolkit. The final report and toolkit is anticipated to be released for public review in the next couple of months.

7. Can the County provide for a single-person veto in order to deny an application?

No, County Counsel has determined that the County cannot arbitrarily "give away" its discretionary decision-making authority to a single individual (or even a party of individuals). It is the County's responsibility to evaluate land use applications for compliance with the General Plan and any other applicable regulations, and make a determination based on that compliance, the merit of the project, and public input.

The fact that Mono County respects public input in this process is supported by denials of STR applications (which were called Transient Rental Overlay Districts [TRODs] back then), and this extensive public input process in June Lake to try to craft a different solution.

8. What about Monterey County's private road ordinance that allows for a single resident on a privately-owned road to veto a project accessed by that road?

This ordinance (see attached) applies to discretionary land use applications where parties have disputed the legal authority of the applicant to use private roads in the manner proposed by the development application. Monterey County has a situation where private parties may have "Private Road Agreements" and "Private Road Maintenance Agreements," which don't apply in Mono County. Those sections are not included in this excerpt. The ordinance also contains language throughout that the County is not party to the private agreements, which does apply to Mono County, but is also not included in this excerpt. Applicable excerpts are included below, along with a very basic analysis.

First, a couple of definitions are needed in order to discuss the ordinance:

21.64.320(C)(6). *"Party to a Private Road" means both: any person or entity that owns the underlying fee interest in land that is subject to and burdened by a Private Road … and any person or entity that holds an interest in the Private Road and benefits from it …* (such as an easement holder)

21.64.320(C)(11). *"Proof of Access" means one or more of the following: a.) Written concurrence of all Parties to a Private Road; or…*

So then, applications fall into different "tiers" based on private agreements. All situations in Mono County would fall under Tier 1:

21.64.320(D)(2)(c)(i). *Tier 1: The Project is not subject to a Private Road Agreement or a Private Road Maintenance Agreement;*

Then, standards are defined and used in evaluating Tier 1 projects:

21.64.320(E). *Regulations. For all nonexempt Projects, the following standards, based on substantial evidence in the record, shall apply:*

1. Tier 1 Projects: The Appropriate Authority shall consider any objection from a Party to a Private Road regarding access a substantive dispute and shall either deny the Project on that basis or approve the Project subject to the Proof of Access condition described in Subsection 21.64.320(F)(1) and/or the Private Road Maintenance condition described in Subsection 21.64.320(F)(2).

This section means that if a single party objects to the use of the road for this project, then the project shall be denied or the "Proof of Access Condition" described below must be met.

21.64.320(F)(1). *Proof of Access Condition*
If the Appropriate Authority finds, based on substantial evidence in the record, that a substantive dispute exists regarding the use of a Private Road for a Project, said Authority may approve the Project but shall require as a condition of Project approval that the Applicant provide the County with Proof of Access demonstrating that the dispute has been satisfactorily resolved, in accordance with the Tier standards set forth above.

This section means the "Proof of Access" definition (above, section 21.64.320(C)(11)) must be met, which requires the written concurrence of all parties to a private road. Presumably, if even one person on the private road objects, the condition cannot be met and, in a roundabout way, requires the project to be denied.

If the costs of repairing and maintaining the road are in dispute (as opposed to access), then the provision below allows for a private agreement, settlement, or other written documentation that the dispute has been resolved. Presumably, the resolution would be for the project applicant to provide repair and maintenance resources.

21.64.320.F.2. *Private Road Maintenance Condition*
If the Appropriate Authority finds, based on substantial evidence in the record and in accordance with the Tier standards set forth above, that a substantive dispute exists regarding the costs of repairing or maintaining a Private Road as it relates to a Project, said Authority may approve the Project but shall require as a condition of Project approval that the Applicant provide the County with adequate documentation demonstrating that the dispute has been satisfactorily resolved. For the purposes of this Section, adequate documentation may include written withdrawal of objections, a properly executed Private Road Maintenance Agreement, a final settlement or final judicial determination, or written documentation showing that a majority of the Parties to a Private Road have agreed to repair and maintenance terms in light of the Project.

