

PD080726

Hearing Date: June 26, 2009

Exhibit G

Project Correspondence

EXHIBIT G

CERTIFIED MAIL VIOLATION NOTICE

Date: November 21, 2008

Owner of Record:

Stagecoach Territory
1000 Highway 101
Aromas, CA 95004

Attn: Francis Ellingwood

Code Enforcement Case CE080396 Assessor's Parcels 141-013-001; 004; 005 & 011

Dear Mrs. Ellingwood,

On October 12, 2008, the County of Monterey Building Services Department noted violations on your property at 1000 Highway 101 Aromas, CA, for violation of Permit Conditions of land use permits ZA03117; ZA3567 and ZA3629-D. The violations are expansion of the flea market area beyond the areas approved under those permits. These violations, the corrections necessary, and the date by which these corrections should be completed are listed on Attachment A. No permits, licenses, or other entitlements may be issued by any County department until these violations have been cleared.

This letter also serves as notice that the Building Services Department intends to invoke certain administrative procedures should these violations continue to exist after the date stated. Should the County of Monterey find it necessary to invoke any of the following administrative procedures or any judicial procedure in order to compel you to correct these violations, you will be required to pay for all of the costs expended by the County of Monterey in enforcing its code sections.

These possible procedures include, but are not limited to, the following:

1. The Recording of a Notice of Monterey County Code Violation on your property with the County Recorder (See attachment B.)
2. The issuance of a citation
3. Formal enforcement action
4. Administrative fees associated with the investigation and processing of these violations

In order to abate the violations, you must obtain a permit and have it finalized or take appropriate actions to clear these violations and pay the associated fees.

Sincerely,

Bill Dunn
Code Enforcement Investigator

AA/bb

Enclosures: Attachments A and B

cc: Steve Mason, Planner Monterey County Planning
Monica Baigorri, REHS Monterey County Environmental Health
Phil Hickenbottom, Code Enforcement Officer Monterey Co. Sheriff
Attorney Doc Etienne P.O. Box 2510, Salinas, CA 93902
Office Link
File

ATTACHMENT A

CASE#:CE080396

APN: 141-013-001;141-013-004;141-013-005;141-013-011

VIOLATION(S)

CODE SECTION	DESCRIPTION OF VIOLATION(S)
1. M.C.C. 21.84.040A	Violation of Permit Conditions, expansion of flea market sales area into areas not part of the approvals under ZA03117. A public nuisance per 21.84.050 MCC
2. M.C.C. 21.84.040A	Violation of Permit Conditions, expansion of flea market sales into parking areas of parcel 141-013-001 violating Condition of ZA3629-D. A public nuisance per 21.84.050 MCC.
3. M.C.C. 21.84.040A	Parking related to flea market extended into Rural Density Residential zoned area of Parcel 141-013-011 contrary to the provisions of 21.16.070 MCC and Use Permit ZA3567. A public nuisance per 21.84.050 MCC

ACTIONS NECESSARY TO ABATE VIOLATION(S)

You must first contact Land Use Technician Tamara Sanchez at (831) 755-5210 to discuss the actions necessary to abate the violation(s). LUT Sanchez may assist you without an appointment at the Building Counter in the Salinas Permit Center.

Violation Correction:

#1. You must comply with the approvals under Use Permit ZA03117 and restrict the flea market sales areas to the area approved under the use permit. (See attached aerial photograph with sales area outlined in red).

#2. You must comply with approvals under Use Permit ZA3629-D and remove flea market sales areas operating within the approved parking areas.

#3. Review the conditions for ZA3567. Parcel 141-013-011 allows parking but not in the southerly portion of the parcel. Conditions placed upon approval of ZA3567 require landscaping and blocking of the Rural Density Residentially Zoned areas with a three foot fence. Remove flea market sales areas illegally placed on this parcel. See attached zoning aerial photograph.

TIME OF COMPLIANCE

1. **December 8, 2008**

To avoid formal enforcement action, maintain contact with the Land Use Technician/Code Enforcement Officer to ensure that they are aware of any corrective progress you are making.

**ATTACHMENT B
NOTICE OF INTENT TO RECORD A
NOTICE OF VIOLATION**

Notice is hereby given pursuant to Monterey County Code:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Section 1.20.020 et seq (General Code Violation) | <input type="checkbox"/> Section 18.52.100 (Buildings & Construction) |
| <input type="checkbox"/> Section 16.08.450 (Grading) | <input type="checkbox"/> Section 20.90.100 (Zoning /Coastal Zone) |
| <input type="checkbox"/> Section 16.12.180 (Erosion) | <input checked="" type="checkbox"/> Section 21.84.100 (Zoning) |
| <input type="checkbox"/> Section _____ | <input type="checkbox"/> Section _____ |

that Monterey County has knowledge of facts indicating that the real property situated in the County of Monterey, State of California, known as Assessor's Parcel 141-013-001;0141-013-004; 141-013-005 and 141-013-011, and more commonly known as 1000 Highway 101, Aromas, is in violation of the Code. The nature of these violations, the actions necessary to abate these violations, and the date by which these violations must be corrected are fully set forth in Attachment A and are incorporated by this reference.

If you wish to present evidence that the zoning violation cited in Attachment A **does not** exist or for some other reason the Notice of Monterey County Code Violation should not be recorded, you may do so on December 15, 2008, at **9:00 a.m.** at the Monterey County Building Services Department, 168 West Alisal Street 2nd Floor, Salinas, with a Code Enforcement Officer. **Please call Tamara Sanchez at (831) 755-5210 to confirm your intent to attend this meeting at least 3 business days prior to the proposed meeting date.**

Your failure to demonstrate that the Code violations do not exist, to correct the violations by the date of compliance, or to have the Code Enforcement Officer extend the date of compliance will result in the Notice of Monterey County Code Violation being recorded against your property on or after that date.

The recorded notice will not be released until such time as all violations are abated and all administrative fees and recording fees have been paid.

EXHIBIT G

NOLAND
HAMERLY
ETIENNE
HOSS

WWW.NHEH.COM
E-MAIL DETIENNE@NHEH.COM
831-424-1414 EXT. 224
OUR FILE NO. 08751.00F

Attorneys at Law A PROFESSIONAL CORPORATION

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

Blanca E. Zarazúa

December 3, 2008

HAND DELIVERY

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory, Inc./Red Barn
Code Enforcement Case No. CE080396

Dear Mike,

I am writing in reply to Bill Dunn's letter of November 21, 2008 addressed to Frances Ellingwood regarding the proposed Notice of Violation on the Stagecoach Territory property (aka the Big Red Barn) at 1000 Highway 101 in Aromas.

We believe there is a serious misunderstanding in connection with the allegation that our clients are violating their use permit. We base our conclusion on the following.

Accompanying the Notice of Violation was a drawing of the original permit issued in 1977, a copy of which is enclosed. We have examined what files are available. Unfortunately, there was a fire at the Big Red Barn at some time after the permit was originally granted, so they have very little material on hand. I am, however, enclosing a series of documents which hopefully will function to bring this matter to a quick termination.

In May of 1979, additional utilization of this property was considered by the Zoning Administrator, who issued Findings and Decisions on May 10, 1979. His decision allowed parking to be moved from southwest of the Big Red Barn to northeast of the Barn, where it is today. Enclosed is a copy of the Zoning Administrator's Decision (ZA-3629-D) and the drawing which accompanied that Decision. The ZA Decision under "Findings of Fact" states that "*the relocation of the existing parking now in a 'C-2' District will allow further development of that property.*"

Mr. Mike Novo
December 3, 2008
Page 2

The clear goal was to increase the outdoor sales area on the southwest side of the property by moving the parking to the northeastern side of the property. Condition 11 of the ZA approval, however, required the Stagecoach Territory property be rezoning from C-2-P-V to H-1-P-D-B-4. On behalf of Stagecoach Territory, I appealed Condition 11 to the Board of Supervisors. On July 3, 1979, the Board granted our appeal and retained the "C-2" designation on the entire property. (Copy of July 3, 1979 Board action enclosed). Also enclosed is a copy of the uses which were permitted in the C-2 area. See section 32(3)(b)(4). From 1979, on, outdoor sales have been held on the entire southwestern side of the property under the "C-2" zoning designation.

In 1980 The Zoning Administrator requested the zoning classification of the property be referred to the Planning Commission, and I again appealed that request to the Board of Supervisors. Again, the Board agreed with our appeal and declined to refer the matter to the Planning Commission, retaining a "status quo" use of the property as it has operated for nearly 30 years. (Copy of April 8, 1980 Board action enclosed)

The County's allegation of a code violation and potential effort to shut down a significant portion of the Big Red Barn business is a matter of serious concern for a number of reasons.

First, loss of the sales area will result in over 700 vendors with Board of Equalization licensed businesses being closed, as well as loss of tax revenue to the County. I learned from the Board of Equalization that 1% of the 7.25% sales tax collected by the Board of Equalization goes to the County. In connection with the tax revenue, the State of California and the County would lose taxes and fees on approximately \$5,000,000 generated by the current operation.

