

SANTA BARBARA COUNTY PLANNING COMMISSION
Staff Report for Vander Meulen Appeal of Directors Determination

Hearing Date: June 29, 2016

Staff Report Date: June 8, 2016

Case No.: 16APL-00000-00003

Environmental Document: Notice of Exemption - CEQA Section 15378

Deputy Director: Jeff Wilson

Division: Development Review

Supervising Planner: Anne Almy

Supervising Planner Phone #:
(805) 568-2053

Staff Contact: Nicole Lieu, Planner

Staff Phone #: (805) 884-8068

OWNERS:

John and Michelle
Vander Meulen
1386 Solomon Road
Santa Maria, CA 93455

ATTORNEY/AGENT:

Richard Adam
625 East Chapel
Santa Maria, CA 93454
(805) 922-4553



1.0 REQUEST

Hearing on the request of Richard Adam, attorney for the owner, John Vander Meulen, to consider the appeal, Case No. 16APL-00000-00003 [application filed on January 21, 2016] in compliance with Chapter 35.102 of the County Land Use and Development Code, of the Director's determination of unpermitted recreational use of motor vehicles and establishment of a sports and outdoor recreation facility on property located in the 3-E-1 Zone; and to determine that the determination is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15378(b)(5)d, included as Attachment-B. The application involves Assessor Parcel No. 105-010-033, located at 4655 Song Lane, in the Santa Maria area, fourth Supervisorial District.

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below and deny the appeal, Case No.16APL-00000-00003 and affirm the Director's determination of unpermitted use based upon use of the subject property in a manner inconsistent with applicable ordinance provisions.

Your Commission's motion should include the following:

1. Deny the appeal, Case No.16APL-00000-00003.
2. Make the findings for affirmance of the Director's Determination in Attachment-A.
3. Determine that denial of the appeal and affirmance of the Director Determination is exempt from the provisions of CEQA pursuant to state CEQA Guidelines Section 15378, as specified in Attachment-B.
4. Affirm *de novo* the Director Determination dated January 12, 2016.

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

3.0 JURISDICTION

This project is being considered by the County Planning Commission based on Section 35.102.040.3 of the County Land Use and Development Code which states:

“The following decisions of the Director may be appealed to the Commission: a. Any determination on the meaning or applicability of the provisions of this Development Code . . . i. Any other action, decision, or determination made by the Director as authorized by this Development Code where the Director is the review authority, except when specifically provided that the action, decision, or determination is final and not subject to appeal.”

4.0 ISSUE SUMMARY

In January 2015, and again in August 2015, Planning and Development (P&D) received complaints regarding unpermitted recreational operation of motor bikes on a residential property, the use of an unpermitted motor bike race track, the hosting of racing events including the congregation of participants and spectators, and the nuisance of noise, dust, and odor due to on-site activities. P&D received both photos and videos (a sample video is currently available at

<https://vimeo.com/124671428>¹) of the activities as well as a petition against the activities, signed by 29 adjacent property owners (Attachment-H). The petition cites objections to the “noise, dirt and dust” produced by events on-site and to impacts from “unmuffled motor bikes with portable gas cans,” and states that the activities are not conducive to “residential peace and solitude.” A site visit by a P&D Building Inspector verified the presence of the track. A Notice of Violation (NOV) (Attachment-E, dated March 23, 2015) was mailed to the property owner, followed by a Notice of Determination (NOD) (Attachment-F, dated August 19, 2015) assessing a fine of \$100 after the unpermitted activities were not abated. A “Determination of Unpermitted Use” letter was issued by the P&D Director (Attachment-D, dated January 12, 2016). The letter outlines applicable ordinance provisions, states that the use of motorized vehicles for recreational purposes on residential lots is not permitted within the residential zone designations of the Santa Barbara County Land Use and Development Code as an accessory use, and identifies that sports and outdoor recreation facilities (such as the on-site track used for motor bike riding/racing) require a Conditional Use Permit (CUP) in the E-1 zone. Subsequently, an appeal of the Director’s determination was submitted by the attorney for the property owner (Attachment-C, dated January 21, 2016). The appeal issues and responses from staff are included in Section 6.1, below.

5.0 PROJECT INFORMATION

5.1 Site Information

Site Information	
Comprehensive Plan Designation	RES-0.33, Residential, 0.33 units/acre, Orcutt Community Plan Area
Ordinance, Zone	Land Use and Development Code (LUDC), 3-E-1, 3-acre minimum lot size
Site Size	7.28 Acres
Present Use & Development	Single-Family Residence, dirt track
Surrounding Uses/Zone(s)	North: Single-Family Residential, 1-E-1 South: Orcutt Creek, Hwy 1 East: Single-Family Residential, 1-E-1 West: Single-Family Residential, 3-E-1
Other site Information	Mapped Final Critical Habitat for La Graciosa Thistle Mapped range for Tiger Salamander Mapped Orcutt Open Space Easement
Access	Solomon Road
Public Services	Water Supply: Private Water System

¹ As of the date of this staff report, the video remains available online. However, the video content may be removed at any time by its owner. A copy of the video is on file with P&D.

Site Information	
	Sewage: Private Sanitary System Fire: Santa Barbara County Fire Police Services: County Sheriff

5.2 Setting

The subject property is a 7.28 acre site developed with a single-family residence, accessory structures, and an unpermitted motor bike track. While the properties immediately to the east and west of the site are zoned 3-E-1 (3-acre minimum parcel size), the majority of the properties in the immediate vicinity are zoned 1-E-1 (1-acre minimum parcel size). The property is identified as Key Site D in the Orcutt Community Plan. Orcutt Creek traverses the southern portion of the property. Within Key Site D, the Orcutt Open Space Easement is mapped for 200 feet on either side of Orcutt Creek. The property is mapped as final critical habitat for La Graciosa Thistle (*Cirsium scariosum var. loncholepis*) and as potential range for Tiger Salamander (*Ambystoma californiense*).

5.3 Background Information

- **January 26, 2015:** Violation complaint filed for motorcycles ridden on residential property, for races being held on-site resulting in noise and nuisance to surrounding properties, and for the construction of a race track without permits. Violation Case No. 15ZEV-00000-00040 is opened and a letter is mailed to the property owner (Attachment G-1).
- **January 28, 2015:** Second violation complaint filed by a different party for an unpermitted bike race track, dump trucks of road base and dirt, construction of a plywood enclosure/fence, the hosting of racing events and nuisance noise, dust and odor due to on-site activities.
- **March 23, 2015:** Notice of Violation (NOV) mailed to property owner (Attachment-E).
- **May 2015:** Site visit by Building Inspector confirms the construction of track utilized by motor vehicles. A letter (Attachment G-2) is mailed to the applicant noting that sports and outdoor recreation facility may only be permitted on the subject property through a Conditional Use Permit.
- **June 22, 2015:** Violation Case No. 15ZEV-00000-00040 closed due to the fact that unpermitted use appeared to have ceased (closure letter included as Attachment G-3).
- **August 17, 2015:** New violation complaint filed reporting the occurrence of a motorcycle event with approximately 15-20 people on the race track.
- **August 18, 2015:** Violation Case No. 15ZEV-00000-00287 is opened.
- **August 19, 2015:** Notice of Determination of Fine (NOD) is issued for \$100.00 (Attachment-F).

- **September 2015-January 2016:** Coordination between P&D staff and attorney for the property owner to attempt to establish a level of recreational use compatible with the surrounding neighborhood (see letters included as Attachments G-4 and G-5).
- **January 12, 2016:** Determination of Unpermitted Use letter issued by P&D Director (Attachment-D).
- **January 21, 2016:** Appeal of Director determination filed (Attachment-C).

6.0 PROJECT ANALYSIS

6.1 Appeal Issues

The property owner appealed the Director Determination and the letter of appeal from his attorney abbreviates the Director Determination as “NOD”. The Notice of Determination dated August 19, 2015, which the County refers to as an “NOD” is not under appeal and when “NOD” is used below, it refers to the Director Determination.

Appeal Issue 1. *“The NOD constitutes either the creation of an Ordinance or an amendment to an existing ordinance without compliance with the provisions of the California Government Code”; “NOD is egregious overstepping of the authority vested in the Director and is unlawful on its face”; “wholly contrary to the requirements of these and other code sections. It was not undertaken by elected officials (and, therefore, eviscerates the entire purpose of elected official accountability); and “unlawful, arbitrary, and an abuse of discretion.”*

Staff Response: The ordinance provisions cited within the NOD and the provisions cited in the Director’s determination of unpermitted use (Attachment-D) are existing provisions of the County’s LUDC. Those provisions are further discussed below. The Board-adopted LUDC vests interpretation and enforcement of the LUDC in the Director of Planning and Development. (35.12.020, 35.108.020, 35.110.010) The LUDC also provides that the Director has the authority to interpret any provision of the Development Code and may issue an official interpretation as was done here. (35.12.020) The Director’s Determination is consistent with the authority granted to the Director by the Board-adopted LUDC and is supported as discussed below.

Appeal Issue 1.a. *“LUDC Section 35.23.030 and LUDC Tables 2-7, 2-8, and 2-9 specifically enumerate the uses that are allowed (and not allowed) in residential zones . . . none of these sections prohibit use of ‘recreational operation of motorized vehicles in residential zones.’”*

Staff Response: The LUDC is permissive, meaning that it lists allowed uses and does not contain a comprehensive list of disallowed uses. Therefore, if a use is not specifically listed as an allowed use, it is not allowed, as specifically stated in Section 35.20.030.A.2. The

recreational operation of motorized vehicles is not listed as an allowed use in residential zones.