The conclusion is that this ordinance does allow for one person on a private road to object to access for the project and cause a denial of the application. A couple of points should be noted:

- This ordinance applies to private roads, and would therefore apply to all private roads throughout the county. No distinguishing traits would allow private roads in June Lake to be treated differently than private roads in other parts of the county.
- Development and adoption of this ordinance would be handled separately from the STR issue. It is almost a completely separate issue, relating more to the use and management of private roads.
- The ordinance would apply to any discretionary permit (e.g., use permit), not just short-term rentals. Again, it is an issue related to private roads, not a specific land use.
- Recommendation of this ordinance concept raises an entirely different policy question to the County, and discussion with and direction from the Planning Commission and Board of Supervisors would be required before proceeding. This ordinance expands this particular discussion to a countywide level, and legally limiting the conversation to June Lake does not seem possible.
- The relationship between this ordinance and areas with Zones of Benefits is unknown at this time.

Finally, however, this ordinance could potentially achieve the desired result of allowing a veto by a single person through a different mechanism based on private roads.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING SECTION 320 TO CHAPTER 21.64 OF THE MONTEREY COUNTY CODE TO ESTABLISH REGULATIONS RELATING TO THE ISSUANCE OF LAND USE PERMITS AND ENTITLEMENTS FOR DEVELOPMENT UTILIZING PRIVATE ROADS.

County Counsel Summary

This ordinance amends Chapter 21.64 of Title 21 (non-coastal zoning) of the Monterey County Code to establish special regulations for the issuance of land use permits and entitlements for development utilizing private streets, roads, and other travelled ways. The ordinance, which would apply in the non-coastal unincorporated area of Monterey County, provides for the resolution of disputes regarding the use of a private road, street, or other travelled way as part of the process by which discretionary permits, licenses or other entitlements for a development are considered by the County of Monterey.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Findings and Declarations:

1. Pursuant to Article XI of the California Constitution, the County of Monterey ("County") may adopt and enforce ordinances and regulations to protect and promote the public health, safety, and welfare of its citizens.

2. The County is charged with, among other tasks, the responsibility of assuring that development is compatible with surrounding neighborhoods and incorporates provisions for adequate access for occupants, residents and emergency services.

3. Many of the streets, roads, and other travelled ways in the County are privately owned ("Private Roads") the use of which is governed by agreements among private parties ("Private Road Agreements"). The County is not a party to such agreements and does not enforce their terms and conditions, nor does the County have jurisdiction to adjudicate a dispute among the parties to such agreements. Applications for development that require discretionary permits or other entitlements have, in some instances, proposed to use Private Roads, and, also in some instances, other parties to the applicable Private Road Agreement, or adjoining landowners, have disputed the legal authority of the applicant to use the Private Road in the manner proposed by the development application.

4. Issues have arisen during the County's consideration of discretionary land use permit applications as to whether the issuance of certain land use related permits, licenses, entitlements and other approvals is consistent with any applicable Private Road Agreement, and County desires that any issues that may arise over the use of Private Roads are resolved by the parties to the applicable Private Road Agreement. The County also wishes to provide certainty to the applicant and the public in the planning process as to the manner in which the County will

address disputes among parties to a Private Road Agreement that arise in connection with land use related applications.

5. In view of the foregoing and to protect the public health, safety, and welfare, it is necessary for the County to enact this ordinance to set forth standards to review the use of Private Roads in conjunction with certain land use related applications. These standards provide guidance for how and when the County may consider requiring additional proof demonstrating legal rights surrounding use of Private Roads as part of the land use entitlement and permitting process.

6. The Board of Supervisors finds that the ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060(c)(3) and 15378(b)(5) because the ordinance establishes permit review procedures for development projects utilizing existing private roads and does not authorize nor require any physical change to the environment.