Second, each business employs at least 1 person, so there would be an additional 700 individuals unemployed. Additionally, the Red Barn would have to fire 10 full time personnel and 14 part time personnel.

The County's actions are also causing significant emotional and physical distress to my clients who are gravely concerned they could lose their entire business. The bottom line is that the Red Barn cannot survive unless the sales area is retained as is.

We will bring our evidence and argument to the meeting scheduled with the County on December 15, 2008 at 9:00 a.m.

In the meantime, we respectfully request that you review this issue without putting my clients to the cost, expense and unreasonable disruption of the Stagecoach Territory enterprise so the matter can, hopefully, be resolved expeditiously on December 15th.

Mr. Mike Novo
December 3, 2008
Page 3

Also, as no determination has been made, we do not believe it is appropriate for the County to take any enforcement action against this property until we have completed our meeting with the County on December 15th and, if resolution is not achieved at that time, we file an appeal of whatever decision is determined after the December 15th meeting.

Thank you in advance for your consideration of the pressing matter.

Respectfully,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng

Enclosures

cc: Ms. Frances Ellingwood
Mr. Ken McPhail
Mr. Timothy McCormick, Monterey County Director of Building
✓ Mr. William Dunn, Monterey County Code Enforcement
Ms. Tamara Sanchez, County Planning

NOLAND
HAMERLY
ETIENNE
& HOSS

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510
831-424-1414 FAX 831-424-1975
SALINAS 831-424-1414 MONTEREY 831-373-3622 KING CITY 831-386-1080 GILROY 408-846-1118
E-MAIL: DETIENNE@NHEH.COM

Attorneys at Law A PROFESSIONAL CORPORATION

FACSIMILE TRANSMISSION

DATE: March 10, 2009

TIME:

RECIPIENT	FACSIMILE NO.	TELEPHONE NO.
Mr. Mike Novo Resource Management Agency	(831) 757-9516	(831) 755-5192

FROM: Myron E. Etienne, Jr.

TRANSMITTED BY:

RE: Stagecoach Territory

NUMBER OF PAGES TRANSMITTED, INCLUDING COVER: 3 CLIENT MATTER NO.: 08751.013

URGENT FOR REVIEW PLEASE COMMENT FOR YOUR INFORMATION

MESSAGE:

Please see attached correspondence.

CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISCLOSURE, DISTRIBUTION, COPYING OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE UNITED STATES POSTAL SERVICE. THANK YOU.

HARD COPY WILL: FOLLOW BY MAIL FOLLOW BY OVERNIGHT COURIER NOT FOLLOW

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL SENDER AS SOON AS POSSIBLE

NOLAND
HAMERLY
ETIENNE
HOSS

Attorneys at Law A PROFESSIONAL CORPORATION

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianaccol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

Blanca E. Zarazua

WWW.NHHH.COM
E-MAIL: DETIENNE@NHHH.COM
831-424-1414 EXT. 233
OUR FILE NO. 08751.013

March 10, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Gary F. Redenbacher, Esq.
Redenbacher & Brown, LLP
Post Office Box 66134
Scotts Valley, CA 95067-6134

Re: Stagecoach Territory/Ballantree Estates

Dear Mr. Redenbacher:

On December 13, 2008, we had a meeting on site and discussed the problem caused by your client, which has constructed its drainage facility in such a way that it floods the Big Red Barn parking lot to the extent that it is frequently unusable.

On March 4, 2009, I wrote you referencing that meeting and the flooding of my client's property as a result of your client directing flood waters onto the Big Red Barn property. Nothing has been done to correct this situation.

Last Sunday, March 8th, there was a tremendous traffic jam on Highway 101 caused by a recurrence of this flooding by your client. The parking lot was totally unusable.

The purpose of this letter is to demand that you contact your client immediately and make arrangements to correct the condition which is causing the flooding onto the Big Red Barn property, as previously referenced.

PHONE 831-424-1414

FROM MONTEREY 831-372-7525

FAX 831-424-1975

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510

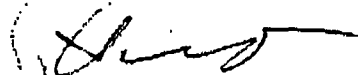
08751013418699.1:31009

Gary F. Redenbacher, Esq.
March 10, 2009
Page 2

I need a response from you immediately. If I do not hear from you within five days from the date of this letter, we will file an action against your client for an injunction and damages.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng

cc: Frances Ellingwood and Ken McPhail
California Department of Transportation
Mike Novo, Monterey County Planning Department

PD 080726

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY



PLANNING DEPARTMENT, Mike Novo, Director

168 W. ALISAL ST., 2ND FLOOR
SALINAS, CA 93901

(831) 755-5025
FAX (831) 757-9516

COPY

March 17, 2009

Myron E. Etienne, Jr.
Noland Hamerly Etienne Hoss
PO Box 2510
Salinas, CA 93902-2510

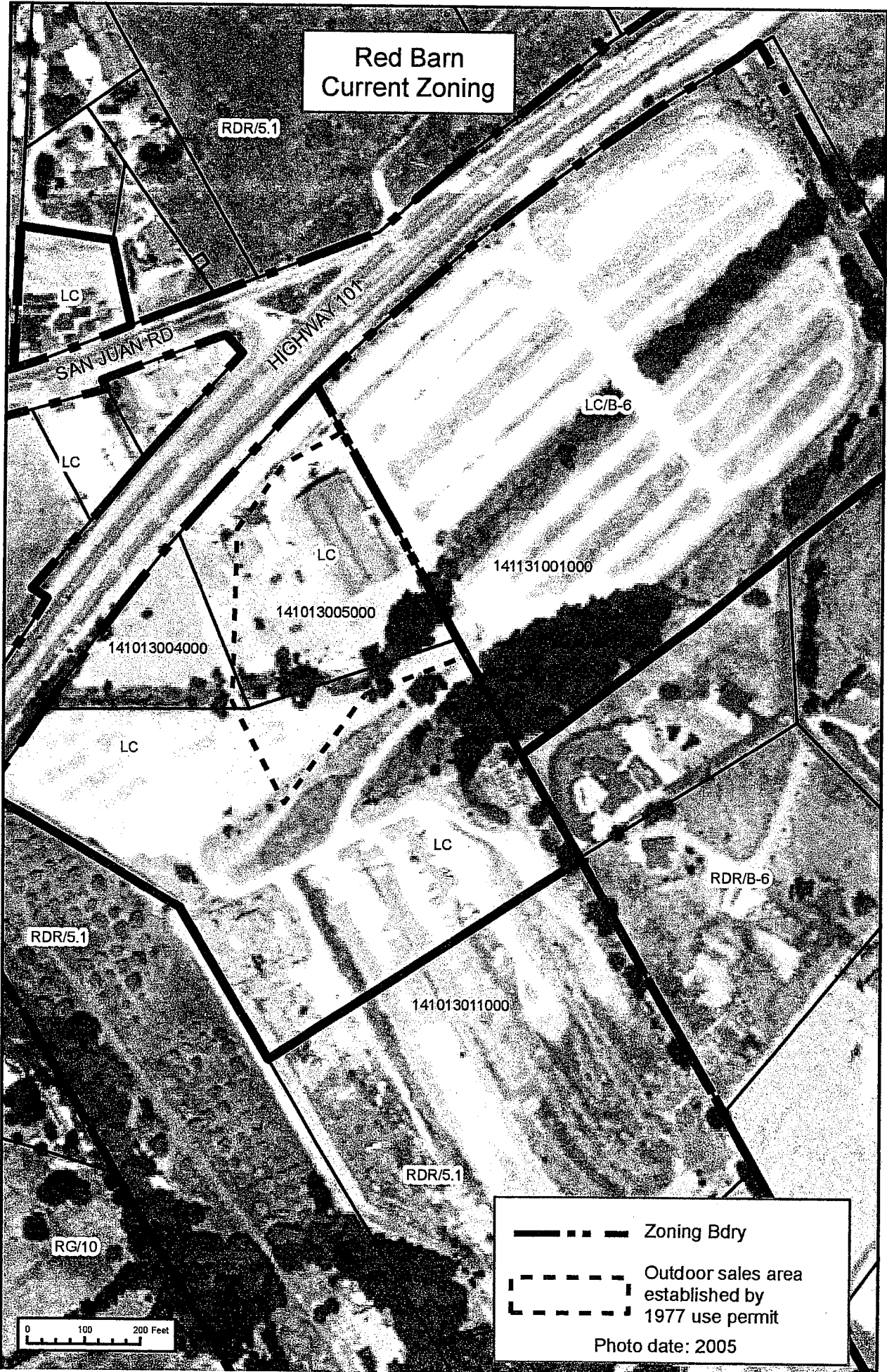
**SUBJECT: Stagecoach Territory, Inc./Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice**

Dear Mr. Etienne:

Your client, Frances Ellingwood, received a letter from Monterey County Code Enforcement staff dated November 21, 2008 regarding a Notice of Violation regarding use of the Red Barn property (Assessor's Parcels 141-013-001; 004; 005 & 011). The letter identified a number of County code violations, including expansion of the open-air retail sales area beyond that authorized by Use Permit. As a result of that letter, you provided information by letter dated December 3, 2008. We then met with you and your clients on December 15, 2008 so that you could provide information related to the violations. I have reviewed all the information in our files, the regulations in place at the time the permits were issued, and the information you submitted prior to and at the meeting. Thank you for your patience while I carefully reviewed the information you provided and researched historical records.