Further, LUDC Section 35.23.030.E. specifies that allowed uses, “*may include accessory structures and uses that are customarily incidental to the primary use . . .*” An “Accessory Use” is defined as “*A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.*” The recreational operation of motorized vehicles, as has occurred on-site, has resulted in significant noise, dust, and odor that is not customarily incidental to the principal residential use of the site. Importantly, due to the numerous complaints received, including a petition with the signatures of 29 area residents (included as Attachment-H) it is clear that the use of the lot for recreational operation of motorized vehicles has “*adversely affect[ed] other properties in the vicinity.*” Therefore, the recreational operation of motorized vehicles on this site in particular and residential zones generally does not meet the basic definition of an “accessory use” and it is not allowed on that basis.

However, Tables 2-7 through 2-9 under Section 35.23.30 of the LUDC indicate that sports and outdoor recreation facilities are an allowed use and permissible in residential zone districts² with the approval of a Conditional Use Permit (CUP). As discussed in detail under Appeal Issue 4, below, the physical characteristics and pattern of use of the on-site track demonstrate that the appellant has established a sports and outdoor recreation facility on-site. In order to validate the facility and its use, the property owner may apply for a CUP for use of the track by motorized vehicles.

Appeal Issue 1.b. “*Now . . . the recreational operation of motorized vehicles in Santa Barbara County is entirely prohibited in all residential zones.*”

Staff Response: The Director’s letter has indicated that the recreational use of motorized vehicles in residential areas is not incidental and subordinate to residential uses, is not a principally permitted use within the residential zone, and that outdoor sports and recreation facilities require a Conditional Use Permit. Recreational operation of motorized vehicles in residential zones is not “entirely prohibited,” as property owners may apply for a Conditional Use Permit to allow recreational operation of motorized vehicles at a sports and outdoor recreation facility.

Appeal Issue 1.c. “*The Director’s action constitutes the creation of an entirely new and broadly encompassing “use prohibition” and said creation is impermissible under California Law.*”

² With the exception of the Exclusive Residential and Multi-Family Residential-Orcutt zone districts

Staff Response: As discussed under Appeal Issue 1.a, above, the recreational use of motorized vehicles on the subject property is not allowed per the specifically enumerated uses in the residential zone districts, nor does it meet the definition of an accessory use due to the fact that it has demonstrably adversely affected other properties in the vicinity and is not incidental and subordinate to residential uses. The Director's action is consistent with his authority as designated in the Board-adopted LUDC and is a restatement and interpretation of the existing provisions of the LUDC, not the creation of a new "use prohibition." The recreational operation of motorized vehicles is not listed as an allowed use in residential zones and the Director's Determination interprets the LUDC term "accessory use" as it relates to the recreational operation of motorized vehicles in residential zones. Furthermore, the property owner may apply for a CUP for an outdoor sports and recreation facility. Therefore, there is a permit pathway for the property owner to seek the desired use and the use is not prohibited outright.

Appeal Issue 2. *"[T]his issue is a common dispute between neighbors that should be handled by the judicial branch of government under California Law....The issue is not one of compliance (because there is absolutely no prohibition of recreational use of motorized vehicles on residential property enumerated in the LUDC)....the County should defer to the branch of government that is best suited to handling such matters."*

The LUDC governs development and land uses in the County's jurisdiction and the County has the authority to "make and enforce within its limits all local, police, sanitary, and other ordinance and regulations not in conflict with general laws." (Cal. Const., art. XI, § 7.) As discussed above in Appeal Issue 1, if a use is not specifically listed as an allowed use, it is not allowed, and the recreational operation of motorized vehicles is not listed as an allowed use in residential zones. The Director has the authority to interpret any provision of the Development Code and may issue an official interpretation as was done here. The County has clear authority to act in the area of zoning and land use, regardless of whether there may also be private disputes on this matter.

Appeal Issue 3. *"The NOD is overly broad. The NOD prohibits 'the recreational operation of motorized vehicles . . . within the residential zone designations' of the LUDC."*

Staff Response: The January 12, 2016 Director's determination of unpermitted use (Attachment-D) states *"the recreational operation of motorized vehicles (e.g. commercial and non-commercial racing vehicles, motorcycles, go-carts, dune buggies, etc) is not compatible with the Purpose and Intent of residential zoning, it is not incidental and subordinate to residential uses; and is therefore not a permitted use within the residential zone designations . . ."*

As discussed under Appeal Issue 1a, above, the LUDC does not include the recreational operation of motor vehicles as an allowed use. Further, LUDC Section 35.23.030.E. specifies that allowed uses, “*may include accessory structures and uses that are customarily incidental to the primary use . . .*” An “Accessory Use” is defined as “*A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.*” However, recreational use of motor vehicles on the subject property and within the residential zone districts does not qualify as an accessory use due to the adverse effects of such use. The January 12, 2016 Director’s determination of unpermitted use states, “. . . *to be considered a permitted ‘accessory use’ the use cannot adversely affect other property in the vicinity. Given the number and nature of the ongoing complaints (disruption of the quality and comfort of the residential neighborhood) it has become evident that the impacts associated with the operation of motorized recreational vehicles on residential properties cannot be sufficiently reduced or self-regulated in a manner that provide adequate protection of the public health, safety, welfare or other character of the surrounding residential neighborhood.*”

Appeal Issue 4. “*The LUDC Sections cited in the NOD are vague, ambiguous, and therefore unenforceable, and the Director’s decision related to these sections are, particularly in light of the Director’s previous statements, an abuse of discretion*” and the ordinance is “*unable to inform a citizen how to comply*”.

Staff Response: Only the Director’s Determination is under appeal, not the terms contained within the LUDC. Land Use and Development Code Section 35.12.020 (Authority) establishes that, “*The Director has the authority to interpret any provision of this Development Code. Whenever the Director determines that the meaning or applicability of any Development Code requirement is subject to interpretation, the Director may issue an official interpretation.*” Therefore, the Director’s determination of unpermitted use (see Attachment-D) is specifically allowed and is not an abuse of discretion.

As discussed under Appeal Issue 1.a, above, allowed uses are specifically enumerated in the use tables within the LUDC, and the recreational operation of motorized vehicles is not allowed. The LUDC defines accessory uses and the use on site does not meet the applicable definition. The LUDC also defines sports and outdoor recreation facility and describes the required permit path for permitting such a use/facility (a CUP). Therefore, the LUDC sections cited by P&D staff are clear, defined and unambiguous and with the Director’s Determination, the public is informed how to comply with the LUDC.

Appeal Issue 5. *“The appellant’s unimproved property is not, under any conceivable definition, a ‘Sports and Outdoor Recreation Facility.’”*

Staff Response: A “Sports and Outdoor Recreation Facility” is defined in the LUDC as follows: *“Public and private facilities for various outdoor sports and other types of recreation, where the facilities are oriented more toward participants than spectators.”* Examples include: athletic/sport fields (e.g., baseball, football, polo, softball, soccer), tennis and other sport courts (e.g. handball, squash). The appellant states that there is no sport facility on-site and states, *“the term ‘facility,’ as defined by Merriam-Webster, means ‘something (such as a building or large piece of equipment) that is built for a specific purpose; something that makes an action, operation, or activity easier.”* Aerial photos of the site (please see Attachment-G) show a clearly defined speedway race track³ that has been developed on-site. The track initially included walls, which the attorney for the property owner indicated would be removed (see page 2 of Attachment G-4) but that neighbors indicate still exist⁴. Nonetheless, the track is a clearly visible and defined track that meets the LUDC definition for sports facility. Examples in the definition include fields that do not necessarily contain any structures. The track on-site has been used for motorbike (specifically speedway bike) racing and appears to have been designed and constructed for specifically that purpose (see video at <https://vimeo.com/124671428>). The level of use of the track on-site resulted in numerous neighbor complaints due to noise, dust, odor and other adverse impacts to the surrounding residential neighborhood. The combination of the use of the track for racing purposes, and the clearly defined boundaries of the approximately 250 foot by 150 foot tract, make it clear that it is a sports and outdoor recreation facility. The LUDC allows sports and outdoor recreation facilities to be permitted within most residential zone districts (including the E-1 zone) with the approval of a Conditional Use Permit (CUP).

Appeal Issue 6. *“To the extent that the NOD applies solely to the appellant’s residential property, the NOD also constitutes both unlawful spot zoning and an equal protection violation.”*

Staff Response: The Director’s Determination applies County-wide. The owner of the property has been the subject of the zoning violation and enforcement process that applies to any property owner in the County when a valid zoning violation complaint is filed and determined to be

³ Per Wikipedia: “[A] motorcycle speedway, usually referred to as speedway, is a motorcycle sport involving four and sometimes up to six riders competing over four anti-clockwise laps of an oval circuit. Speedway motorcycles use only one gear and have no brakes; racing takes place on a flat oval track usually consisting of dirt, loosely packed shale, ordolomite (mostly used in Australia and New Zealand). Competitors use this surface to slide their machines sideways, powersliding or broadsiding into the bends. On the straight sections of the track the motorcycles reach speeds of up to 70 miles per hour (110 km/h).”

⁴ The attorney for the property owner declined a recent request from staff to conduct a site visit in order to ascertain the current state of the track.

founded. Furthermore, the requirements of the LUDC and the Director's Determination apply equally to all properties within the geographic area of Santa Barbara County covered by the LUDC. The subject property is not being rezoned and is subject to the same requirements as adjacent, similarly zoned, properties.

