

DEPARTMENT: Planning

By: Jean Clark, Assistant Planner

Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes \_\_\_ No X)

Deny property owners' and business owner's request for a time extension for abatement of code violations until December 31, 1999. Require that full compliance with County Codes be made within 105 days following Board action. Require a proposal of code compliance be made within 45 days following Board action.

The property owners and business owner have had a reasonable time period to bring the facility into compliance. The community has consistently supported enforcement of current code regulations in the community.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On October 20, 1998 the Board denied a rental service center use to remain in an existing 400 sq. ft. garage, located in the Zoning Ordinance front yard setback area along Yosemite Park Way. The Board granted the property owners a six (6) month time period during which to bring the facility and business operation into compliance with current Building and Zoning Codes for the community (to April 20, 1999).

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- ALTERNATIVES:
1. Approve the compliance schedule as proposed, or with conditions, and allow the use to remain until December 31, 1999.
  2. Amend the compliance schedule.

NEGATIVE ACTION (denying request for an extended compliance schedule) would require that the existing rental service center use be immediately terminated, or face formal enforcement action.

COSTS: ( X ) Not Applicable

A. Budgeted current FY \$ \_\_\_\_\_

B. Total anticipated Costs \$ \_\_\_\_\_

C. Required additional funding \$ \_\_\_\_\_

D. Internal transfers \$ \_\_\_\_\_

COSTS: ( ) 4/5th Vote Required

A. Unanticipated revenues \$ \_\_\_\_\_

B. Reserve for contingencies \$ \_\_\_\_\_

C. Source description \_\_\_\_\_

Balance in Reserve Contingencies, If Approved: \$ \_\_\_\_\_

SPECIAL INSTRUCTIONS:

List the attachments and number the pages consecutively:

Memorandum to the Board with Attachments:

1. Request from Business Owner
2. Minutes from 10/20/98 Board Hearing
3. Letter to Tax Assessor's Office
4. Business Owner's Presentation to the Board on October 20, 1998

CLERK'S USE ONLY

Res. No.: 99-160

Vote - Ayes: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved

Minute Order Attached

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

MARGIE WILLIAMS, Clerk of the Board

By: \_\_\_\_\_

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted for Comment

Returned for Further Action

Comment: \_\_\_\_\_

A.O. Initials: *Jh*



# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

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## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

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TO: SARAH WILLIAMS, Interim Planning Director  
FROM: MARGIE WILLIAMS, Clerk of the Board *MWJ*  
SUBJECT: Time Extension for Abatement of Code Violation; Frank and Beverly Hutchinson;  
Res. 99-160

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on May 18, 1999

#### ACTION AND VOTE:

B) PUBLIC HEARING to Consider Request for Time Extension for Abatement of Code Violation;  
Frank and Beverly Hutchinson, Property Owners; APN 006-100-061

**BOARD ACTION:** Sarah Williams and Jean Clark/Assistant Planner, presented the staff report, and advised the issues pertain to the habitable space within the setback area and the operation of a key distribution facility. Sarah Williams also advised of the appeal filed by Mark Chapman and procedural issues. Staff responded to questions from the Board relative to distribution of the keys for the condominium units at the office for the condominiums and whether that is a legal use; whether the condominium office could be considered as a potential location for distribution of the keys for the rentals; consideration of rezoning the property to Resort Commercial for this type of activity; and how key distribution is handled for other rentals.

