

**MIDCOAST COMMUNITY COUNCIL**

**P.O. BOX 64**

**Moss Beach, CA 94038**

**email: <http://www.montara.com>**

August 28, 1996

The San Mateo County Board of Supervisors  
The Honorable Ruben Barrales, President  
County Government Center  
Redwood City, CA 94063

subject: Defining "Visitor Serving"

Dear President Barrales,

The issue of "coastal visitor serving" continues to be a point of discussion here on the coast. Therefore, the MidCoast Community Council (MCCC), on August 16, 1996, discussed this issue, paying particular attention to the question of "condominium hotels." After lengthy discussion, the MCCC voted unanimously (6-0) to endorse the following statement:

Since a condominium-hotel is not purely visitor serving, it is not a priority use for water and sewer permits. And, since each unit is owned separately, a separate permit must be issued to each owner for each unit's sewer and water hookups.

We attach hereto an outline of the points we covered in our discussion, as they may help explain our rationale. We offer this definition in the hope that it may be of use to you in the future, as this funding mechanism seems to be somewhat in vogue at this time, and we believe it can have a significant impact on the unincorporated area of the San Mateo County midcoast.

We would appreciate the opportunity to discuss this with you at your convenience.

Sincerely,  
MidCoast Community Council

Chris McComb, Chair

## Outline of the MidCoast Community Council discussion, August 16, 1996

### 1. Overview

The Local Coastal Program and Local Coastal Plan of the unincorporated area of the San Mateo midcoast have been designated as devoted to visitor serving uses, to the extent that hotels, for example are considered "priority uses" for sewer and water permits, just as hospitals and schools are "priority uses."

Recently, developers began turning away from building hotels, perhaps because they are not able to take on the investment risk of such a large amount of their own capital. In fact, bankers have been unwilling to loan money to a hotel project because the anticipated return isn't even big enough to satisfy their expectation that the project is financially viable. Instead, developers have been designating their hotel projects as "condominium hotels" since each unit is then seen by the bank lender as a "mortgage" or home purchase loan with "fee simple" title. The terms of these loans are different that a developers loan, and the ownership is different. Instead of one loan for one building owned by one owner, there are many loans for many homes owned by many owners. Clearly then, a condominium hotel is not a hotel. But, WHAT IS a condominium hotel?

### 2. Proposed Definition of a Condominium Hotel

A "condominium hotel" is a group of small homes that share common facilities, typically a common lobby area. Each home is self-contained, and has its separate owner that invested in the property with a separate mortgage or home loan. Each owner has the prospect of a gain or loss on their investment relative to the original purchase price, and each owner must treat their own stay in the home as an opportunity cost or a deduction from the income that they might have earned if their home was rented. This treatment is similar to subleasing an apartment or to leasing one's own house to a weekend tenant. This treatment is also similar to Sea Ranch, where homes are rented to vacationers by the homeowners, using a common rental facilitator. Since a condominium-hotel is not purely visitor serving, it is not a priority use for water and sewer permits. And, since each unit is owned separately, a separate permit must be issued to each owner for each unit's sewer and water hookups.

### 3. Criteria for Establishing a Definition

There are three criteria for application of this definition: ownership and permits, visitor serving, and priority use.

#### *Ownership and Permits*

No visitor owns the hotel room they stay in, or has any investment interest in the hotel they stay in. No visitor has the potential for a personal investment gain or loss on the value of the hotel. No visitor takes a bank loan or mortgage to stay in a hotel. No visitor pays an amount for their stay that includes real estate taxes on their stay at a hotel.

Owners of a condo-hotel pay for the hotel unit in the form of a mortgage or home loan, not a per night fee. Owners have a serious interest in the value of their investment. Owners apply for permits for sewer and water hookups for their homes. Owners are responsible for paying real-estate taxes on their property.

A sewer permit cannot be shared across the owners of many homes. If a condominium-hotel is owned by many owners, then each owner should be made to have their own separate sewer and water permit.