When Planning and Development receives a complaint that a violation may exist, P&D investigates the merits of the complaint. When the complaint is determined to be valid, a NOV is issued. When a violation is not abated, a NOD is issued assessing a fine. In the case at hand, complaints were received, investigated, and determined to be valid. The property owner failed to abate the violation and therefore a NOD was issued. The same process would apply to all other County properties and therefore the property owner has received equal and fair treatment.

It has been determined that 1) the recreational use of motor vehicles on in residential zone designations results in adverse effects on adjacent properties, and 2) the combined use and physical characteristics of the on-site track constitute a sports and outdoor recreation facility (as discussed under Appeal Issue 4, above). Planning and Development (P&D) staff received multiple documented complaints regarding use of the on-site track for groups of people participating in motor bike riding, racing, and spectatorship. The reported use of the site resulted in nuisance dust, noise, and odor incompatible with the residential area. P&D received photos of the on-site track being used for racing/riding of motor bikes by multiple individuals and of vehicles and EZ shade booths used to support the activities. P&D received a video of the events documenting noise, dust generation, and the level of track use previously reported through complaints. A petition against the activities, signed by 29 adjacent property owners, was submitted to P&D. The petition cites objections to the "noise, dirt and dust" produced by events on-site and to impacts from "unmuffled motor bikes with portable gas cans," and states that the activities are not conducive to "residential peace and solitude." A site visit by a P&D Building Inspector verified the presence of the bike track. After receiving a notice to abate the violation, the property owner continued to conduct the unpermitted activities. Therefore, the facts of the case support the issuance of the NOV and NOD to the property owner.

6.2 Environmental Review

The Planning Commission's action to deny the appeal and affirm the Director's determination may be found exempt from environmental review based upon Section 15378 of the California Environmental Quality Act (CEQA) guidelines (see Attachment-B).

6.3 Comprehensive Plan Consistency

REQUIREMENT	DISCUSSION
Noise	
<p>County of Santa Barbara Noise Element: Pursuant to the County of Santa Barbara Noise Element, a noise level of 65 dB(A) CNEL⁵ is the maximum exterior noise exposure compatible with noise-sensitive uses unless noise mitigation features are included in project design.</p>	<p>The County of Santa Barbara Noise Element establishes that a 65 dB(A) CNEL noise level is the maximum exterior noise exposure compatible with noise-sensitive uses (such as residential properties). Vehicle Code Section 2702 limits most motorcycles to 80-88 decibels at a distance of 50 feet. This does not include off-highway vehicles. Speedway bikes fitted with silencers often emit a noise level of 96 decibels⁶. Use of multiple bikes at one time increases the level of noise. The level of noise emitted off-site by a particular motor vehicle will vary by vehicle, use, and site characteristics. Nonetheless, noise generated by common recreational motor vehicles will often exceed the maximum exterior noise exposure compatible with noise-sensitive uses (such as residential uses). Therefore, the Director's determination that recreational use of motor vehicles on residential properties is not a permitted use is consistent with the intent of the Noise Element.</p> <p>Sports and outdoor recreation facilities include such facilities as race tracks, which may result in noise levels inconsistent with the noise element limit of 65 dB(A) CNEL. Through the Conditional Use Permit process, conditions/mitigation measures (such as noise monitoring, setbacks and use limits) may be placed on projects to ensure that noise levels do not exceed noise element requirements. Therefore, the requirement for a Conditional</p>

⁵ The Countywide Noise Element uses another measure: the Day-Night Average Level, abbreviated L_DN which varies slightly from the Community Noise Equivalent Level (CNEL) by not weighting early evening (7-10 p.m.) noise levels in determining a 24-hour average. For the purposes of this Plan and the Countywide Noise Element, CNEL and L_DN are considered to be equivalent, interchangeable measures and standards.

⁶ <http://www.speedwaygb.co/silencer>

	<p>Use Permit for sports and outdoor recreation facilities in residential zones is consistent with the intent of the noise element.</p>
<p>Air Quality</p>	
<p>Orcutt Community Plan Policy AQ-O-2: Significant fugitive dust and PM₁₀ emissions shall be reduced through implementation of appropriate construction restrictions and control measures, consistent with standards adopted by the Board.</p>	<p>Operation of common types of recreational motor vehicles (e.g. motor bikes, ATV's, etc.) is likely to result in dust generation that would be incompatible with residential areas. For an example of the type of dust generated by speedway motor bikes, please see the video at https://vimeo.com/124671428. Therefore, the Director's determination that recreational use of motor vehicles on residential properties is not a permitted use is consistent with the intent of Orcutt Community Plan Policy AQ-O-2.</p> <p>Sports and outdoor recreation facilities include facilities such as race tracks and sports fields which are likely to result in dust generation. Through the Conditional Use Permit process, conditions/mitigation measures may be placed on projects to ensure that dust generation is reduced through appropriate control measures, consistent with the requirements of Orcutt Community Plan Policy AQ-O-2. Therefore, the requirement for a Conditional Use Permit for outdoor and recreation facilities in residential zones is consistent with the intent of Orcutt Community Plan Policy AQ-O-2.</p>
<p>Land Use</p>	
<p>Land Use Element Goal (Environment): Environmental constraints on development shall be respected. Economic and population growth shall proceed at a rate that can be sustained by available resources.</p>	<p>Environmental constraints include factors such a biological and geologic resources, services (e.g. water, sewer), air quality, noise, aesthetics, etc. These factors help to establish the level of development appropriate for a given site. Development may be constrained by on-site resources (such as sensitive habitat) or by the environmental impacts that development</p>

would cause to the surrounding area. Sports and outdoor recreation facilities require a Conditional Use Permit in the residential zones due to the fact that such facilities are likely to produce noise, dust, etc. which may be inconsistent with residential use without appropriate controls (e.g. limitations on the number and size of events, dust control measures). Therefore, the requirement for a Conditional Use Permit for sports and outdoor recreation facilities in residential zones is consistent with one of the primary goals of the Land Use Element.

6.4 Zoning: Land Use and Development Code Compliance

Tables 2-7 through 2-9 (Allowed Land Uses and Permit Requirements for Residential Zones) under Section 35.23.30 of the LUDC do not list the recreational operation of motor vehicles as an allowed use in residential zone districts and indicate that sports and outdoor recreation facilities are an allowed use only upon the approval and issuance of a Conditional Use Permit (CUP). Further, LUDC Section 35.23.030.E. specifies that allowed uses, “*may include accessory structures and uses that are customarily incidental to the primary use . . .*” An “Accessory Use” is defined as “*A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.*” However, recreational use of motor vehicles within the residential zone districts does not qualify as an accessory use due to the adverse effects of such use, as exhibited on the subject property. The potential adverse effects of recreational use of motorized vehicles in a residential zone are discussed in Section 6.3, above.

In addition, residential zone districts are intended to prioritize residential land uses which preserve the character of the surrounding neighborhood. For example, Pursuant to LUDC Section 35.23.020 (Purposes of the Residential Zones), the R-1/E-1 zone (where the subject property is located) “*is intended to protect the residential characteristics of an area and to promote a suitable environment for family life.*” Noise, dust and other adverse effects associated with recreational operation of motorized vehicles (as discussed in Section 6.3, above, generally and under section 6.1, above, specifically) in residential zones is not consistent with the preservation of residential character. Therefore, the Director’s determination that the recreational operation of motor vehicles is not an allowed use within residential zones is consistent with LUDC

requirements. Similarly the Director's determination that a CUP is required for sports and outdoor recreation facilities within residential zones is consistent with LUDC provisions.

APPEALS PROCEDURE

The action of the Planning Commission may be appealed to the Board of Supervisors within 10 calendar days of said action. The appeal fee to the Board of Supervisors is \$648.26.

ATTACHMENTS

- A. Findings
- B. CEQA Exemption
- C. Appeal Letter
- D. Director's Determination of Unpermitted Use, dated January 12, 2016
- E. Notice of Violation, dated March 23, 2015
- F. Notice of Determination, dated August 19, 2015
- G. Additional Letters
 - G-1. January 26, 2015 Letter Regarding Possible Violation
 - G-2. May 28, 2015 Letter Regarding CUP Requirements
 - G-3. June 22, 2015 Closure Letter for 15ZEV-00000-00040
 - G-4. September 8, 2015 Letter from Attorney
 - G-5. September 29, 2015 Letter from P&D
- H. Aerial Photos
- I. Petition

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

The Planning Commission finds that the proposed action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378. Please see Attachment-B, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS

As discussed in sections 6.1, 6.3, and 6.4 of this staff report, and incorporated herein by reference, the Planning and Development Director's determination was issued consistent with the authority and terms of the Land Use and Development Code. The operation of recreational motor vehicles is not a permitted use (either principal or accessory) on the subject property or within the residential zone designations enumerated in chapter 35.23 (Residential Zones) of the Santa Barbara County Land Use and Development Code. The use and establishment of a sports and outdoor recreation facility on the subject property requires a Conditional Use Permit.

**ATTACHMENT-B
NOTICE OF EXEMPTION**

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Nicole Lieu, Planner

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: 105-010-033 **Case No.:** 16APL-00000-00003

Location: 4655 Song Lane, Santa Maria

Title: Vander Meulen Appeal of Directors Determination

Property Owner: John Vander Meulen

Description: Appeal of the Planning and Development Director's determination of unpermitted use of motor vehicles and establishment of a sports and recreation facility.