I have determined that the open-air retail use of this site has exceeded the extent authorized by Use Permit ZA03117 issued on April 14, 1977. In making my decision, I have weighed the evidence found in the County's files, as well as the information you have presented. Attached to this letter you will find an aerial photograph that shows the approved area authorized for open-air retail use by the Use Permit. The area is depicted and bounded by the dashed lines. (This is the same area referenced in the Violation Notice.) The Use Permit amendments (ZA03567 and ZA03629) that added new parking areas for the use did not authorize the expansion of the open-air retail use of the site. An expansion of the open-air retail use would have required a Use Permit amendment that clearly authorized expansion of that use, pursuant to Monterey County Code section 20.34.030.4 in effect at that time.

Red Barn Current Zoning



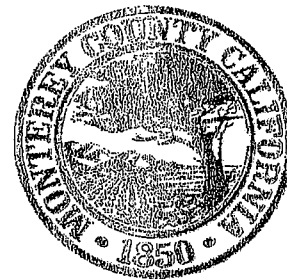
--- Zoning Bdry

- - - Outdoor sales area established by 1977 use permit

Photo date: 2005

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

COPY



PLANNING DEPARTMENT, Mike Novo, Director

168 W. ALISAL ST., 2ND FLOOR
SALINAS, CA 93901

(831) 755-5025
FAX (831) 757-9516

March 25, 2009

VIA FACSIMILE: 424-1975

Myron E. Etienne, Jr.
Noland Hamerly Etienne Hoss
PO Box 2510
Salinas, CA 93902-2510

SUBJECT: Stagecoach Territory, Inc./Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Etienne:

I received your letter of March 25, 2009 in response to my March 17, 2009 letter. We are willing to meet with you to go over the details of my letter. As you state, we want to be reasonable in a pursuit of resolving this matter.

As we discussed on December 15, 2008, my letter was to serve as a decision on the extent of the use of the site based on the information presented by you and your clients, as well as information found in the project files here at County offices. The Code Enforcement staff had identified that the open-air retail use had exceeded the area authorized by previous use permits and amendments. After extensive research, I confirmed that finding in my March 17, 2009 letter.

We can meet on Friday (11 am - 12 pm), Monday (11 am - 2 pm) or Wednesday (several openings). If you can provide me some times when you might be available on those dates, we will set up the meeting. Please call my secretary, Linda Rotharmel, at 755-5240 to set up the meeting.

I have not received any information from any group of people or from Ballantree Estates, which you discuss on page 2 of your letter. Our Records Staff will check with other staff and provide any information we do have from any such group or from Ballantree Estates. You will receive a separate notification relating to your public records act request on this matter.

Sincerely,

Mike Novo
Director

cc: Frances Ellingwood, 1000 Highway 101, Aromas, CA 95004
Les Girard, Assistant County Counsel
Bill Dunn, Code Enforcement
Tim McCormick, Building Services Director
File CE080396
File PD080726
Correspondence File

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY
Monterey County Planning Department



168 West Alisal Street, 2nd Floor, Salinas, CA 93901
Phone: (831) 755-5025 Fax: (831) 757-9516

FAX SENT BY: Linda Rotharmel on behalf of Mike Novo

Salinas Office (Main Office) 168 W. Alisal Street, 2 nd Floor Salinas, CA 93901 (831) 755-5025	Coastal Office 2620 First Avenue Marina, CA 93933 (831) 883-7500	King City Office 522 C Broadway King City, CA 93930 (831) 385-8315
X (831) 757-9516	(831) 384-3261	(831) 385-8387

TO: Myron Etienne, Jr. at Noland, Hamerly, Etienne & Hoss

DATE: 3/25/09

FAX NUMBER: 424-1975 PAGES TRANSMITTED (Including cover page): 3

MESSAGE: Letter RE: Stagecoach Territory, Inc./Red Barn (CE080396/PD080726)

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

Blanca E. Zarazúa

April 3, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Novo:

First, I want to express my appreciation for you taking time for our meeting on April 1, 2009.

As you will recall, I passed around a packet which included the Notice of Violations which were enclosed in the Violation Notice and letter sent on November 21, 2008 addressed to Stagecoach Territory signed by Bill Dunn, Code Enforcement Investigator.

The object of the meeting, as I explained in our discussion, was to determine with reasonable certainty the nature of each violation attached to Mr. Dunn's letter.

You have assured us, as noted in your letter of March 17th, second paragraph on page 1, and in our discussion on April 1st, that your staff had thoroughly reviewed all materials in the County files which pertain in any respect to any or all of the alleged violations listed on Attachment A to the November 21st letter. You also indicated you had reviewed the 1970 ordinances and use permits and had determined that some commercial uses were permitted under the 1970 Code but that outdoor retail use still required a use permit.

I asked you during our meeting whether there were any documents which your staff had reviewed that indicated that there could be no outdoor retail sales in the area outside the area shown on the 1977 map or that a use permit was needed to expand the

Mr. Mike Novo
April 3, 2009
Page 2

outdoor retail sales. You indicated that you needed to do more research before you could answer that particular question. I would very much appreciate you getting back to me at your earliest convenience on this issue, as this is a vital issue.

I also asked you to describe the alleged violation which the County is claiming occurred under the 1977 permit ZA03117, which is the initial permit issued by Monterey County on June 14, 1977. You confirmed that the County was basically relying on the site plan map attached to the 1977 use permit to describe the area that was permitted for outdoor sales and that any sales beyond that area shown in the 1977 map used for outdoor sales was not permitted and would have required an additional use permit. In response to my question, you were unable to describe any documents that, in fact, stated that an additional use permit would be required to expand the outdoor sales beyond the area shown on the 1977 map. Tim McCormick, Director of Building Services, confirmed that the major violation was conducting outdoor sales in the area of the 1977 map which was shown for parking use.

Consequently, it is my understanding that the violation of ZA03117 is centered upon the utilization of the area shown as parking for commercial uses and an additional use permit was needed to conduct outdoor sales in that area.

At that point of our discussion, you indicated you would get back to us in a few days and confirm specifically each of the violations, and I await receipt of that information.

Turning to use permit ZA3629-D, which was issued in 1979, the County's position was that the use permit only allowed additional parking in the new area to the north. It did not allow expansion of the outdoor sales to the prior parking area shown on the map attached to the 1977 use permit. You indicated that there were more facts than just what was in the permits, and I reiterated that we needed to know all of the facts and exactly what violation the Red Barn was being accused of. You indicated you would get back to us in a few days and confirm specifically each of the violations.

Turning to the 1978 permit, ZA3567, Bill Dunn stated that was a permit that only added an overflow parking area on the terraces and that sales had been expanded into the terrace area, as well. At that point in the discussion, Tim McCormick suggested that there was another potential violation under ZA3567, this being whether landscaping and the three foot fence had been installed and Bill Dunn indicated that it had not been constructed. At that point in the discussion, Ken McPhail stated that Faris Speirs had been to the site and had written a report stating that everything was fine with the terrace areas. Mr. McPhail said he sent a confirming memo to the County stating that the land use on the terraces could remain until he heard further from the County, and he never heard anything from that point forward.

Mr. Mike Novo
April 3, 2009
Page 3

At that point in the discussion, Tim McCormick reiterated that the sales area was only that area represented on the 1977 use permit site plan map, and Les Girard confirmed that there was nothing granting outdoor sales for any other area outside the area shown on the 1977 map, and that the area outside the outdoor sales area on the 1977 map was only for parking.

In response to my question for clarification of the alleged violations, Tim McCormick stated that the main concern was the expansion of the retail sales outside the area shown on the 1977 map and that his first order of business was to make sure that the Red Barn had not expanded beyond the legal limits of what they were permitted to do. He also stated that even if it is determined that if the Red Barn operation needed to be pulled back to the 1977 map area and still causes problems (that is, traffic), the County could still consider it to be a nuisance which would need to be fixed. He indicated that was always an ongoing issue.

We anticipated that that issue would arise, and in order to address that issue, Stagecoach Territory has retained the firm of Hatch Mott Macdonald to make a complete study of the traffic situation. For your information I have enclosed a copy of the proposal made by that firm pertaining to the study.

Tim McCormick stated during the meeting that if we disagreed with your decision, we would need to file an appeal of that decision. Please regard this letter as constituting that appeal.