SECTION 2. The Table of Contents of Chapter 21.64 of the Monterey County Code is amended to add Section 21.64.320 to read as follows:

21.64.320 Regulations relating to applications involving use of private roads.

SECTION 3. Section 320 is added to Chapter 21.64 of the Monterey County Code to read as follows:

21.64.320 Regulations relating to applications involving use of private roads.

A. Purpose: The purpose of this Section is to establish regulations relating to the issuance of certain discretionary permits or entitlements that may result in the intensification of use of a Private Road.

B. Applicability: These regulations apply to all properties in the inland (non-coastal) unincorporated area of the County in all zoning districts. Where a conflict exists between the provisions of this Section and other provisions of the County Code, the provisions of this Section prevail.

C. Definitions: In addition to the definitions found in Chapter 21.06 of this Title, the following definitions shall apply to this Section:

1. "Applicant" means the person or entity submitting an Application to the County of Monterey for a discretionary permit.

2. "Application" means an application for a Project.

3. "Final Settlement or Final Judicial Determination" means a written agreement between Interested Parties resolved personally or through other avenues including but not limited to mediation, arbitration, or a document evidencing a binding arbitration decision or final court judgment.

4. "Interested Party" means any person or entity that owns property abutting a Private Road but that is not a Party to a Private Road.

5. "Notice" means written notice of an Application provided to all Parties to a Private Road and Interested Parties that will be used to access a Project, such notice to be personally delivered or deposited in the United States Mail, first class postage pre-paid.

6. "Party to a Private Road" means both: any person or entity that owns the underlying fee interest in land that is subject to and burdened by a Private Road, such as the servient tenement in the case of an easement; and any person or entity that holds an interest in the Private Road and benefits from it, such as the dominant tenement in the case of an easement.

7. "Private Road" means any travelled way, avenue, place, drive, lane, street, boulevard, highway, easement, or alley not owned, maintained, nor required to be maintained by the state, county, incorporated city, or other public agency, except that the term "Private Road" for purposes of this Section shall include quasi-private roads that have all of the following characteristics: the road is under the jurisdiction of a federal governmental agency; it lies on national forest or private land; it is open to public use; and private users bear or contribute directly to the cost of maintenance.

8. "Private Road Agreement" means any document of record, properly executed and recorded, that is an agreement between parties concerning the right to use private property as access to another parcel of private property. A Private Road Agreement may include, without limitation, a written contract, an easement, grant deed, reservation or a designation on a final subdivision map. A Private Road Agreement also includes a final court judgment documenting an easement or other right of access.

9. "Private Road Maintenance Agreement" means a document of record, properly executed and recorded, that is an agreement between parties to a Private Road concerning the costs and responsibilities of those parties for upkeep and repair of the Private Road.

10. "Project" means:

a. a use for which a discretionary permit, license or other entitlement from the County is required; or a change in land use from an agricultural designation (Farmland, Permanent Grazing, Rural Grazing) to a non-agricultural designation; and

b. in either case, where access to the property from a public road is, or will be, provided either primarily or subordinately by a Private Road.

11. "Proof of Access" means one or more of the following:

a. Written concurrence of all Parties to a Private Road; or

b. Existence of a Final Settlement or Final Judicial Determination that the Private Road may be used to access the Project; or

c. A properly executed Private Road Agreement.

D. Application review and procedures:

1. Application Requirements. An Applicant shall provide the following with any Application, and an Application will not be deemed complete until the information or documentation required is provided:

a. A copy of the Private Road Agreement, if applicable;

b. A copy of the Private Road Maintenance Agreement, if applicable;

c. Written permission to use a Private Road for the Project from a Private Road governing structure, if applicable;

d. A Site Plan that includes, but is not limited to, documentation showing existing access limits and minimum access requirements from the Project to the primary public road or right-of-way. If access does not meet minimum requirements of the local Fire Authority and Monterey County Resource Management Agency--Public Works Department, the Applicant must demonstrate the ability to meet the minimum level of improvements required.