Name of Public Agency Involved: Santa Barbara County

Name of Person or Agency Carrying Out Activity: John Vander Meulen

Exempt Status: (Check one)

- Not a Project
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15378

Reasons to support exemption findings: CEQA Guideline Section 15378(b)(5) states that a project does not include "*organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.*" In this case, the activity is an appeal of a determination by the Director of Planning and Development that unpermitted use has occurred on a property within Santa Barbara County. The Director's determination, the appeal, the processing of the appeal, and the action of the Planning Commission are all administrative activities that do not result in direct or indirect physical changes in the environment. In addition, no permit is being issued, and therefore, the activity does not meet the definition of "project" as outlined in CEQA Guideline Section

15378(a)(3), which states that a project includes “*an activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.*”

Lead Agency Contact Person: Nicole Lieu

Phone #: (805) 884-8068 Department/Division Representative: _____

Date: _____

Acceptance Date: _____

distribution: Hearing Support Staff

Date Filed by County Clerk: _____.



PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: 1386 Solomon Rd., Santa Maria, Ca 93455

ASSESSOR PARCEL NUMBER: _____

Are there previous permits/applications? no yes numbers: 105-010-033
(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? no yes numbers: _____

1. Appellant: John Vander Meulen Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

2. Owner: _____ Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

3. Agent: _____ Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

4. Attorney: Richard Adam Phone: (805) 922-4553 FAX: (805) 928-7262

Mailing Address: 625 E. Chapel S.M., Ca., 93454 E-mail: radam@bjalaw.net
Street City State Zip

COUNTY USE ONLY

Case Number: **16APL-00000-00003**
Supervisorial L VANDERMEULEN APPEAL OF DIRECTOR DEC
Applicable Zoni 4655 SONG LN
Project Planne 1/21/16
Zoning Design SANTA MARIA 105-010-033

Companion Case Number: _____
Submittal Date: _____
Receipt Number: _____
Accepted for Processing _____
Comp. Plan Designation _____

COUNTY OF SANTA BARBARA APPEAL TO THE:

 BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Director Determination of Unpermitted Use

Case No. Unknown, possibly 700934 10000 11 89 4 333

Date of Action 1/12/16

I hereby appeal the approval approval w/conditions denial of the:
Notice of Unpermitted Use Determination & *Determination of Facility*

 Board of Architectural Review – Which Board?

 Coastal Development Permit decision

 Land Use Permit decision

 Planning Commission decision – Which Commission?

Planning & Development Director decision

 Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

 Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and "aggrieved party" as defined on page two of this appeal form:

Said Determination was issued w/out public hearing. Having
said Determination impacts the Appellant adversely by

unlawfully prohibiting recreational use of motorized vehicles

on his private property.

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See Attached Letter

Specific conditions imposed which I wish to appeal are (if applicable):

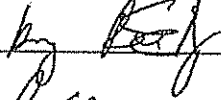
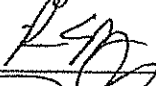
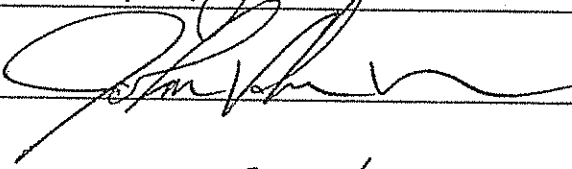
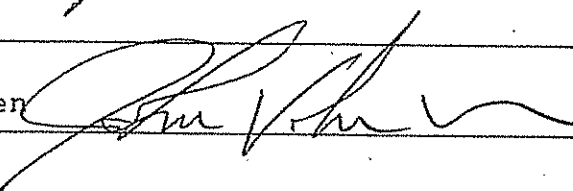
- See Attached Letter
-
-
-

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Brenneman, Juarez & Adam		1/19/16
Print name and sign - Firm		Date
Richard E. Adam, Jr.		1/19/16
Print name and sign - Preparer of this form		Date
John Vander Meulen		1/19/16
Print name and sign - Applicant		Date
Print name and sign - Agent		Date
John Vander Meulen		1/19/16
Print name and sign - Landowner		Date

THE LAW FIRM OF
BRENNEMAN, JUAREZ & ADAM LLP
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

GERTRUDE D. CHERN (1920-2002)
RICHARD C. BRENNEMAN INC.
MARIO A. JUAREZ INC.
RICHARD E. ADAM, JR. INC.

625 EAST CHAPEL STREET
SANTA MARIA, CA 93454
TEL: 805-922-4553
FAX: 805-928-7262

January 21, 2016

Santa Barbara County Planning & Development Department
624 W. Foster Road, Suite C
Santa Maria, CA 93455

**RE: Appeal of Director's Determination Regarding Prohibition of
Recreational Operation of Motorized Vehicles Within Residentially
Zoned Properties**

Planning Commissioners:

The Director's Determination of Unpermitted Use ("NOD") is being appealed by John Vander Meulen ("Appellant"). Among other things, the NOD determined the following:

- (1) "With the information gathered in the past months of [your] enforcement action and other enforcement investigations of similar violations, I [the Director] have determined that the recreational operation of motorized vehicles (e.g. commercial or noncommercial racing vehicles, motorcycles, go-carts, dune buggies, etc.) is not compatible with the Purpose and Intent of residential zoning; is not incidental and subordinate to residential uses; and is therefore not a use permitted within the residential zone designations as enumerated in Chapter 35.23.030 (Residential Zones) of the Santa Barbara County Land Use and Development Code." (hereinafter, "LUDC").
- (2) "The impacts associated with the operation of motorized recreational vehicles on residential property cannot be sufficiently reduced or self-regulated in a manner that provides adequate protection of the public health, safety, welfare, or character of the surrounding residential neighborhoods."
- (3) "Furthermore...the recreational operation of motorized vehicles constitutes a recreational facility as defined within the LUDC (i.e. Sports and Outdoor Recreation Facility)...operation of a sports/recreation facility requires approval/issuance of a Conditional Use Permit."

The NOD is an egregious overstepping of the authority vested in the Director and is unlawful on its face based upon the legal and factual reasons set forth herein. As such, Appellant formally requests that the Planning Commission (1) set aside the NOD dated January 12, 2016 (received by Appellant on January 19, 2016), (2) acknowledge and declare that the use and operation of recreational motorized vehicles on residentially zoned properties (including Appellant's Property) is an allowable use under the Santa Barbara County LUDC, and (3) acknowledge and declare that the "recreational operation of motorized vehicles" on private residentially zoned property (including the Appellant's Property) does not, as stated in the NOD, constitute a "Sports & Outdoor Recreation Facility" as defined in the LUDC, or alternatively, to require the Director to define the exact portion and physical characteristics of the Property that allegedly constitutes such a "facility" so as to allow Appellant and others the opportunity to remove and/or alter said physical characteristics and remove said Property (or portion thereof) from such designation and/or appeal the Director's findings relative to said issue.

A. Property Description

The property ("Property") in question (Santa Barbara county APN 105-010-033) is zoned 3-E-1. It consists of 7.5 acres and includes a single family residence. Like all adjacent properties to the west and south, the Property has been utilized for a variety of purposes, including the recreational use of motorized vehicles, for over 25 years. The majority of the Property is unimproved, and includes numerous riding trails and scrub brush. There is also an approximately ¼ acre flat dirt oval (the "Oval") on the property that has been used for dirt-bike riding for over ten years. Mr. Vander Meulen utilizes the Property for motorcycle riding, primarily with his children, approximately once every month.

B. Background

On or about May 28, 2015, Appellant received a letter from a Santa Barbara County Planning & Development Department ("P&D") Supervising Planner stating that P&D had received complaints "regarding use of the parcel for motorcycle events...[in a] multipurpose arena [referring to the Oval]." The letter stated that, while the "arena [i.e. the Oval] does not require zoning or building permits...the use of this 'arena' by motorized vehicles does not qualify as an 'accessory use.'" Said letter was silent as to the use of motorcycles on the remainder of the property.

On or about June 22, 2015, having received no further complaints, all P&D issues were formally "closed" via letter by the same Supervising Planner.

On or about August 19, 2015, the same Supervising Planner issued another letter to the Appellant stating that "on August 17, 2015 P&D received two complaints that on August 15, 2015 motorized vehicles (motorcycles) were using the arena," and that, "after considering the facts and circumstances surrounding the violation, a fine in the amount of \$100.00 has been assessed." The Appellant paid this fine on September 3, 2015 with an accompanying

Reservation of Rights Letter to contest the findings of the violation, the conclusions of the violation, and the fine itself.

On September 8, 2015, this office submitted a letter of Request for Clarification to P&D. Within said letter, this office explained our opinion that periodic recreational use of motorized vehicles on both the Oval and the remainder of the Appellant's unimproved Property was, in fact, a permitted "accessory use." More importantly, this office requested a clarification related to what use P&D believed *was allowed* on both the Oval and the remaining unimproved portions of the Property (i.e. the trails, etc.). Stated differently, the Appellant sought a determination as to what activity he *could* undertake on the Property without running afoul of the standards enumerate in the LUDC. Specifically, among other requests, this office requested answers to the following questions;

- (1) "Is the County of Santa Barbara asserting that Mr. Vander Meulen *is never allowed to ride motorcycles for personal recreation on any portion* of his 7.5 acre Property at any time?" (emphasis in original)
- (2) "If Mr. Vander Meulen is allowed to ride motorcycles on some portions of his 7.5 acre property for personal recreation, please identify the specific areas on said Property in which he is allowed to do so."
- (3) "If Mr. Vander Meulen is allowed to ride motorcycles on some portion of this 7.5 acre property for personal recreation, please identify the number of persons that can ride motorcycles on the Property at any given time."
- (4) "If Mr. Vander Meulen is allowed to ride motorcycles on his 7.5 acre property for personal recreation, please identify any restrictions and/or thresholds (along with the specific corresponding authority) with which Mr. Vander Meulen may need to comply."