This letter will also confirm that the County has received a binder of background information, which we will look forward to receiving. Mr. McCormick indicated the binder included Code Enforcement conclusions which are protected. I wish to go on record here as objecting to our lack of access to those conclusions, the reason being that if conclusions have been made, in the fairness of justice we need an opportunity to respond to them. You also indicated you would provide us with materials submitted by the groups in opposing the Red Barn operation.

In summary, it is our understanding that the County's position is that the Red Barn is in violation of the 1977 use permit by operating outdoor sales outside the dotted area shown on the 1977 use permit map, and that any expansion beyond the 1977 use permit area for sales would have required a separate use permit.

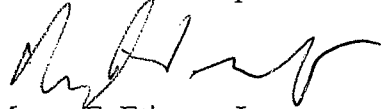
It is also our understanding that your further position is that the two subsequent use permits for additional parking areas did not allow a per se expansion of the outdoor retail sales area into the prior parking area unless a subsequent use permit was obtained.

It is my understanding that the additional documents will be available to us by Friday, April 3, 2009, and we look forward to receiving them. Kindly advise on that subject.

Mr. Mike Novo
April 3, 2009
Page 4

Respectfully,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng

cc: Frances Ellingwood and Ken McPhail

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

Blanca E. Zarazua

April 14, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Novo:

I am enclosing a copy of my letter to you dated April 3, 2009.

I direct your attention to the last paragraph, on page 1, which continues on page 2. I would appreciate receiving the results of the research you intended to make, as noted in that paragraph.

I also direct your attention to the second to last paragraph on page 2. You indicated you would get back to us in a few days to confirm specifically each of the violations noted in that paragraph. We would appreciate receiving that information at your earliest convenience.

With reference to traffic, as stated in my letter of April 3rd, Stagecoach Territory has retained Hatch, Mott, MacDonald to make a complete study of the traffic situation, and that study is now ongoing. Our clients accepted the proposal made by Hatch, Mott, MacDonald, and I am advised that a report will be ready by mid-May. We have retained the traffic expert in response to Mr. McCormick's statement that the traffic problem is regarded as a nuisance which needs to be addressed.

Mr. Mike Novo
April 14, 2009
Page 2

We await your early response to this letter. Thank you for your courtesy.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

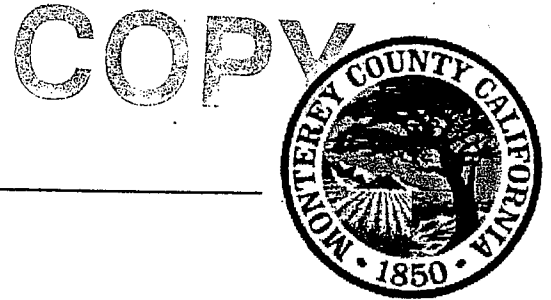


Myron E. Etienne, Jr.

MEE:ng

cc: Ms. Frances Ellingwood
Mr. Ken McPhail

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY



PLANNING DEPARTMENT, Mike Novo, Director

168 W. Alisal St., 2nd Floor
Salinas, CA 93901

(831) 755-5025
FAX (831) 757-9516

April 16, 2009

Ken McPhail
1000 Highway 101
Aromas, CA 95004

**Subject: Stagecoach Territory (Red Barn); phone call to CAO Lew Bauman
(CE080396/PD080726)**

Dear Mr. McPhail:

I have been asked to respond to a phone call you made to Lew Bauman earlier this week. As we explained at our last meeting, the County is not seeking to shut down the Red Barn operation. We are working with you to ensure compliance with earlier Use Permit approvals by the County. We have advised you of our position on the area approved for open air retail sales uses on the site. Your attorney is reviewing the information and we will continue to work with you on bringing this matter to successful resolution.

If you have any questions, please contact me at (831) 755-5192 (or novom@co.monterey.ca.us).

Sincerely,


Mike Novo

cc: Frances Ellingwood 1000 Highway 101 Aromas, CA 95004
✓ File PD080726
Myron E. Etienne, Jr., Noland Hamerly Etienne Hoss, PO Box 2510 Salinas, CA,
93902-2510
Bill Dunn, Code Enforcement
Les Girard, Assistant County Counsel
Tim McCormick, Building Services Director
Lew Bauman, Chief Administrative Officer
Supervisor Calcagno



Mr. Roadshow » Gary Richards

Misery on Highway 101

Q I am commiserating with frustration from readers on the Red Barn congestion at Highway 101 in Monterey County, and going out on a limb to suggest ending those dreaded flea markets. I live near there, and massive congestion on this major highway is a weekly Sunday event. The complaints of local residents are constant and I often hear complaints of motorists (Oh, you live down there? How do you deal with that horrible Red Barn?). While we patiently wait for an overpass to be built in the next decade, is there a way to appeal to any government transportation or zoning body to get that weekly flea market shut down?

Red Barn CPA

Dori B. Aronias

A Your misery has company, lots of it.

Q Coming back from the coast one afternoon, again traffic was backed up from San Miguel Canyon Road to past the Red Barn on 101. We crawled the entire way. It's idiocy to have such a traffic clogger (the Red Barn flea market) on a major highway artery. ... This is a nightmare. It can back up traffic all the way to Salinas, maybe 10 miles. ... This flea market shuts down our county.

Dana Leisinger, Gordon Sonne and zillions more

A I've fielded these complaints for over a decade,

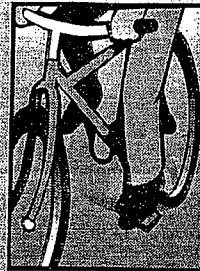
ROADSHOW FOCUS

Free bike helmet, lights giveaway

What: San Jose will give away 150 helmets and 120 sets of bicycle lights.

When: 5 p.m. to 7 p.m. Tuesday outside the Martin Luther King Library at 4th and San Fernando streets. You must bring your bike. Volunteers will install lights.

Today: A public workshop on city's bike master plan, 6 p.m. to 7:30 p.m., rooms 118-119 at City Hall. Go to www.sanjoseca.gov/transportation/bikeped/bikeped_update.asp for information.



Source: CHP, Caltrans

MERCURY NEWS

and finally there may be a solution. Monterey County officials have filed a "Notice of Violation" after reviewing old flea market permits. They believe the Red Barn folks have expanded the flea market beyond the limits permitted in 1979, and they need to either reduce the area used for outdoor sales or apply for a new permit. Flea market officials disagree, and a hearing is scheduled for today. But there is some bad news. Plans to build an interchange at 101 and San Juan Road, which should ease the problem of making left turns to get on and off 101, may be delayed. A sales tax measure on last month's ballot in Monterey County failed to clear the two-thirds hurdle, getting 62.56 percent approval. Without the \$28 million it would have provided for that work, construction may be delayed.

Q On a drive to Los Angeles, I was on Interstate 405 and had the feeling the lanes on this freeway were not as wide as the lanes on Northern California freeways. Is that possible? Is there a standard lane width or was I just imagining the lanes to be narrower on the 405?

**Paul Sagers
San Jose**

A You're not imagining it. The lanes on the segment of I-405 from I-10 to Highway 101 are 11 feet wide instead of the standard 12. This freeway was built between 1958 and 1963 as an eight-lane road with four 12-foot-wide lanes in each direction, along with 8- to 10-foot shoulders and a 22-foot median. But in a restriping project in 1985, the lanes were reduced to 11 feet and the median was used to widen the freeway to five lanes in each direction. An 11-foot-wide carpool lane was

added southbound in 2002 from Burbank Boulevard to Waterford Street, and last year from Waterford Street to the I-10/I-405 interchange.

Q When will the I-205 widening be completed? I will be moving to Tracy next summer to attend pharmacy school at the University of the Pacific in Stockton.

**David Ha
San Jose**

A I'm hearing good news. The official completion date on this much-anticipated widening to six lanes is June. But Roadshow insiders say the extra lanes from 11th Street to I-5 could be ready sooner.

Q A "No Bikes" sign has been stenciled into the pavement on El Monte Road in Los Altos Hills past the intersection with Elena/Moody/College Loop. Why?

**Jeff Orum
Sunnyvale**

A The ban was installed to encourage bicyclists to use a new pathway through the college. But upon further review, town officials fear some drivers may act more aggressively toward bicyclists with the markings in place, so signs will be removed this week.

Contact Gary Richards at mrroadshow@mercurynews.com or (408) 920-5335.



April 25, 2009

RECEIVED

MAY 04 2009

ADMIN OFFICE
MONTEREY COUNTY

The County Administrators Office of
Monterey County
168 W. Alisal St - 3rd floor
Salinas, Ca. 93901
Attn: County Administrator

Dear Sir/Madame,

I am sending this letter to you on behalf of our customer, Stage Coach Territory (aka The Big Red Barn), located at : 1000 Hwy 101 Aromas, Ca. 95004.

This letter is intended to inform you that the above listed customer represents a great presence in Monterey County. They are responsible for leveraging high volume beverage sales to my employer, The Pepsi Bottling Group, located at 135 Martella Street Salinas, Ca. 93901.