2. Application Review. Upon submittal of an Application, the Director of Planning shall:

a. Review the Application to determine if the Project is exempt pursuant to Subsection 21.64.320 (D) (4) of this Section;

b. Provide Notice pursuant to Subsection 21.64.320(D)(3) of this Section;

c. If the Application is not exempt pursuant to Subsection 21.64.320 (D) (4), the Director of Planning shall classify the Project as belonging within one of the following categories:

i. Tier 1: The Project is not subject to a Private Road Agreement or a Private Road Maintenance Agreement;

ii. Tier 2: The Project is not subject to a Private Road Agreement but is subject to a Private Road Maintenance Agreement;

iii. Tier 3: The Project is subject to a Private Road Agreement but not a Private Road Maintenance Agreement; or

iv. Tier 4: The Project is subject to a Private Road Agreement and a Private Road Maintenance Agreement.

3. Notice Requirements.

a. The Director of Planning shall provide Notice of a Project to all Parties to a Private Road and Interested Parties within 10 working days of submittal of an Application for a Project except Notice is not required for the following types of Projects:

i. The first single family dwelling on a legal lot of record;

ii. Any action authorized by an emergency permit issued pursuant to Chapter 21.75 of this Title provided that such action exists or occurs only so long as the emergency permit is effective;

iii. Projects with access via public road(s) only;

iv. Projects whose use of a Private Road is limited to emergency access only;

v. Routine and Ongoing agricultural uses;

vi. Accessory Dwelling Units, Guesthouses, and/or other subordinate uses that are accessory to the primary use of the property; and

vii. Projects with access via a Private Road(s) that are subject to a legally established Private Road governing structure such as a homeowners' association or similar organization where said governing structure is authorized to make determinations regarding the use, maintenance, and related matters regarding the Private Road(s) and where such governing structure has provided written permission to use the Private Road(s) for the Project. Examples of Projects within this exception may include but are not limited to projects considered allowed uses within the Del Monte Forest area, the Monterra and Tehama subdivisions, and similar subdivisions with previously contemplated allowed uses and Private Road governing structures. This exemption does not apply if access to the Private Road(s) subject to the governing structure is accessed by another Private Road(s) not subject to the governing structure. In such a case, Notice shall be provided to Interested Parties outside of the jurisdiction of the governing structure.

b. The Notice shall provide the opportunity for any Party to a Private Road to object to the use of the Private Road, for purposes of the Project, within 30 days from the mailing of the Notice. The purpose of this early Notice and objection is to provide an opportunity for resolution of disputes prior to consideration of the Project by the Appropriate Authority or for staff to consider a recommendation following the provisions of this Section. For the purposes of this Section, objections from Interested Parties who own land abutting a Private Road shall be

considered on a case by case basis. Objections from Interested Parties shall not provide a basis for applying the conditions described in subsection F of this Section.

c. The Notice may include notification of the Land Use Advisory Committee meeting where the Project will be considered if such consideration is required pursuant to the Land Use Advisory Committee Procedures adopted by the Board of Supervisors.

4. Exemptions: The following types of Projects shall be exempt from the regulations contained in Subsections E and F of this Section:

a. The first single family dwelling on a legal lot of record;

b. Any action authorized by an emergency permit issued pursuant to Chapter 21.75 of Title 21 of the Monterey County Code provided that such action exists or occurs only so long as the emergency permit is effective;

c. Projects with access via public road(s) only;

d. Projects whose use of a Private Road is limited to emergency access only;

e. Projects that, in the opinion of the Director of Planning, do not result in intensification of the use of a Private Road(s);

f. Projects with access via a Private Road(s) that are subject to a legally established Private Road governing structure such as a homeowners' association or similar organization where said governing structure is authorized to make determinations regarding the use, maintenance, and related matters regarding the Private Road(s) and where such governing structure has provided written permission to use the Private Road(s) for the Project. This exemption does not apply if access to the Private Road(s) subject to the governing structure is accessed by another Private Road(s) not subject to the governing structure. In such a case, the Project is not exempt from the regulations contained in Subsections E and F of this Section;

g. Routine and Ongoing agricultural uses;

h. Accessory Dwelling Units, Guesthouses, and/or other subordinate uses that are accessory to the primary use of the property;

i. Federal project on a Private Road.