Public portion of the hearing was opened and input was provided by the following:

Mark Chapman stated he was present to rebut the staff's position – he feels it violates Title 17 zoning laws, the General Plan policy, runs counter to the CC & Rs, and Mariposa County policy for the last thirty years. He also rebutted the timeframe for the extension that was requested. He referred to the appeal procedures in Title 17 and his written rebuttal. He noted that most of the activity for the transient rental operation takes place off-site and only the key distribution is handled in Yosemite West – he feels this is a business activity. He stated he is not challenging the setback issues at this time unless they can not get a variance, or they could move that portion of the operation to another part of the home. He referred to home enterprise regulations and stated he feels they apply to a business operating in the house that is engaged in the sale of a product, and he does not feel that this type of activity takes place on this property. He stated he does not feel that the key activity is any different that someone cleaning the property as a maid service. If this is not an appropriate activity, then he feels that every transient rental in the County would be illegal. He

feels the key distribution operation is a legal activity, and he referred to the portion of the General Plan that cites the need to provide for economic development. He stated he feels the Resort Commercial zone most closely reflects what Yosemite West is, and he feels the area is improperly zoned.

Beverly Hutchinson, property owner, thanked the Board and Planning staff for hearing their request.

Ken LeBlanc, owner of Yosemite's Scenic Wonders and member of the Yosemite West Advisory Committee, presented his request on behalf of the properties that he represents for a six-month time extension to operate the key distribution to allow time to find an alternative. He stated he feels this became an issue because of Doblick's complaint letter, and he noted that Mr. Doblick also operates a transient rental. He stated he has patterned his business after the Yosemite West Cottages and Condominiums who have been operating for many years, and he stated he has never solicited anyone in the community to provide this service. He referred to the previous direction given by the Board and stated he feels the Advisory Committee is making progress. He noted that signs have been removed for the facility and that creates confusion for their guests and the residents are complaining. He stated he feels the County and the community was supportive of transient rental operations and now they are making it difficult. He responded to questions from the Board relative to his request for a six-month time extension and alternatives.

Dave Deto stated there is a lot of frustration. He suggested, from his involvement in the meeting held by the Advisory Committee, that the regulations be taken from Title 17 for 2 ½ acre parcels and applied to ¼ acre parcels. He also suggested a "hands-off" approach until the Advisory Committee makes its recommendations. He stated he feels Title 17 was drafted to promote business, and he cited problems he would have personally if he could not use his house as a transient rental. He stated he feels an overlay needs to be looked at – who lives on-site, off-site and what is appropriate. He stated the key distribution place may be in the spirit of the law; however, it is out of the letter of the law. He further noted that if the key distribution took place at the condominium office, guests would not pass by any residential lots and the residences would not be impacted. He further noted that not all of the people in Yosemite West have come from Southern California and have a lot of money. He stated he feels the solution needs to be long-term to allow families to relocate to town as their situation changes.

#### **4:07 p.m.** Recess

**4:28 p.m.** Richard Kunstman stated he was a member of the committee that worked on revisions to Title 17, and their intent was as stated by Sarah Williams and as interpreted by the Planning Department. For rural home industry, the person would be required to reside at the place of where the business operation took place. At that time, he was doing consulting work and was considered a rural home industry and he paid business taxes, and he noted that the only product of his business was thinking. He did not have anything that he marketed or produced. He suggested that if it does not require thinking to hand out a key, then perhaps the key distribution is not a rural home industry. He further stated that he feels that the whole operation could be automated and not require anyone to perform it.

Public portion of the hearing was closed and the Board commenced with deliberations. Supervisor Reilly commented on the correspondence that has been received on this issue. Staff responded to questions from the Board relative to the changes in the use of the garage to a workshop and then to an office and the permit process. (M)Parker, Res. 99-160 adopted denying the request for a time extension for abatement of the code violations, requiring that full compliance with County Codes be made within 105 days following this action, and requiring that a proposal of code compliance be made within 45 days following Board action. Staff responded to questions from the Board relative to the recommendation for the 105 days and timeframes for processing a General Plan zoning amendment. Motion was amended to include statement that this is not a rural home enterprise, it is a commercial business operation. Motion was seconded by Stewart. Ayes: Stewart, Parker, Pickard; Noes: Reilly, Balmain. Hearing was closed.

cc: Jeffrey G. Green, County Counsel  
File