We appreciate all they do to promote our brands and help drive sales.

Fran and Ken are valuable customers to PBG, as well as the community, and we hope to continue a long and prosperous business relationship with them.

If you have any questions or concerns, please feel free to contact myself at the number listed below or my boss, Food Service Manager, Jenny Oliveria at (707)590-3425.

Cordially,

A handwritten signature in black ink, appearing to read "Annette Smith-Lovas".

Annette Smith-Lovas
Business Development Representative
Office (831) 796-2017
Cell (831) 750-4102

Cc: file, SCT

NOLAND
HAMERLY
ETIENNE
&
HOSS

Attorneys at Law A PROFESSIONAL CORPORATION

WWW.NHEH.COM
E-MAIL DETIENNE@NHEH.COM
831-424-1414 EXT. 224
OUR FILE NO. 08751.021

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

April 27, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Novo:

As you are aware, I wrote you on April 3 and April 14, 2009. I am very disappointed that there has been no response to my letters, as promised during our meeting of April 1st.

We are now at the point where I believe a reasonable period of time has passed for a response. Since I have not heard from you, I presume that nothing further will be forthcoming from your office.

On that assumption, I believe it would be extremely important to have another meeting which, hopefully, will be our last on this subject. I will be out of the office from May 1st through the 8th, and while you indicated there might be a hearing before the Planning Commission on May 13th, I would respectfully request that the hearing be postponed until we can have one more opportunity to discuss this matter with you. To be perfectly frank, I believe it would be to the County's advantage to comply with our request.

Mr. Mike Novo
April 27, 2009
Page 2

I would very much appreciate hearing from you at your earliest convenience, hopefully, before April 30th as I am away starting May 1st.

Respectfully,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng

cc: Ms. Frances Ellingwood
Mr. Ken McPhail

NOLAND
HAMERLY
ETIENNE
& HOSS

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510
831-424-1414 FAX 831-424-1975
SALINAS 831-424-1414 MONTEREY 831-373-3622 KING CITY 831-386-1080 GILROY 408-846-1118
E-MAIL: DETIENNE@NHEH.COM

Attorneys at Law A PROFESSIONAL CORPORATION

FACSIMILE TRANSMISSION

DATE: May 29, 2009

TIME:

RECIPIENT	FACSIMILE NO.	TELEPHONE NO.
Mr. Mike Novo Resource Management Agency	(831) 757-9516	(831) 755-5192

FROM: Myron E. Etienne, Jr.

TRANSMITTED BY:

RE: Stagecoach Territory/Big Red Barn

NUMBER OF PAGES TRANSMITTED, INCLUDING COVER: 2

CLIENT MATTER NO.: 08752.021

URGENT

FOR REVIEW

PLEASE COMMENT

FOR YOUR INFORMATION

MESSAGE:

Please see attached correspondence.

CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISCLOSURE, DISTRIBUTION, COPYING OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE UNITED STATES POSTAL SERVICE. THANK YOU.

HARD COPY WILL:

FOLLOW BY MAIL

FOLLOW BY OVERNIGHT COURIER

NOT FOLLOW

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL SENDER AS SOON AS POSSIBLE

**NOLAND
HAMERLY
ETIENNE
HOSS**

Attorneys at Law A PROFESSIONAL CORPORATION

WWW.NHEH.COM
E-MAIL DETIENNE@NHEH.COM
831-424-1414 EXT. 224
OUR FILE NO. 08751.021

*Harry L. Noland
(1904-1991)*

*Paul M. Hamerly
(1920-2000)*

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascal Kemp

Jo Marie Omeier

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

May 29, 2009

**VIA FACSIMILE
AND UNITED STATES MAIL**

Mr. M ke Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

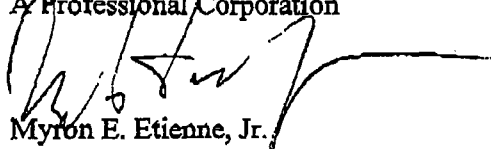
Dear Mr. Novo:

I am confirming our telephone conversation of today. You indicated that the matter was going to be set before the Planning Commission on June 10th and that we are entitled to one continuance. We will not be able to have our materials prepared by that time. Consequently, please regard this as a request for a continuance until June 24, 2008.

This will also constitute a request for the documents which support your position. Please advise as to when we may pick them up.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation


Myron E. Etienne, Jr.

MEE:ng

cc: Frances Ellingwood
Ken McPhail

PHONE 831-424-1414

FROM MONTEREY 831-372-7525

FAX 831-424-1975

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510

08751021V:24095.1:52909

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

May 29, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

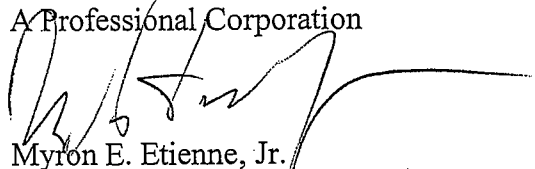
Dear Mr. Novo:

I am confirming our telephone conversation of today. You indicated that the matter was going to be set before the Planning Commission on June 10th and that we are entitled to one continuance. We will not be able to have our materials prepared by that time. Consequently, please regard this as a request for a continuance until June 24, 2008.

This will also constitute a request for the documents which support your position. Please advise as to when we may pick them up.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation


Myron E. Etienne, Jr.

MEE:ng

cc: Frances Ellingwood
Ken McPhail

NOLAND
HAMERLY
ETIENNE
&
HOSS

Attorneys at Law A PROFESSIONAL CORPORATION

WWW.NHEH.COM
E-MAIL DETIENNE@NHEH.COM
831-424-1414 EXT. 224
OUR FILE NO. 08751.021

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

June 1, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

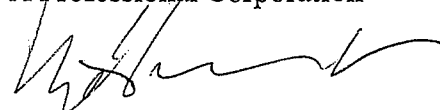
Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Novo:

I am enclosing the Notice of Public Hearing which was posted on the Big Red Barn property. I understand this meeting will be continued to June 24th. By this letter, I request that you immediately provide me with the specific violations of the use permits which were referenced in the Notice, specifically ZA3117, ZA3567 and ZA3629. The reason why I am asking for this is we know what the violation alleged is as far as the original permit, ZA3117. As to the parking permit application, there was some discussion of that in one of our meetings. As you have been advised, Faris Speirs advised our people to leave things alone until notified that they should go forward. If we have arrived at that point, we want to correct the situation so that we are in full compliance with any conditions of that particular permit.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng

Enclosure

cc: Frances Ellingwood and Ken McPhail

RECEIVED BY FAX

JUN 01 2009

Notice of Public Hearing

Monterey County Planning Commission

NOTICE IS HEREBY GIVEN that the Monterey County Planning Commission, State of California will hold a Public Hearing to consider the project described below. The hearing will be held on **Wednesday, June 10, 2009** at the hour of **9:00 AM** in the Monterey County Board of Supervisors Chambers, County Government Center, 168 West Alisal Street, Salinas, California, at which time and place any and all interested persons may appear and be heard thereon.

Project Title: STAGECOACH TERRITORY (RED BARN)
Project File No: PD080726
Project Location: HWY 101 AROMAS
Assessor's Parcel No: 141-013-004-000
Permit Type: N/A
Planning Area: North County Area Plan
Environmental Status: N/A

Note:
Project Description:

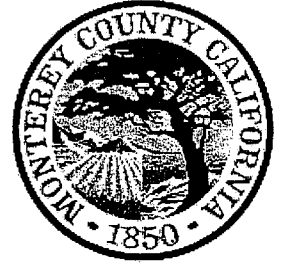
This project is not located in the Coastal Zone.
CONSIDER MODIFICATION OR REVOCATION OF USE PERMITS ZA-3117, ZA-3567 AND ZA-3629 FOR THE "RED BARN" OPERATION AT 1000 HIGHWAY 101, AROMAS DUE TO THE RED BARN'S EXPANSION OF OUTDOOR SALES BEYOND THE BOUNDARIES ALLOWED BY THE USE PERMITS AND VIOLATION OF CERTAIN CONDITIONS OF APPROVAL. THE EXISTING USE PERMITS ALLOW OUTDOOR RETAIL SALES, BEER TASTING, SNACK FOOD BAR, WINE TASTING AND SALES, AND PARKING. THE REASON FOR THE PUBLIC HEARING IS FOR THE PLANNING COMMISSION TO TAKE TESTIMONY AND THEN CONSIDER WHETHER TO REVOKE OR MODIFY THE USE PERMITS

IF YOU CHALLENGE THIS MATTER IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS PUBLIC NOTICE OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE APPROPRIATE AUTHORITY AT OR BEFORE THE PUBLIC HEARING.