5. In all cases, Applicants are encouraged to provide early notification of a Project to Interested Parties and Parties to the Private Road and to work collaboratively with all parties to resolve issues. For Projects falling within Tier 1, Tier 2, or Tier 3, Applicants are encouraged to prepare or cause to be prepared, executed and recorded, Private Road Agreements and/or Private Road Maintenance Agreements, as the case may be.

6. The exemption from the regulations contained in Subsections E and F of this Section is not intended to limit the discretion of the Appropriate Authority to consider access as part of its review of Applications.

E. Regulations. For all nonexempt Projects, the following standards, based on substantial evidence in the record, shall apply:

1. Tier 1 Projects: The Appropriate Authority shall consider any objection from a Party to a Private Road regarding access a substantive dispute and shall either deny the Project on that basis or approve the Project subject to the Proof of Access condition described in Subsection 21.64.320 (F) (1) and/or the Private Road Maintenance condition described in Subsection 21.64.320 (F) (2).

2. Tier 2 Projects: The Appropriate Authority shall consider any objection from a Party to a Private Road regarding the legal rights to use a Private Road for the Project a substantive dispute and shall either deny the Project on that basis or approve the Project subject to the Proof of Access condition described in Subsection 21.64.320 (F) (1). Matters of

proportionate costs for repair and maintenance of such roads shall be subject to the terms of the Private Road Maintenance Agreement.

3. Tier 3 Projects: The Appropriate Authority shall rely on the plain language of the Private Road Agreement regarding rights of access. If an objection is made involving proportionate costs for repair and maintenance of the Private Road(s), the Appropriate Authority shall consider an objection of fifty percent or more of the parties to a Private Road Agreement a substantive dispute and in this case, shall either deny the Project on that basis or approve the Project subject to the Private Road Maintenance condition described in Subsection 21.64.320 (F) (2). An objection of fifty percent or more of the Parties to a Private Road Agreement shall be determined on a one vote per lot basis.

4. Tier 4 Projects: The Appropriate Authority shall rely on the plain language of the Private Road Agreement and Private Road Maintenance Agreement regarding rights of access and proportionate costs for repair and maintenance. Unless a Project proposes a use that is clearly inconsistent with the plain language of the Agreements, the Appropriate Authority may approve a Project without applying conditions to the Project outlined in this Section.

5. The "Tiers" described above are intended to provide standards that the Appropriate Authority will apply when considering an Application for a Project that is not exempt from the requirements of this Section pursuant to Subsection 21.64.320.D.4 and that involves a substantive dispute over the Private Road as described within the applicable Tier. Generally where a legally executed document exists, the County will consider such documentation to be adequate evidence to demonstrate access for the purposes of this Section and conditions of approval will not typically be warranted where such documentation exists. In all cases, regardless of whether the Appropriate Authority elects to apply a condition of approval to a Project, Interested Parties, Parties to a Private Road, and/or Applicants may have legal rights under the California Civil Code, and nothing in this Section is intended to preclude their exercise of rights under the Civil Code.

F. Project Conditions.

1. Proof of Access Condition

If the Appropriate Authority finds, based on substantial evidence in the record, that a substantive dispute exists regarding the use of a Private Road for a Project, said Authority may approve the Project but shall require as a condition of Project approval that the Applicant provide the County with Proof of Access demonstrating that the dispute has been satisfactorily resolved, in accordance with the Tier standards set forth above.