On September 29, 2015, this office received (alleged) answers to the above questions from the Supervising Planner. The pertinent responses are as follows:

- (1) "Planning & Development *has never asserted that Mr. Vander Meulen is not allowed to ride motorcycles for personal, noncommercial recreation or other uses* accessory and subordinate to the residential zone designation of his property" (emphasis added).
- (2) "Mr. Vander Meulen may use any portion of his residential property for personal, noncommercial recreation that does not conflict with the residential zone designation or those uses permitted within residential zones."
- (3) "The maximum number of persons that can ride motorcycles on the property for personal, noncommercial activities would be established by the number of riders that would not negatively affect the surrounding neighborhood with excessive noise, dust, and generation of traffic or other nuisance issues."

- (4) “As limited to those activities governed under County Code Chapter 35 (Zoning) Mr. Vander Meulen is responsible for compliance with all applicable sections of the Santa Barbara County Land Use & Development Code.”

As the above responses make clear, the Supervising Planner did not, in fact, answer *any* of the questions and certainly did not clarify, in any legitimate respect, the riding activity Mr. Vander Meulen *could* undertake on his Property without running afoul of the LUDC. As such, this office contacted the Planning Director, Mr. Russell, via email and in person, in order to obtain such information. Among other emails of note is one from Mr. Russell to this office dated October 26, 2015. Within said email, Mr. Russell stated the following;

- (1) “It really is not possible to determine exactly how many people or motorcycle riders would be the limit for an accessory use...to specify an exact number, beyond which would no longer be accessory, would probably be unfair.”
- (2) “*Of course, Mr. Vander Muelen (sic) can ride motorcycles on his property and have family and friends do so also. That is not the issue.*” (emphasis added).
- (3) “I suggest that Mr. Vander Meulen be proactive in taking measures that would clearly address the issue of accessory use...perhaps the number and location of people riding at one time might be worth considering. Perhaps there are other things that could be done.”

C. Argument

At the outset, it should be pointed out that this issue is a common dispute between neighbors that should be handled by the judicial branch of government under California law. The issue is not one of compliance (because there is absolutely no prohibition of recreational use of motorized vehicles on residential property enumerated in the LUDC), but rather, a civil grievance between private parties (one or more of which are presently unknown). If a neighbor truly has issue with some aspect of the Appellants use of his private property for riding motorcycles, the appropriate means of redress is to file a Nuisance action in Superior Court and allow the judicial system to make a final decision based upon the merits of the evidence presented. Unless there is clear and indisputable evidence of a violation of a given code section (and, as is conclusively demonstrated below, there is not in this case), the County should defer to the branch of government that is best suited to handling such matters. To inject itself into private disputes such as this is to invite improper overreach by the County, as is the case here.

1. **The NOD Constitutes Either the Creation of an Ordinance or An Amendment to An Existing Ordinance Without Compliance with the Provisions of the California Government Code.**

In issuing the NOD, the Director has not merely interpreted the Ordinance at issue. Rather, it is clear that the Director has created (or, at the very least, amended) an ordinance out of whole cloth.

LUDC Section 35.23.030 and LUDC Tables 2-7, 2-8, and 2-9 specifically enumerate the uses that are allowed (and not allowed) in residential zones (in fact, the NOD specifically refers to these sections). None of these sections prohibit use of “recreational operation of motorized vehicles” in residential zones. It is further common knowledge that occupants of residential zones have “recreationally” utilized “motorized vehicles” (including motorcycles, golf carts, and electric scooters) on their private property since the invention of the motor.

Now, however, in what effectively amounts to a unilateral decree, the recreational operation of motorized vehicles in Santa Barbara County is entirely prohibited in all residential zones. This prohibition applies to all County citizens. This means that, although unwritten and un-codified, there now exists an entirely new section of the LUDC. As such, the NOD is far more than a simple interpretation.¹ The Director’s action constitutes the creation of an entirely new and broadly encompassing “use prohibition” and said creation is impermissible under California law. Among other code sections, the California Government Code (see Section 25000, et. seq.) requires county ordinance creation and/or amendment to be undertaken by elected officials who are accountable to their constituents. Moreover, ordinance creation and/or amendment must be done in a manner to ensure public safeguards (notice, public hearing, etc.).

The manner in which this new prohibition was undertaken is wholly contrary to the requirements of these and other code sections. It was not undertaken by elected officials (and, therefore, eviscerates the entire purpose of elected official accountability). Instead, it was undertaken by a single non-elected Director who is not empowered to create or amend the law. Further, none of the thousands of residential property owners of Santa Barbara County affected by this prohibition were afforded either notice or an opportunity to comment on this new prohibition.²

The NOD is therefore both unlawful under California law and constitutes an abuse of discretion.

2. The NOD is Overly Broad.

The NOD prohibits “the recreational operation of motorized vehicles...within the residential zone designations” of the LUDC. Examples of the myriad “vehicles” this sweeping NOD now prohibits “using” for “recreational purposes” on private residential property include; (a) gas powered scooters, (b) electric scooters, (c) golf carts, (d) gas or electric powered bicycles,

¹ To the extent that it can be considered a mere interpretation, the decision is unlawful, arbitrary, and an abuse of discretion for the same reasons noted herein.

² The creation of this new rule (and/or the amendment of the existing code) is far more encompassing and affects far more persons than, for example, the creation or alteration of Greenhouse height restrictions, an action that would be unthinkable to undertake outside of the public process.

(e) hover boards, (f) riding lawn mowers, (g) quad-runners and other ATVs, and even (h) small boats (for residential properties with private ponds).

Strictly speaking, this NOD also means that a penalty could be levied against a person who drives his dune buggy (the motorized vehicle) from the beach to the garage on his residentially zoned property (the recreational operation). Such an outcome is simply preposterous, and again demonstrates why this unilateral decree is improper on its face. Again, these issues would have been addressed and likely corrected had the “use prohibition” undergone the proper procedure and been formally adopted (after public scrutiny and comment) by the Board of Supervisors. In any case, the Director’s issuance of this overly broad NOD constitutes a clear abuse of discretion.

3. The LUDC Sections Cited in the NOD Are Vague, Ambiguous, and Therefore, Unenforceable and the Director’s Decision Related to These Sections Are, Particularly in Light of the Director’s Previous Statements, an Abuse of Discretion.

Even if the NOD was lawful and enforceable (and it is not), prior to the issuance of the NOD, the Appellant made many requests for clarification as to the character of motorcycle use that could be undertaken on the Property. For example, he made multiple requests (both written and in person) as to (a) the locations upon the Property in which he could ride motorcycles, (b) the number of persons that could ride motorcycles on the Property at any given time, and (c) whether any tangible restrictions and/or thresholds existed with which the Appellant would be required to comply. These questions were simply not answered. *That is because P&D simply does not have the answer*, and instead, has consistently responded that the definition of “Accessory Use” requires a “case by case analysis.” This response is tantamount to no response at all. It provides absolutely no guidance for the public (or the Appellant) to determine what “use” is actually permitted. In other words, the public does not and cannot know whether their action will violate the law. Of course, this is impermissible. This “case by case” response is even more unacceptable in light of the fact that, as detailed above, both Staff and the Director himself informed the Appellant on numerous occasions that the Appellant *was*, in fact, allowed to ride motorcycles on his residentially zoned Property.

An ordinance is vague and ambiguous when it does not specifically enumerate the practices that are either required or prohibited (see, for example, Coates v. Cincinnati (1971) 402 U.S. 611). When, as is the case here, Staff and the Director himself are unable to explain the application of the ordinance – are unable to inform a citizen how to comply – it constitutes conclusive evidence that the ordinance itself is vague and ambiguous. This is all the more true when Staff and the Director first condone an activity (“of course Mr. Vander Meulen can ride motorcycles on his property”) and then prohibit that same activity via unilateral decree (via the NOD). As such, the Director’s decision in this case constitutes an abuse of discretion.

We believe the primary vagueness arises from the LUDC definition of “Accessory Use” as “a use that is customarily incidental, appropriate and subordinate to the use of the principal structure or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other property in the vicinity.” It is impossible for an ordinary citizen (and, as has been demonstrated above, even Staff and the Director) to know, with any reasonable degree of certainty, what this definition actually means. Because an ordinary citizen cannot determine the meaning of the term “Accessory Use” based upon the definition proffered in the LUDC (and cannot, therefore, tailor his conduct to conform with the law) and because the Director relied on the ambiguous definition in making the decision enumerated in the NOD, the decision constitutes an abuse of discretion and must be stricken as such.

4. The Appellant’s Unimproved Property Is Not, Under Any Conceivable Definition, a “Sports & Outdoor Recreation Facility”

The NOD states that, after “analysis of the activities” on the Appellant’s property, it has been determined that “the recreational operation of motorized vehicles constitutes a recreational facility as defined within the LUDC (i.e. Sports & Outdoor Recreation Facility).” The NOD goes on to state that operation of such a facility requires approval/issuance of a Conditional Use Permit. The term “Sports & Outdoor Recreation Facility” is defined in the LUDC as “public and private facilities for various outdoor sports and other types of recreation, where the facilities are oriented more toward participants than spectators.” Said definition goes on to list examples of such Sports & Outdoor Recreation Facilities to include “athletic/sports fields (e.g. baseball, football, polo, softball, soccer), heath and athletic clubs, skateboard parks, swimming pools, tennis and other sports courts.”