FOR ADDITIONAL INFORMATION CONTACT:

STEVE MASON, Project Planner
Monterey County Resource Management Agency-Planning Department
168 West Alisal St, 2nd Floor, Salinas, CA 93901
(831) 755-5228 or masons@co.monterey.ca.us

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY – PLANNING DEPARTMENT



MEMORANDUM

Date: May 13, 2009

To: Mike Novo, Chad Alinio and Bill Dunn

From: Steve Mason, Assistant Planner

Subject: Red Barn (CE080396/PD080726)

VIOLATION(S)

CODE SECTION		DESCRIPTION OF VIOLATION(S)
1.	M.C.C. 21.84.040A	Violation of Permit Conditions, expansion of flea market sales area into areas not part of the approvals under ZA03117. A public nuisance per 21.84.050 MCC
2.	M.C.C. 21.84.040A	Violation of Permit Conditions, expansion of flea market sales into parking areas of parcel 141-013-001 violating Condition of ZA3629-D. A public nuisance per 21.84.050 MCC.
3.	M.C.C. 21.84.040A	Parking related to flea market extended into Rural Density Residential zoned area of Parcel 141-013-011 contrary to the provisions of 21.16.070 MCC and Use Permit ZA3567. A public nuisance per 21.84.050 MCC

Specific Use Permit Violations:

ZA3117 (Apr 14, 1977): The present sales area has exceeded the area on the Use Permit site map designated as “outdoor sales” and has encroached on the area designated as “parking.”

ZA3567 (Nov 30, 1978): Condition 3 – “That there be no increase in the sales activity on the existing or proposed parking lot areas.”

NOLAND
HAMERLY
ETIENNE
& HOSS

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510
831-424-1414 FAX 831-424-1975
SALINAS 831-424-1414 MONTEREY 831-373-3622 KING CITY 831-386-1080 GILROY 408-846-1118
E-MAIL: DETIENNE@NHEH.COM

Attorneys at Law A PROFESSIONAL CORPORATION

FACSIMILE TRANSMISSION

DATE: June 1, 2009

TIME:

RECIPIENT	FACSIMILE NO.	TELEPHONE NO.
Mr. Mike Novo Resource Management Agency	(831) 757-9516	(831) 755-5192

FROM: Myron E. Etienne, Jr.

TRANSMITTED BY:

RE: Stagecoach Territory/Big Red Barn

NUMBER OF PAGES TRANSMITTED, INCLUDING COVER: ~~2~~ 3 CLIENT MATTER NO.: 08751.021

URGENT FOR REVIEW PLEASE COMMENT FOR YOUR INFORMATION

MESSAGE:

Please see attached correspondence.

CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISCLOSURE, DISTRIBUTION, COPYING OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE UNITED STATES POSTAL SERVICE. THANK YOU.

HARD COPY WILL: FOLLOW BY MAIL FOLLOW BY OVERNIGHT COURIER NOT FOLLOW

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL SENDER AS SOON AS POSSIBLE

NOLAND
HAMERLY
ETIENNE
HOSS

Attorneys at Law A PROFESSIONAL CORPORATION

COPY

WWW.NHEH.COM
E-MAIL DETIENNE@NHEH.COM
831-424-1414 EXT. 224
OUR FILE NO. 08751.021

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwafel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianaccol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

June 1, 2009

VIA FACSIMILE
AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

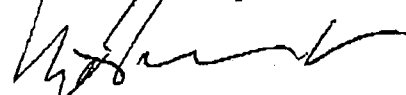
Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Novo:

I am enclosing the Notice of Public Hearing which was posted on the Big Red Barn property. I understand this meeting will be continued to June 24th. By this letter, I request that you immediately provide me with the specific violations of the use permit; which were referenced in the Notice, specifically ZA3117, ZA3567 and ZA3629. The reason why I am asking for this is we know what the violation alleged is as far as the original permit, ZA3117. As to the parking permit application, there was some discussion of that in one of our meetings. As you have been advised, Faris Speirs advised our people to leave things alone until notified that they should go forward. If we have arrived at that point, we want to correct the situation so that we are in full compliance with any conditions of that particular permit.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng
Enclosure
cc: Frances Ellingwood and Ken McPhail

PHONE 831-424-1414

FROM MONTEREY 831-372-7525

FAX 831-424-1975

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510

08751021\124194.1:60109

RECEIVED BY FAX

JUN 01 2009

Notice of Public Hearing

Monterey County Planning Commission

NOTICE IS HEREBY GIVEN that the Monterey County Planning Commission, State of California will hold a Public Hearing to consider the project described below. The hearing will be held on **Wednesday, June 10, 2009** at the hour of **9:00 AM** in the Monterey County Board of Supervisors Chambers, County Government Center, 168 West Alisal Street, Salinas, California, at which time and place any and all interested persons may appear and be heard thereon.

Project Title:	STAGECOACH TERRITORY (RED BARN)
Project File No:	PD080726
Project Location:	HWY 101 AROMAS
Assessor's Parcel No:	141-013-004-000
Permit Type:	N/A
Planning Area:	North County Area Plan
Environmental Status:	N/A
Note:	This project is not located in the Coastal Zone.
Project Description:	CONSIDER MODIFICATION OR REVOCATION OF USE PERMITS ZA-3117, ZA-3567 AND ZA-3629 FOR THE "RED BARN" OPERATION AT 1000 HIGHWAY 101, AROMAS DUE TO THE RED BARN'S EXPANSION OF OUTDOOR SALES BEYOND THE BOUNDARIES ALLOWED BY THE USE PERMITS AND VIOLATION OF CERTAIN CONDITIONS OF APPROVAL. THE EXISTING USE PERMITS ALLOW OUTDOOR RETAIL SALES, BEER TASTING, SNACK FOOD BAR, WINE TASTING AND SALES, AND PARKING. THE REASON FOR THE PUBLIC HEARING IS FOR THE PLANNING COMMISSION TO TAKE TESTIMONY AND THEN CONSIDER WHETHER TO REVOKE OR MODIFY THE USE PERMITS

IF YOU CHALLENGE THIS MATTER IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS PUBLIC NOTICE OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE APPROPRIATE AUTHORITY AT OR BEFORE THE PUBLIC HEARING.

FOR ADDITIONAL INFORMATION CONTACT:

STEVE MASON, Project Planner
Monterey County Resource Management Agency-Planning Department
168 West Alisal St, 2nd Floor, Salinas, CA 93901
(831) 755-5228 or masons@co.monterey.ca.us

COPY

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY



PLANNING DEPARTMENT, Mike Novo, Director

168 W. Alisal St., 2nd Floor
Salinas, CA 93901

(831) 755-5025
FAX (831) 757-9516

June 6, 2009

Myron E. Etienne, Jr.
333 Salinas Street
PO Box 2510
Salinas, CA 93902-2510

VIA FACSIMILE: 424-1975 (hard copy to follow in the mail)

Subject: Stagecoach Territory (Red Barn)(CE080396/PD080726)

Dear Mr. Etienne:

I am responding to your letter of June 1, 2009. I have been working on a letter today to identify each violation and hope to have that to you on Monday or Tuesday. As it is a Saturday, I do not have the staff working on this case in the office today, so will need to wait until Monday to assure the list is comprehensive and accurate.

If you have any questions, please contact me at (831) 755-5192 (or novom@co.monterey.ca.us).

Sincerely,


Mike Novo

cc: Frances Ellingwood 1000 Highway 101 Aromas, CA 95004
File PD080726
Ken McPhail 1000 Highway 101 Aromas, CA 95004
Bill Dunn, Code Enforcement
Les Girard, Assistant County Counsel
Tim McCormick, Building Services Director

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY



PLANNING DEPARTMENT, Mike Novo, Director

168 W. Alisal St., 2nd Floor
Salinas, CA 93901

(831) 755-5025
FAX (831) 757-9516

June 9, 2009

COPY

Myron E. Etienne, Jr.
333 Salinas Street
PO Box 2510
Salinas, CA 93902-2510

VIA FACSIMILE: 424-1975 (hard copy to follow in the mail)

Subject: Stagecoach Territory (Red Barn)(CE080396/PD080726)

Dear Mr. Etienne:

I am responding to your letter of April 27, 2009 and as a follow up to phone conversations we have had since that time. We have scheduled a hearing for the June 10, 2009, Planning Commission meeting, as we discussed earlier. You have requested a continuance to June 24, 2009 and staff is recommending that action to the Planning Commission. We have not provided them any information in the staff report other than the request for a continuance.

You asked in your earlier letters and in our phone conversations that we identify what violations we have identified. To date, we have identified the following:

- Outdoor retail sales outside the authorized area (Use Permit ZA03117, ZA-3567 D, Condition 3, and ZA-3629-D)
- Left turn from Highway 101 into the site (Use Permit ZA-3629-D, Condition 9)
- Parking and storage of vehicles in Rural Density Residential area (Use Permit ZA-3567)
- Lack of fence at end of parking area (Use Permit ZA-3567)
- Lack of required landscaping (ZA-3629, Conditions 1 and 2)
- Outdoor retail sales on APN 141-013-011 (Use Permit ZA-3567)

In addition, you asked for information that we used in making our determination. You already have the documents from our binder presented in our April discussions. Those documents have been labeled with consecutive page numbers. Additional sections of the zoning ordinance in effect at the time were also used in making our determinations. We have attached relevant sections of the zoning ordinances.