2. Private Road Maintenance Condition

If the Appropriate Authority finds, based on substantial evidence in the record and in accordance with the Tier standards set forth above, that a substantive dispute exists regarding the costs of repairing or maintaining a Private Road as it relates to a Project, said Authority may approve the Project but shall require as a condition of Project approval that the Applicant provide the County with adequate documentation demonstrating that the dispute has been satisfactorily resolved. For the purposes of this Section, adequate documentation may include written withdrawal of objections, a properly executed Private Road Maintenance Agreement, a final settlement or final judicial determination, or written documentation showing that a majority of the Parties to a Private Road have agreed to repair and maintenance terms in light of the Project.

a. Maintenance of any Private Road will be subject to a Private Road Maintenance Agreement, or if no such Agreement exists, then County recognizes that parties may have recourse pursuant to California Civil Code Section 845. The County is not a party to such

Private Road Maintenance Agreement and does not interpret or enforce their terms and conditions, nor does the County have jurisdiction to adjudicate a dispute among the parties as to the maintenance of any Private Road.

3. If a condition of approval is added to a Project pursuant to this Section, said condition shall be satisfied prior to issuance of any other permits in furtherance of the Project or recordation of a final map, whichever occurs first and as applicable.

4. If a Project is approved subject to one or more of the conditions provided in this Section, the Director of Planning shall, in his or her discretion, have the authority to stay the expiration of the entitlement for the Project for a period no greater than the number of days from initial filing of judicial proceedings to the final judicial determination or settlement regarding the access dispute.

G. Nothing in this Section:

1. Affects the authority of the County to exercise the power of eminent domain pursuant to Government Code Section 66462.5 of the California Subdivision Map Act; or

2. Diminishes or in any way alter or lessen the effect of the California Civil Code. Where a conflict exists between these provisions and the provisions of State or Federal laws, the State or Federal law shall prevail.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this __ day of _____, 201__, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Chair,
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM
WENDY S. STRIMLING
Senior Deputy County Counsel

Wendy Sugimura

From: Burdette, Dorothy A <Dorothy.Burdette@wyn.com>
Sent: Monday, September 18, 2017 6:07 PM
To: Wendy Sugimura
Subject: Letter from Petersen Tract homeowner

Importance: High

Wendy,
Please include this in the letters received re STR.
Thank you,
Dorothy Burdette

Norma Jean Deak – Petersen Tract Homeowner
I would like to express my opposition to short-term rentals in residential neighborhoods in June Lake. Allowing such rentals has the potential to change the nature of the community. I am not suggesting that short-term renters are bad people nor that they come in with the intention to create nuisance, but your attitude toward a neighborhood where you will be spending two or three days may not be the same as your attitude toward the neighborhood in which you live. By increasing the number of people you also increase the potential for problems. If you look on-line you will see that a two or three bedroom house that would normally house a family of four or maybe five could potentially accommodate up to eight people. Furthermore, since it has been claimed that enforcement of regulations is difficult who would stop someone from purchasing a home or two in the middle of a residential area with the sole purpose of weekend rentals?

But my main concern is not nuisance but safety. With more people come more cars on roads that are already challenging. I live in the Petersen Tract and we have had several near misses this summer entering and leaving. The roads are narrow and in the summer there are trees and bushes that block visibility. If someone is entering and leaving at the same time someone has to go to the side to let the other get through. Imagine how this would be with the increase in traffic and winter weather conditions. You will also have an increase in drivers who are not familiar with the roads or perhaps inexperienced in dealing with ice and snow. Like other areas we have private roads so we are responsible if accidents occur on the road in front of our property. The argument that accidents can occur anyway is totally beside the point. The risk increases exponentially with an increase in traffic and with no benefit at all to those of us who will not be involved in the short-term rental business.

It is true that neighbors or longer-term renters can create problems but a community has more effective ways of dealing with issues that arise among neighbors. These neighborhoods are small. Neighbors know each other and can talk to each other about problems. There is also community pressure at work. If you live in a community most people will try to live harmoniously. (Noise complaints are understandably a very low priority for police. Police arrive late or in most cases the following day. No one believes that a sheriff will come from Bridgeport or Bishop after midnight because of a noise complaint in June Lake.) The idea that even if short-term rentals are forbidden in residential neighborhoods that it will happen anyway is irrelevant. Of course that's true but it's true of any law. There will always be people who break the law or try to stretch it. It doesn't mean that we stop passing laws. If there is a ban in place it increases the pressure that a neighborhood can put on a homeowner who ignores it. Also there are many law-abiding citizens who even if they disagree will not break the law. In the end, there will be a lot fewer short-term rentals in a neighborhood that does not allow short-term rentals than in one that does.