First, it should be noted that this wide reaching conclusion appears to apply not just to the Appellant’s Property, *but all recreational use of motorized vehicles on all properties.* Therefore, under this newly created mandate, all users of recreational motorized vehicles are now required to obtain a Conditional Use Permit. Again, this finding is far more than an “interpretation” of an existing Ordinance. Instead, the Director has unilaterally created a whole new category associated with the Definition of Sports & Outdoor Recreation Facilities. Yesterday, riders of motorcycles were not required to obtain a Conditional Use Permit. After the Director’s issuance of the NOD, they are. This action cannot be considered anything other than the creation of law by a non-elected official without public input and the safeguards afforded by California law.

Finally, even if the Director’s conclusion (that the Property constitutes a Sports & Recreation Facility) could be considered an “interpretation” (and it can’t), the vast majority of the 7.5 acre Property is raw, unimproved ground. It is the same as the entirety of the adjacent properties to both the west and south. Aside from the single family residence, there simply is no “facility” of any kind on the Property. The term “facility,” as defined by Merriam-Webster, means “something (such as a building or large piece of equipment) that is built for a specific

purpose; something that makes an action, operation, or activity easier” (a definition that would apply to “baseball and football fields”). There is no structure on the Property that could conceivably be defined as such. However, if, despite these facts, the Director still believes that some existing element of the Property constitutes a Sports & Recreation Facility, the Director must be required to inform the Appellant, with some degree of specificity, exactly what portion and characteristics of the Property constitutes such a “facility” so that the Appellant is able to tailor his conduct (and potentially remove and/or alter the alleged “facility”) so as to be able to use motorized vehicles without obtaining a Conditional Use Permit.

5. To the Extent that The NOD Applies Solely to the Appellant’s Residential Property, the NOD Also Constitutes Both Unlawful Spot Zoning and an Equal Protection Violation.

Although the plain language of the NOD applies to properties located in Santa Barbara County, to the extent that it applies solely to Appellant’s residential property, the NOD constitutes, among other violations, unlawful Spot Zoning and an Equal Protection violation under 42 U.S.C. §1983, and, should this be the a case, the NOD must be rescinded and reissued to clarify this point for purposes of appeal.

D. Conclusion

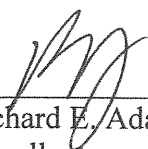
Based upon the foregoing, the undersigned respectfully requests that the Planning Commission (1) set aside the NOD dated January 12, 2016 (received by Appellant on January 19, 2016), (2) acknowledge and declare that the use and operation of recreational motorized vehicles on residentially zoned properties (including Appellant’s Property) is an allowable use under the Santa Barbara County LUDC, and (3) acknowledge and declare that the “recreational operation of motorized vehicles” on private residentially zoned property (including the Appellant’s Property) does not, as stated in the NOD, constitute a “Sports & Outdoor Recreation Facility” as defined in the LUDC, or alternatively, to require the Director to define the exact portion and physical characteristics of the Property that allegedly constitutes such a “facility” so as to allow Appellant the opportunity to remove and/or alter said physical characteristics and remove said Property (or portion thereof) from such designation and/or appeal the Director’s findings relative to said issue.

Appellants request that all of the documents referenced in this letter and those associated therewith (each of which is in the possession of Santa Barbara County personnel) be made part of the Administrative Record. The Appellants reserve the ability to submit additional materials and arguments in this matter prior to final consideration of any body of Santa Barbara County, including the Board of Supervisors.

///
///

Sincerely,

BRENNEMAN, JUAREZ & ADAM


Richard E. Adam, Jr., attorneys for
Appellant



County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

January 12, 2016

70093410000011894333

John Vander Meulen
Michelle L. Vander Meulen
1386 Solomon Road
Santa Maria, CA 93455

RE: Determination of Unpermitted Use

Dear Mr. and Ms. Vander Meulen

As you are aware, Planning & Development has been investigating complaints regarding the use of your residential property for recreational riding of motorcycles. Over the past year planning staff has sought to assist you in establishing a level of recreational vehicle use that would be "compatible" with your property's residential zone designation, the concerns of the surrounding residents and that would fall clearly within the definition of an accessory use¹. Despite these efforts, Planning & Development continues to receive numerous complaints regarding the noise and neighborhood disturbance created by the recreational riding of motorized vehicles on your property.

In staff's letter dated September 29, 2015, it was stated that personal, noncommercial recreational uses/activities were allowed within residential zones provided that the use did not conflict with the residential zone designation and was customarily, incidental and subordinate (i.e. accessory) to the zone designation. As indicated in that letter, to be considered a permitted "accessory use" the use cannot adversely affect other property in the vicinity. Given the number and nature of the ongoing complaints (disruption of the quality and comfort of the residential neighborhood) it has become evident that the impacts associated with the operation of motorized recreational vehicles on residential property cannot be sufficiently reduced or self-regulated in a manner that provides adequate protection of the public health, safety, welfare or character of the surrounding residential neighborhood.

With the information gathered in the past months of enforcement action and other enforcement investigations of similar violations, I have determined that the recreational operation of motorized vehicles (e.g., commercial or noncommercial racing vehicles, motorcycles, go-carts, dune buggies, etc) is not compatible with the Purpose and Intent of residential zoning; is not incidental and subordinate to residential uses; and is therefore not a use permitted within the residential zone designations as enumerated in Chapter 35.23 (Residential Zones) of the Santa Barbara County Land Use & Development Code.

¹ A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.

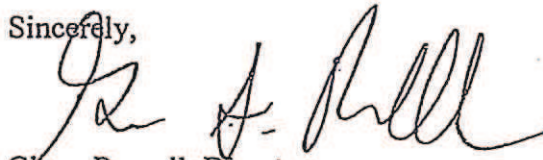
The recreational operation/riding of motorized vehicles on or within the boundaries of the property addressed as ~~4655 Song Lane~~ constitutes a violation of ~~§35.23.030~~ (General permit requirements) and Table 2-7 (Allowed Land Use Uses and Permit Requirements for Residential Zones) of the Land Use & Development Code (LUDC). Confirmed violations of the LUDC will result in further enforcement action and the assessment of fines pursuant to §35.108 (Enforcement and Penalties) of the LUDC and County Code Chapter 24A.

Furthermore, analysis of the activities on your property indicates that the recreational operation of motorized vehicles constitutes a recreational facility as defined within the LUDC (i.e. Sports & Outdoor Recreation Facility²). This type of land use (sports/outdoor recreation facility) is specifically enumerated within the LUDC and operation of a sports/recreation facility requires approval/issuance of a Conditional Use Permit. Therefore, because a sports and outdoor recreation facility is a specific type of land use, it does not qualify as a special or temporary event provided for within §35.42.260 (Temporary Uses and Trailers) of the LUDC.

This Determination may be appealed pursuant to §35.102.020.B.1 of the Santa Barbara County LUDC).

Thank you for your attention to this matter.

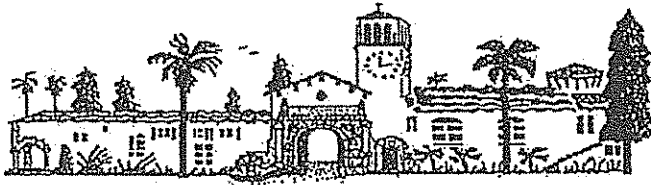
Sincerely,



Glenn Russell, Director
Planning & Development Division

c: Steve Mason, Administration & Operations Manager
Petra Leyva, Supervising Planner

² Sports and Outdoor Recreation Facility: *Public and private facilities for various outdoor sports and other types of recreation, where the facilities are oriented more toward participants than spectators.*



County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

Notice of Violation

March 23, 2015

7012 2210 0002 630501026
Certified Mail

John VanderMeulen
Michelle L. VanderMeulen
1386 Solomon Road
Santa Maria, CA 93455

RE: Case No.: 15ZEV-00000-00040/15BDV-00000-00049
APN: 105-010-033
Address: 4655 Song Lane

Dear Property Owners:

As you are aware, the Planning & Development Department received a complaint on January 26, 2015 regarding unpermitted grading for a multi-purpose arena on your property. Research of the property, review of the documentation you submitted on the dimensions of the arena and material by volume brought to the site determined that the following violation(s) exist on your property in violation the Santa Barbara County Code:

A. VIOLATION DETERMINATION(S):

- 1) Grading in excess of 50 cubic yards for a multi-purpose arena in violation of Santa Barbara County Code Chapter 14 (Grading) Section 14-6(a)
- 2) Grading in excess of 50 cubic yards for a multi-purpose arena in violation of Santa Barbara County Code Chapter 35 (Zoning), County Land Use & Development Code Section 35.20.020.B (Permit and approval requirements)

You have thirty (30) days from the receipt of this Notice of Violation to abate the violation(s) listed above.

B. REQUESTS FOR TIME EXTENSIONS:

You may request an extension of the thirty (30) day deadline to abate the violation. An extension request must be submitted in writing prior to the expiration of the thirty (30) day deadline to abate. An extension request may be granted if sufficient effort is being made to correct the violation(s). (Chapter 24A, Section 24A-2(a)(5)).