#### *Visitor Serving*

Clearly, a hotel is visitor serving. Every visitor that stays at a hotel is there for a visit, and every visitor pays for the duration of that stay. The owners, on the other hand, sacrifice income from paying customers when they stay in their own unit. A condominium hotel might easily not be visitor serving since the owner of the unit will likely be staying in the unit more time than might any single visitor. A condominium-hotel is more like a condominium than a hotel, and is therefore not a visitor serving use of land or of water and sewer permits.

#### *Priority Use*

Priority uses for sewer and water permits include hotels and hospitals, but not homes. Homes are not priority uses for sewer and water permits. If a condominium-hotel is a collection of single room homes, just as is a condominium, then it is not a priority use for these permits.

#### 4. Other Opinions

The Half Moon Bay City Council and the San Mateo County Counsel have addressed the issue of a condominium hotel. Here is a very brief summary of their deliberations:

##### *Half Moon Bay City Council*

On July 16, 1996 the Half Moon Bay City Council determined that "regarding priority use for sewer capacity for condo hotels...they do not have priority..."

There is a question that Half Moon Bay City Council examined in the process of their own deliberations concerning the definition of "condominium hotel." They asked: "is a condominium hotel the same as, better than or worse than a regular hotel in terms of its impact to the community?" As explained to us by Dennis Coleman, councilmember, they used the following criteria to help make their decision:

There are four reasons to consider something a "priority use of sewer capacity."

1. A failed septic system. A potential threat with resulting health risks, and therefore this is the highest priority use.
2. The second most important priority is for low / moderate income housing.
3. Third is for public institutional use: Hospitals, schools, etc.
4. Finally, Commercial / recreational use ("visitor serving"). This is the lowest

5. priority among the priority uses. Mr. Coleman stated that a hotel falls into this category.

Therefore, the question under consideration becomes, "Is a condominium hotel as visitor serving and as 'good as' a hotel?" They concluded that a condominium hotel is not as good as a hotel. Their reasons:

- Visitors can only stay in a condominium hotel 75% of the time that they could stay in a similar building designated as a real hotel, since the owner can stay up to 25% of the time.
- Up to six people can stay in a condominium hotel, with the Murphy beds and sleeper couches that the owner can buy and place into the home. That many people cannot stay in a similarly sized hotel room, and no visitor can place their own furniture in a hotel to expand the maximum number that can inhabit the room.
- A condominium requires twice the number of parking spaces as a hotel.
- Owners of condominium hotels do not have to pay a TOT (Transitory Occupancy Tax) for the time they stay in their home.
- The condominium hotel homes have kitchens that can be equipped by their owners to have dishwashers, using more sewer capacity than a hotel room. The condominium hotel homes' kitchens are fully equipped to prepare meals, thereby reducing the Sales Tax income that would be made available to the County and any local city government.
- It is possible for a few owners to rent their units to each other, thereby circumventing the 25% owner residence maximum stay and resulting in legal permanent residence for the owners.

#### *County Counsel Legal Opinion*

County Counsel Michael Murphy sent the MCCC a fax stating "There is nothing in state or local law which restricts the ownership of a hotel." County Counsel further stated "The County Planning Department report on the Princeton Harbor Village project states that 'the sewer district (GSD) maintains that this facility still meets the definition of "visitor serving" and therefore will still be entitled to priority sewer service.'"

The MCCC is somewhat troubled by this last statement, as the GSD made it clear during their public deliberations that they are NOT empowered to render definitions regarding land uses. Rather, the GSD relies on the appropriate permitting agency, in this case the County, to determine whether a particular use is "visitor serving," and if such a determination is made, then the GSD acts on the basis of available capacity. It appears there is some circular logic going on here.

**MidCoast Community Council  
P.O. Box 64  
Moss Beach, CA 94038**

August 28, 1996

Distribution list for the Council's letter / background paper on "visitor serving"

Supervisors, County of San Mateo  
Half Moon Bay City Council  
Granada Sanitary District  
Montara Sanitary District  
El Granada Waterfront Task Force