I would like to end with some of my impressions of the Sept. 6 meeting. I do not wish to impugn anyone's motives. I honestly believe that the majority of those on both sides of this issue have good intentions and believe that their view would be best for the community. What I found troubling was that I felt that the power point was bias in favor of short-term rentals in residential neighborhoods. Graphs that show the "exploding" "dynamic" market that is now "mainstream"

juxtaposed with a man with his head in the sand as he attempts to deny that he has no ability to stop or a frustrated man with his head on his desk pleading “make it go away” communicate clearly that if you are not in support of short-term rental you are in denial fighting against something that is unstoppable. Personally I found it patronizing and counterproductive. Rather than having our heads in the sand or despondently crying out “Make it go away” we are choosing to take a stand against something that we do not believe is in the best interest of our community no matter how popular or widespread it is. Finally, this debate should be concerned with local conditions, not what is happening in Manhattan, West Hollywood or Santa Monica.

Dear CAC Board Members,

I'd like to take this opportunity to express my support for STR's in June Lake - with, of course, an appropriate level of control and regulation. June Lake relies almost entirely on tourism for its survival and it would be extreme folly to not embrace this rapidly growing segment of the tourist market.

However, at this time, I would like to focus on the Type 1 category - specifically in the Clark Tract. My property would fall under the heading of a Type 1, as it is an on-site Guest House and I am a full-time resident in June Lake.

I am probably the only Type 1 candidate in the Clark Tract. If there are more, I think it's safe to say that the number of potential Type 1's in the Clark Tract is minimal.

My Cabin has a single bed loft bedroom and, when I rented it on a short-term basis, I had a strict occupancy limit of two adults - no exceptions for visitors. That translated into one car in the driveway.

The people that would be attracted to my Cabin are not looking for the Hotel/Motel experience. They want a peaceful, self-contained environment and, if it is not available, they will not come to June Lake.

For the last twelve months I've been renting longer term. The rules have to change for longer term rentals. As a Landlord, you can't restrict tenants from having friends and family over to visit - which means more cars and more potential for issues.

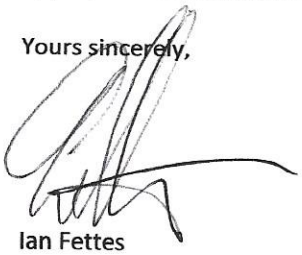
I've been generally fortunate in terms of my tenants. However, we typically now have two vehicles in the driveway, with more at weekends. And, unlike my short-term renters who come to June Lake for the peace and tranquility, my longer-term renters develop their own social network of local friends who want to visit - not to mention friends and family from further afield.

There's a strong case to support the notion that the longer the tenancy, the greater the potential impact on the neighborhood. A 40% occupancy is typical for short-term rentals, whereas longer-term rentals are approaching 100% occupancy.

I cannot comprehend how anyone would conclude that, in a situation such as mine, short-term rentals would be anything other than the least impactful rental option for my neighborhood.

I truly hope that the CAC Board will, at the very least, support Type 1 STR's in the Clark Tract - with, of course, the appropriate controls and regulations.

Yours sincerely,



Ian Fettes
149 Mountain View Lane,
June Lake
September 20, 2017

Wendy Sugimura

From: Dorothy Burdette <lildabldoya@suddenlink.net>
Sent: Wednesday, September 13, 2017 1:53 PM
To: Wendy Sugimura
Subject: Short-term rentals not allowed in San Diego, city attorney says - The San Diego Union-Tribune

Please include in emails re SFR for CAC members to read
http://www.sandiegouniontribune.com/business/tourism/sd-fi-shortterm-rentals-20170315-story.html#share=email~story