C. ABATEMENT OPTIONS:

The following abatement options are available to cure the violation(s) listed above:

- 1) *Obtain proper permits for the restoration of the unpermitted grading and cease the use of the multi-purpose arena*
 - a) Submit for and obtain a Land Use Permit for restoration of grading in excess of 50 cubic yards and cease the use of the multi-purpose arena, and
 - b) Submit for and obtain a Grading Permit for restoration of grading in excess of 50 cubic yards

OR

- 2) *Obtain proper permits for the unpermitted grading for a multi-purpose arena*
 - a) Submit for and obtain a Grading Permit for the grading in excess of 50 cubic yards
 - b) Submit for and obtain a Land Use Permit for the grading in excess of 50 cubic yards

If you decide to cure the violation(s) via this method (option 2), you MUST schedule and complete a case review meeting with your assigned enforcement officer within 14 days to discuss your options. An application intake meeting and application submittal for the listed permit type(s) must occur within thirty (30) days from the receipt of this Notice. An abatement schedule with time sensitive milestones will be required at the application intake meeting and must be signed prior to application submittal. Once the permit application(s) is/are submitted and accepted by the Department for review and an abatement schedule signed, your enforcement case is placed in suspension and no additional enforcement action will be taken as long as you abide by the abatement schedule. Please be advised that failure to abide by the abatement schedule will result in the automatic issuance of a Notice of Determination of Fine dating back to the original date of this Notice of Violation (see Section D – Failure to Abate within Specified Timeframe below).

Land use and building permit fees for abatement of violations are double the standard permit fees up to \$2,000 and are due upon submittal of the permit application. Grading permit fees for abatement of violations are double the standard permit fees.

D. FAILURE TO ABATE WITHIN SPECIFIED TIMEFRAME:

You have thirty (30) days from the receipt of this Notice of Violation to abate the violation(s) listed.

Failure to abate the violation within the specified timeframe will result in the issuance of a Notice of Determination of Fine, pursuant to Chapter 24A of the Santa Barbara County Code – Administrative Fines. Fines of up to \$100.00 per day from the date of receipt of this Notice for each violation listed above will be assessed if the violation is not abated within 30 days of the date of this notice. If the violation is abated within the thirty (30) day window, no fine will be assessed; however, you will still be responsible for the charges related to time spent by enforcement staff to process the case (see Section E – Additional Advisories below).

The County may seek further remedies, including, but not limited to:

- Recordation of the Determination of Fine against your property with the County Recorder's Office;
- Recordation of a lien against your property with the County Recorder's Office;
- Other actions for enforcement of a civil judgment.

E. ADDITIONAL ADVISORIES:

As advised in previous correspondence, all time spent by enforcement staff to investigate and resolve the case will be billed to you at periodic intervals, at staff's hourly rate currently in effect, up to \$188.76 per hour. The hourly rate is subject to change by resolution and adoption by the Board of Supervisors. Payment of these processing fees is due upon receipt of the billing statement and is separate and apart from any fines incurred under Chapter 24A of the County Code (Administrative Fines).

Abatement via the permit process option above will require a finding that the proposed project complies with the Comprehensive Plan and the County Land Use & Development Code. Therefore, other violation(s) not covered under this Notice will also require abatement prior to land use permit approval and/or issuance.

Thank you for your prompt attention to this matter. Please be advised that this notice only addresses violation of Chapters 14 and 35 of the County Code. You may be required to obtain other permits in order to comply with other portions of the County Code. Please contact me if you have any questions regarding this Notice of Violation or questions regarding the abatement process.

Sincerely,

A handwritten signature in black ink, appearing to read "Petra Leyva". The signature is fluid and cursive, with the first name "Petra" and last name "Leyva" clearly distinguishable.

Petra Leyva
Code Enforcement Program – North/South County
Phone: (805) 568-2071
Email: petra@co.santa-barbara.ca.us

cc: Enforcement case files.

AUTHORITY: SANTA BARBARA COUNTY CODE CHAPTER 24A
Santa Barbara County Land Use & Development Code § 35.108.070.E
Santa Barbara County Code Chapter 14



County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

**Notice of
Determination of Fine**

August 19, 2015

7012 3460 0002 9228 5577

John Vander Meulen
Michelle L. Vander Meulen
1386 Solomon Road
Santa Maria, CA 93455

RE: 15ZEV-00000-00287
APN: 105-010-033
Address: 4655 Song Lane

Dear Property Owners:

In my letter to you dated June 22, 2015 you were advised that the use of the multipurpose arena by motorized vehicles requires approval of a Conditional Use Permit. You were also advised that should Planning & Development receive complaints regarding the use of the arena by motorized vehicles you would be subject to fees and fines as applicable pursuant to Chapter 24A of the Santa Barbara County Code. On August 17, 2015 P&D received two complaints that on August 15, 2015 motorized vehicles (motorcycles) were using the arena. The reporting party states that there were approximately 7 cars/trucks, a motor home, 3 EZ up shade structures and 15-20 people. After considering the facts and circumstances surrounding the violation, a fine in the amount of \$100.00 has been assessed.

Appeal of Determination of Fine:

You may appeal this fine by filing a written appeal with the Planning & Development Department within 10 working days of receiving this notice. The written appeal must contain:

1. A brief statement setting forth the interest you have in the matter relating to the imposition of the penalty;
2. A brief statement of the material facts you claim support the contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted; and

3. An address at which you agree that notice of any additional proceedings or an order relating to imposition of the administrative penalty may be received by first class mail.

If you file an appeal, the appeal hearing will be set no sooner than 20 days and no later than 45 days following your request. Notice of the appeal hearing will be mailed at least 12 calendar days before the date set for the hearing. Failure to appear will cause the administrative fine to become a final order or decision.


Failure to request an appeal of the administrative fine will cause this Notice of Determination of Fine to become a final order or decision. Any person upon whom an administrative fine has been imposed may seek judicial review of the order imposing the penalty pursuant to Government Code section 53069.4.

The Director may record a copy of this Notice of Determination of Fine with the Santa Barbara County Recorder.

All time spent by enforcement staff to investigate and resolve the case will be billed to you at periodic intervals. The current processing fee in effect, as adopted by the Board of Supervisors, is \$188.76 per hour. The hourly rate is subject to change by resolution and adoption by the Board of Supervisors. Payment of these processing fees is due upon receipt of the billing statement and is separate and apart from any fines incurred under Chapter 24A of the County Code (Administrative Fines). You have a right to object to these processing charges by filing a Request for Hearing with the Planning & Development Department within ten (10) days from receipt of the billing statement pursuant to Section 35.108.070.E of the Santa Barbara County Land Use & Development Code.

Thank you for your attention to this matter.

Sincerely,



Petra Leyva
Enforcement Officer
Building & Safety Division

Phone: (805) 568-2071

cc: 15ZEV-00000-00287, Violation File



County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

January 26, 2015

VANDERMEULEN, JOHN
1386 SOLOMON RD
SANTA MARIA, CA 93455

RE: Complaint Received Regarding Possible Violation on Your Property
Case Number: 15ZEV-00000-00040
APN: 105-010-033
4655 Song, Santa Maria, Ca 93455

Dear Property Owner:

On January 26, 2015, the Planning and Development Department received a complaint regarding a possible violation of Chapter 35 of the Santa Barbara County Code on the above referenced property. The following possible violation was provided by the reporting party:

Grading of a racetrack and use of parcel for motorcycle events

Planning and Development is responsible for implementing permit processes based on the zoning/land use standards adopted by the County Board of Supervisors. These standards are designed to promote reasonable, productive, safe and sustainable use of land in order to foster economic, social, cultural, and environmental prosperity across the county. While the Department supports landowner improvements to property, we must also ensure that all structures and uses comply with applicable standards and permit requirements adopted by the Board of Supervisors.

Case Number: 15ZEV-00000-00040

Page 2 of 2

January 26, 2015

Enforcement staff will be conducting a site investigation at the above referenced property within the next ten business days to ascertain the validity of the complaint. The enforcement planner will make a determination regarding the validity of the complaint following the investigation. Please be advised that if a violation is confirmed to exist on your property, you will be required to take steps to abate the violation. Staff time spent processing the violation case will be billed to you at a rate adopted by the Board of Supervisors, currently established at \$188.76 per hour. The hourly rate is subject to change by resolution and adoption by the Board of Supervisors. Staff time typically involves research, correspondence, and site visits. If enforcement staff determines that no violation exists on your property, the case will be closed and no hours will be billed to you.

You are encouraged to review your property's permit history and code requirements at anytime by visiting the Zoning and Building Information counters, by calling (805)568-2090 in Santa Barbara, or (805)934-6250 in Santa Maria, or by visiting our website at: www.sbcountyplanning.org. Proactive measures taken on your part could help reduce fees associated with resolving any validated violations.

Petra Leyva has been assigned to this case. He/she may be reached by phone at (805)568-2071 or by email at Petra@co.santa-barbara.ca.us. Please contact him/her if you have any questions regarding this complaint or the enforcement process. You may also contact him/her to pre-schedule an inspection of your property. We look forward to working with you in a cooperative fashion to resolve this matter in a timely manner.