Since the time of our determination and subsequent to our last meeting, in researching more information for the staff report, we have collected more information, which is available for your

***SECTION 28.6: REGULATIONS FOR "E" OR FRONTAGE EXEMPTION DISTRICTS.**

The following regulations shall apply in all districts with which are combined "E" Districts, in addition to the regulations hereinbefore specified therefore, and shall be subject to the provisions of Section 30 of this Ordinance, provided however, that if any of the regulations specified in this Section differ from any of the corresponding regulations specified in this Ordinance for any district with which is combined an "E" District, or from the provisions of Section 30, then in such case, the provisions of this Section shall govern.

a. Uses Permitted:

All uses permitted in the respective district with which the "E" District is combined.

b. Building Site Frontage:

Every building site shall have frontage on a public street as set forth in Section 30d., unless such site is 2-1/2 acres or more in area, in which case said site may front on a private road right-of-way and provided that a building setback of sixty feet from the center line of said road be held.

****SECTION 28.7: REGULATIONS FOR TRAILER EXCLUSION OR "J" DISTRICTS.**

The following regulations shall apply in all districts with which are combined "J" Districts, in addition to the regulations hereinbefore specified therefore, provided, however, that if any of the regulations specified in this Section differ from any of the corresponding regulations specified in this Ordinance for any district with which is combined a "J" District, then in such case the provisions of this Section shall govern.

No trailer or mobile home shall be used as living quarters.

*****SECTION 28.8: REGULATIONS FOR MOBILE HOME OR "L" DISTRICTS.**

The following regulations shall apply in all districts with which are combined "L" Districts, in addition to the regulations hereinbefore specified therefore, provided, however, that if any of the regulations specified in this Section differ from any of the corresponding regulations specified in this Ordinance for any district with which is combined a "L" District, then in such case the provisions of this Section shall govern.

a. Uses Permitted:

All uses permitted in the respective district with which the "L" District is combined.

Amended by Ordinance No. 1414, May 3, 1965.

** Adopted by Ordinance No. 1632, September 24, 1968.*

**** Adopted by Ordinance No. 1819, August 3, 1971.*

- (12) Art galleries.
- (13) Tract offices.
- (14) Country clubs.
- (15) Golf courses with standard length fairways.
- (16) Practice fairway golf course, provided that the use is established on a minimum of ten acres of property usable for said purpose.
- (17) Kennels for dogs or cats.
- (18) Public or quasi-public uses, including churches, fire houses, parks and playgrounds, schools (public and parochial) and schools accredited to State School System, public utility uses, and parking lots.
- (19) Riding academies and public stables.
- (20) Signs, not over twenty square feet appurtenant to any permitted use.
- (21) Labor camps.
- (22) Signs not over one hundred square feet in the aggregate, advertising the sale of a subdivision.
- (23) Animal hospitals.
- (24) Poultry farms.
- *(25) Storage and sale of hay and grain, not grown on the premises, provided that the use is established on a minimum of five acres.
- ** (26) Riding and roping arena operations on a minimum of ten acres.

c. Minimum Building Site Area Required:

Twenty thousand square feet, except as otherwise indicated on the Sectional District Maps.

d. The following regulations shall apply but may be modified subject to first securing a Use Permit in each case:

(1) Maximum Building Height Limit:

Thirty-five feet.

(2) Minimum Building Site Width Required:

One hundred feet.

(3) Minimum Front Yard Required:

Sixty feet from the center line of any road right-of-way.

(4) Minimum Side Yard Required:

Ten feet.

(5) Minimum Rear Yard Required:

Ten feet.

e. Building Site Frontage Required:

None.

* Adopted by Ordinance No. 1753, August 18, 1970.

** Adopted by Ordinance No. 1807, June 27, 1972.

studios and tailor shops, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located.

(2) Pet shops and boarding kennels, auto sales, (except used cars), dancing academies, wholesale stores or storage (except those requiring a Use Permit under sub-section 22b.), auto repair shops, service stations (except those requiring a Use Permit under sub-section 22b.), auto laundries, bottling works, carpenter shops, lumber yards, undertaking establishments, paint, paperhanging and decorator's shops, plumbing shops, tinsmith shops, storage of household goods.

(3) Signs appurtenant to any permitted use shall be permitted for each establishment according to the following formula:

(a) Signs shall be permitted to have an area not to exceed three (3) square feet for each one (1) foot of frontage, provided that any business establishment shall be allowed a sign of fifty (50) square feet and no more than three hundred (300) square feet, and further provided that the area permitted may be divided into not more than six (6) single or double faced signs; said formula shall apply to each street frontage.

(b) Signs not exceeding fifteen (15) square feet in area for each building site may be displayed for the purpose of advertising the sale or lease of property upon which displayed.

b. Uses Permitted, subject to first securing a Use Permit in each case:

- (1) Dwellings, duplexes, multiple dwellings, dwelling groups, hotels, clubs, and lodges.
- (2) Labor camps and trailer camps.
- (3) Public and quasi-public uses, including schools, churches, and public utility buildings, and uses.
- (4) Drive-in banks, open air retail and wholesale sales, drive-in restaurants, theaters, laundries, development laboratories, used-car sales, used or second-hand goods, and other uses which are of similar character.

SECTION 22: REGULATIONS FOR GENERAL COMMERCIAL OR "C-2" DISTRICTS

The following regulations shall apply in all "C-2" Districts and shall be subject to the provisions of Section 30 of this Ordinance.

a. Uses Permitted:

- * (1) Retail stores and shops of a light commercial character and conducted within a building, including appliance stores, banks, barber shops, beauty parlors, book stores, laundrettes, cleaner or laundry agents, dress shops, drug stores, food stores, furniture shops, millinery shops, offices, radio sales, restaurants, shoe shops, storage garages, studios and tailor shops, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located.
- (2) Pet shops and boarding kennels, auto sales, (except used cars), dancing academies, wholesale stores or storage (except those requiring a Use Permit under subsection 22b.), auto repair shops, service stations (except those requiring a Use Permit under subsection 22b.), auto laundries, bottling works, carpenter shops, lumber yards, undertaking establishments, paint, paperhanging and decorator's shops, plumbing shops, tinsmith shops, storage of household goods.
- (3) Signs appurtenant to any permitted use shall be permitted for each establishment according to the following formula:
 - (a) Signs shall be permitted to have an area not to exceed three (3) square feet for each one (1) foot of frontage, provided that any business establishment shall be allowed a sign of fifty (50) square feet and no more than three hundred (300) square feet, and further provided that the area permitted may be divided into not more than six (6) single or double faced signs; said formula shall apply to each street frontage.
 - (b) Signs not exceeding fifteen (15) square feet in area for each building site may be displayed for the purpose of advertising the sale or lease of property upon which displayed.

b. Uses Permitted, subject to first securing a Use Permit in each case:

- (1) Dwellings, duplexes, multiple dwellings, dwelling groups, hotels, clubs, and lodges.
- (2) Labor camps and trailer camps.
- (3) Public and quasi-public uses, including schools, churches, and public utility buildings.

Adopted by Ordinance No. 1685, August 19, 1969.

in tandem position. Each space must be accessible and usable and at least ten feet by forty feet in size located off the street. (Ord. 1619 (part), 1968; Ord. 1506 (part), 1966; Ord. 911 § 21.2(i), 1955.)

Chapter 20.34

REGULATIONS FOR GENERAL COMMERCIAL OR C-2 DISTRICTS

Sections:

- 20.34.010 Applicability.
- 20.34.020 Uses permitted.
- 20.34.030 Uses permitted--Use Permit required in each case.
- 20.34.040 Accessory uses and buildings.
- 20.34.050 Building height.
- 20.34.060 Building site area.
- 20.34.070 Building site width.
- 20.34.080 Front yard.
- 20.34.090 Side yards.
- 20.34.100 Rear yard.

20.34.010 APPLICABILITY.

The regulations set forth in this chapter shall apply in all C-2 Districts and shall be subject to the provisions of Chapter 20.92. (Ord. 911 § 22(part), 1955.)

20.34.020 USES PERMITTED.

The uses permitted in C-2 Districts are:

1. Retail stores and shops of a light commercial character and conducted within a building, including appliance stores, banks, barbershops, beauty parlors, bookstores, launderettes, cleaner or laundry agents, dress shops, drugstores, foodstores, furniture shops, millinery shops, offices, radio sales, restaurants, shoeshops, storage garages, studios and tailor shops, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located;

2. Pet shops and boarding kennels, auto sales (except used cars), dancing academies, wholesale stores or storage (except those requiring a Use Permit under Section 20.34.030), auto repair shops, service stations (except those requiring a Use Permit under Section 20.34.030), auto laundries, bottling works, carpenter shops, lumber yards, undertaking establishments, paint, paper hanging and decorator's shops, plumbing shops, tinsmith shops, storage of household goods;

3. Signs appurtenant to any permitted use shall be permitted for each establishment according to the following formula:

a. Signs shall be permitted to have an area not to exceed three square feet for each one foot of frontage; provided, that any business establishment shall be allowed a sign of fifty square feet and no more than three hundred square feet; and, further provided, that the area permitted may be divided into not more than six single-faced or double-faced signs; said formula shall apply to each street frontage.

street side of a corner lot abuts on a R, K, or F District, in which case the side yard on the street side shall be the same as the front yard or side yard required in such R, K, or F District. (Ord. 911 § 22(h), 1955.)

20.34.100 — REAR YARD.

The minimum rear yard requirements are:

- A. Five feet where alley exists;
- B. Fifteen feet where no alley exists. (Ord. 911 § 22(i), 1955.)

Chapter 20.36

REGULATIONS FOR LIMITED INDUSTRIAL OR L-M DISTRICTS

Sections:

- 20.36.010 Applicability.
- 20.36.020 Uses permitted.
- 20.36.030 Uses permitted--Use Permit required in each case.
- 20.36.040 Accessory uses and buildings.
- 20.36.050 Building height.
- 20.36.060 Building site area.
- 20.36.070 Lot coverage.
- 20.36.080 Front yard.
- 20.36.090 Side yards.
- 20.36.100 Rear yard.
- 20.36.110 Special regulations.

20.36.010 APPLICABILITY.

The regulations set forth in this chapter shall apply in all L-M Districts and shall be subject to the provisions of Chapter 20.92. (Ord. 1024 (part), 1957; Ord. 991 (part), 1957; Ord. 911 § 22.1 (part), 1955.)

20.36.020 USES PERMITTED.

Uses permitted in the L-M Districts are:

1. Light industry, such as the manufacture of ties, shirts, hats, and other articles of clothing, upholstery; household effects such as lamps, rugs, draperies, and woven fabrics; shops for the assembling and completion of finished products, such as interior decorating and picture framing, craft shops for the manufacture of art, jewelry, silverware, ceramics, leather goods, toys, cartography, bookbinding, editorial and designing, printing, lithography, etc.; other light industries of a similar character; provided, that none of the above uses produce undue odor, dust, smoke, noise, or other objectionable effects;
2. Executive and professional offices;
3. Research laboratories; provided such use does not produce undue odor, smoke, noise, or other objectionable effects;
4. Nurseries and greenhouses. (Ord. 911 § 22.1(a), 1955.)

20.36.030 USES PERMITTED--USE PERMIT REQUIRED IN EACH CASE.

The uses permitted, subject to first securing a Use Permit in each case, are:

E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of Planning and Building Inspection when, due to the circumstances of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purposes of this Chapter.

21.18.040 USES ALLOWED.

A. Change of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure;

B. Water system facilities including wells and storage tanks serving four or fewer service connections, pursuant to Title 15.04, Monterey County Code, and replacement of water tanks and wells where no increase in service connections is created. The screening of any tanks and associated structures shall be approved by the Director of Planning and Building Inspection.

C. Cultivation, cutting or removal of Christmas trees.

D. Other uses of a similar character, density and intensity to those listed in this Section.

21.18.050 USES ALLOWED, ADMINISTRATIVE PERMIT REQUIRED IN EACH CASE. (CHAPTER 21.70)

A. Appliance store;

B. Barber shop;

C. Beauty shop;

D. Book store;

E. Clothing and apparel store;

F. Drug store;

G. Banks less than 5,000 square feet;

H. Shoe shop;

I. Shoe store;

J. Art gallery;

K. Convenience market;

L. Stationery and office supply store;

M. Photography studio;

N. Florist;

- J. Service stations (ZA);
- K. Caretaker unit for the purpose of providing on-site security (ZA);
- L. All residential uses provided that the gross square footage of the residential use does not exceed the gross square footage of the commercial use (ZA);
- M. Assemblages of people, such as carnivals, festivals, races and circuses not exceeding ten days and not involving construction of permanent facilities (ZA);
- N. Public and quasi-public uses including churches, parks, playgrounds, schools, public safety facilities, public utility facilities, but not including uses such as jails, detention facilities, rehabilitation centers, or corporation yards;
- O. Water system facilities including wells and storage tanks serving fifteen or more service connections (ZA);
- P. Other uses of a similar character, density and intensity as those listed in this Section;
- Q. Legal nonconforming use of a portion of a structure extended throughout the structure (ZA);
- R. Legal nonconforming use changed to a use of a similar or more restricted nature;
- S. Zoos or zoological gardens for the purpose of raising, maintaining, keeping or exhibiting any wild animal;
- T. Commercial kennel (ZA);
- U. Any lot or establishment where alcoholic beverages are served, commercial place of amusement or recreation, or any place where live entertainment is provided within 200 feet of the boundary of a residential district (ZA);
- V. Ridgeline development;
- W. Removal of minerals and natural materials for commercial purposes;
- X. Development in the Carmel Valley Floodplain, pursuant to Section 21.64.130 (ZA);
- Y. Wholesale and retail establishments distributing materials and products essential to agriculture and farming operations, except manure;
- Z. Day care centers (ZA);
- AA. The exploration for and the removal of oil and gas (ZA).
- BB. Auto repair facilities (ZA);
- CC. Storage garage (ZA);
- DD. Funeral homes (ZA);

D. Landscaping Requirements:

All developments allowed shall have landscaping covering a minimum of 10% of the developed site area subject to a plan approved by the Director of Planning and Building Inspection. The landscaping shall be in place prior to the commencement of use.

E. Lighting Plan Requirements

All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the Director of Planning and Building Inspection prior to the issuance of building permits or the establishment of the use.

F. Sign Regulations

Signing for all development shall be established pursuant to Chapter 21.60.

21.18.080 Special Regulations.

A. Manufactured dwelling units meeting the standards of Section 21.64.040 are permitted subject to the requirements of any conventional dwelling unit in this Chapter.

B. The following types of development are subject to Section 21.64.250 (Regulations for the Reduction of Vehicle Trips) of this Title:

- a) Any residential development of 25 or more units; or,
- b) Any new or expanded commercial or tourist oriented development which will employ 50 or more persons; or
- c) Any new or expanded commercial or tourist oriented development of 25,000 gross square feet or more.

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.

James D. Schwefel, Jr.

Stephen W. Pearson

Lloyd W. Lowrey, Jr.

Anne Secker

Randy Meyenberg

Michael Masuda

Christine Gianascol Kemp

Jo Marie Ometer

Terrence R. O'Connor

Kirk R. Wagner

Dale E. Grindrod

Lisa K. Omori

Leslie E. Finnegan

Timothy J. Baldwin

Charles Des Roches

Of Counsel

Peter T. Hoss

Martin J. May

June 10, 2009

VIA FACSIMILE, EMAIL AND UNITED STATES MAIL

Mr. Mike Novo
Director of Planning
Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Stagecoach Territory/Big Red Barn (CE080396/PD080726)
Determination of Validity of Violation Notice

Dear Mr. Novo:

I am responding to your letter of June 9, 2009 which I just had an opportunity to read as I was in mediation yesterday.

I must say I am extremely distressed and disturbed to learn that, at this late date, the Planning Department has "collected more information, which is available for my review". As you are aware, I have asked numerous times, in both letters and orally, since our initial meeting in December, 2008, for all evidentiary information pertaining to this matter which you promised to get to me promptly.

What has happened now is that information is being made available just two weeks before the Planning Commission hearing scheduled for June 24th. Given this late notice of additional documents, it is impossible for me to adequately prepare for the June 24th hearing¹, as I will be in Washington D.C. on business, June 14th -17th, with additional commitments on June 18th and 19th. Then the week following I am enrolled in a course on Monday and Tuesday (June 22nd and 23rd).

Given your Departments inability to provide me with all evidence in the County's files regarding this matter in a timely manner, this letter is to request a continuance of the hearing to July 8th. Without giving us adequate time to prepare, and

¹ As you know, your Department placed this matter on the June 10th agenda without consulting my office as to the date, requiring us to request a continuance to June 24th. Accordingly, the lack of willingness to work with us on a meeting date that would work for us caused us to have to request the initial continuance.

Mr. Mike Novo
June 10, 2009
Page 2

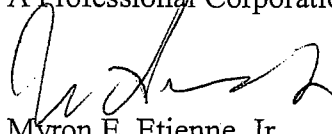
providing documents to us at the last minute, I believe the conduct of the Planning Department has prejudiced my client and is extremely unfair.

Additionally, please show us specifically on a map, where the Department alleges a fence has not been constructed; where landscaping is to occur; and what part of APN 141-0130-011 is in question. While we have defenses for all of the alleged allegations, I want to be sure we are all on the same page as to the areas in question

Please advise us immediately of your response to this letter.

Very truly yours,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation



Myron E. Etienne, Jr.

MEE:ng

cc: Frances Ellingwood