Sincerely,



Enforcement Coordinator

Zoning Enforcement Program - South County

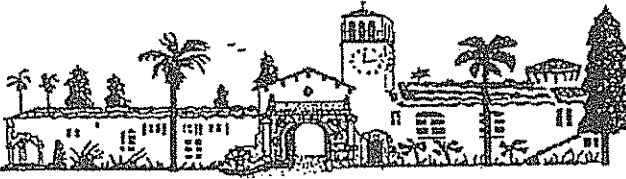
cc: Occupant
Case File

*Para informacion en espanol por favor llamar a los siguientes telefonos:
En Santa Barbara (805) 568-2000 en Santa Maria (805) 934-6250*

6-2

County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director
Dianne Black, Assistant Director



May 28, 2015

Certified Mail
7012 3460 0002 9227 8739

John Vander Meulen
Michelle L. Vander Meulen
1386 Solomon Road
Santa Maria, CA 93455

RE: Case No.: 15ZEV-00000-00040/15BDV-00000-00049
APN: 105-010-033
Address: 4655 Song Lane

Dear Mr. and Ms. Vander Meulen

As you are aware, Planning & Development (P&D) has been investigating a violation complaint filed in January of this year regarding grading of a racetrack and use of the parcel for motorcycle events (property owner described as a "multipurpose arena") on your property addressed as 4655 Song Lane. Based on the information gathered during Planning & Development's investigation and the conclusions Mr. Crandall made during his site inspection conducted on April 30, 2015, it was determined that the "arena" structure itself does not require zoning or building permits (walls less than six feet in height, less than 50 cubic yards of grading). However, the use of this "arena" by motorized vehicles (primarily motorcycles) does not qualify as an "accessory use".

Pursuant to Article 35.11 (Glossary) of the Santa Barbara County Land Use & Development Code (LUDC) Accessory Use is defined as: *A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.* The use of the "arena" for motorized vehicles to ride, race, train, test, practice, etc. generates significant noise, dust and odor not typical or customary to the average residentially zoned parcel. Furthermore, given the long narrow configuration of the lot and its proximity to the surrounding residentially developed neighborhoods, the impacts of these activities are exacerbated.

The current use of the "multi-purpose area" may qualify as a Sports and Outdoor Recreation Facility. Pursuant to Article 35.11 (Glossary) of the LUDC a Sports and Outdoor Recreation Facility is defined as: *Public and private facilities for various outdoor sports and other type of recreation, where the facilities are oriented more toward participants than spectators.* Examples include: baseball, football, polo, softball, soccer, skateboard parks, tennis and handball, etc.

A Sports and Outdoor Recreation Facility requires approval of a Conditional Use Permit (CUP) pursuant to Section 35.23.030 Table 2-7. For your reference I have attached LUDC section 35.82.060.E. This section of the LUDC details the required finding for approval of a CUP. The

decision to approve or deny the CUP will be made by the County Planning Commission in a noticed public hearing should you choose to pursue a CUP for this use. **Please note, that the use of the "multipurpose arena" by motorized vehicles must immediately cease until such time as a Conditional Use Permit has been issued.**

Thank you for your attention to this matter. Please feel free to contact me should you have any additional questions.

Sincerely,



Petra Leyva
Supervising Planner
(805) 568-2071

cc: Steve Mason, Administration & Operations Manager
Brad Crandall, Supervising Grading Inspector

Enclosures: Article 35.11 definition of Accessory Use
Article 35.11 definition of Sports and Outdoor Recreation Facility
Section 35.23.030 Table 2-7, Allowed Land Uses and Permit Requirements for Residential Zones
Section 35.82.060.E, Findings required for approval of Conditional Use Permits

CHAPTER 35.110 - DEFINITIONS

Sections:

35.110.010 - Purpose

35.110.020 - Definitions of Specialized Terms and Phrases

35.110.010 - Purpose

This Chapter provides definitions of terms and phrases used in this Development Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the County Code, these definitions shall control for the purposes of this Development Code. If a word is not defined in this Chapter, or in other provisions of the Santa Barbara County Code, the Director shall determine the correct definition utilizing the latest edition standard dictionary.

35.110.020 - Definitions of Specialized Terms and Phrases

As used in this Development Code, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

A. Definitions, "A."

Abut. To physically touch or border upon; or to share a common property line.

Accessory Agricultural Structure. A structure designed and constructed primarily for storing farm implements or supplies, hay, grain, poultry, livestock or horticultural products that supports the agricultural use of the lot.

Accessory Residential Structure or Use. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to a residence, and does not change the character of the residential use. This definition includes the following attached and detached accessory structures, and other similar structures normally associated with a residential use of property. Accessory Agricultural Structures are separately defined. Examples of this land use include the following:

artist studios	spas and hot tubs
cabanas	storage sheds
garages	swimming pools
gazebos	tennis and other onsite sport courts
greenhouses (non-commercial)	workshops
guesthouses	

Also includes the indoor storage of automobiles, personal recreational vehicles and other personal property, accessory to a residential use.

Accessory Retail or Services. The limited retail sale of various products, or the provision of certain personal services within a health care facility, hotel, office, or industrial complex, to employees or customers of, or visitors to the principle use. Examples of these uses include pharmacies, gift shops, and food service establishments within hospitals; convenience stores and food service establishments within hotel, office and industrial complexes; and barber and beauty shops within residential care facilities.

Accessory Structure. A structure located upon the same site as the structure or use to which it is accessory. The use of an accessory structure is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site.

Accessory Use. A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.

Adjacent. See "abut."

rate will be levied to pay for a service or improvement benefiting the area.

Special Treatment Area. Within the Coastal zone, an identifiable and geographically bounded area within the coastal zone that constitutes a significant habitat area, area of special scenic significance, and any land where logging activities could adversely effect a public recreation area or the biological productivity of any wetland, estuary, or stream especially valuable because of its role in a coastal ecosystem.

Sports and Outdoor Recreation Facility. Public and private facilities for various outdoor sports and other types of recreation, where the facilities are oriented more toward participants than spectators. Examples include:

athletic/sport fields (e.g., baseball, football, polo, softball, soccer	swimming pools tennis and other sport courts (e.g., handball, squash)
health and athletic club outdoor facilities	
skateboard parks	

Sports and Outdoor Recreation Facility, Accessory. A sports and outdoor recreation facility accessory to the principle use.

Sports and Entertainment Assembly. A large-scale indoor or outdoor facility accommodating spectator-oriented sports, concerts, and other entertainment activities. Examples of this land use include amphitheaters, race tracks, stadiums and coliseums. May also include commercial facilities customarily associated with the above uses, including bars and restaurants, gift shops, video game arcades, etc.

Stable, Private. An accessory building in which horses are kept for private use and not for remuneration, hire or sale.

Stable, Public. An accessory building in which horses are kept for commercial use including riding, training, boarding, hire, and sale. See also "Equestrian Facility."

Staging Area. A minor coastal facility used for the temporary storage and handling of equipment and materials accessory and incidental to construction of a specific oil and gas development project. Staging areas are to be at a scale of development not detrimental to the surrounding land uses and character.

State. The State of California.

State University or College. The University of California and the California State University and Colleges.

Stock Cooperative. A corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock or membership certificate in the corporation held by the persons having such right of occupancy. The term "stock cooperative" does not include a limited-equity housing cooperative, as defined in this Chapter.

Storage - Accessory. The indoor storage of materials accessory and incidental to a principle use is not considered a land use separate from the principle use.

Storage - Contractor Storage Yard. See "Contractor Equipment Storage Yard."

Storage - Outdoor. The storage of various materials outside of a structure either as an accessory or principle use.

Storage - Personal Storage Facility. Structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.

Storage - Warehouse, Indoor Storage. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-

SANTA BARBARA COUNTY CODE - CHAPTER 35 - COUNTY LAND USE & DEVELOPMENT CODE

Residential Zones

35.23.030

Table 2-7 Allowed Land Uses and Permit Requirements for Residential Zones	E	Allowed use, no permit required (Exempt)					
	P	Permitted use, Land Use or Coastal Permit required (2)					
	MCUP	Minor Conditional Use Permit required					
	CUP	Conditional Use Permit required					
	S	Permit determined by Specific Use Regulations					
	—	Use Not Allowed					
LAND USE (1)	PERMIT REQUIRED BY ZONE						Specific Use Regulations
	RR	RR CZ	R-1/E-1	R-1/E-1 CZ	EX-1	EX-1 CZ	

AGRICULTURAL, MINING & ENERGY FACILITIES

Agricultural accessory structure	P	P	P	P	P	P	35.42.020
Animal keeping (except equestrian facilities - see RECREATION)	S	S	S	S	S	S	35.42.060
Aquaculture	CUP	CUP	—	—	—	—	35.42.070
Cultivated agriculture, orchard, vineyard	E	E	E	E	E	E	
Greenhouse, 300 sf or less	P	P	P	P	P	P	35.42.140
Greenhouse, more than 300 sf to 800 sf	CUP	CUP	MCUP	MCUP	MCUP	MCUP	35.42.140
Greenhouse, 800 sf or more	CUP	CUP	—	—	—	—	35.42.140
Mining, extraction & quarrying of natural resources, not including gas, oil & other hydrocarbons	CUP	CUP	CUP	CUP	CUP	CUP	35.82.160
Mining - Surface, less than 1,000 cubic yards	P(3)	P	P(3)	P	P(3)	P	35.82.160
Mining - Surface, 1,000 cubic yards or more	CUP	CUP	CUP	CUP	CUP	CUP	35.82.160
Oil and gas uses	S	S	—	—	—	—	35.5

RECREATION, EDUCATION & PUBLIC ASSEMBLY USES

Community center	—	—	P	P	P	P	
Conference center	—	—	CUP	CUP	—	—	
Country club	CUP	—	CUP	CUP	CUP	CUP	
Equestrian facilities	CUP	CUP	CUP	CUP	—	—	
Fairgrounds	CUP	CUP	CUP	CUP	—	—	
Golf course	CUP	CUP	CUP	CUP	P	P	
Golf driving range	CUP	CUP	CUP	CUP	CUP	CUP	
Library	—	—	CUP	CUP	—	—	
Meeting facility, public or private	CUP	—	CUP	CUP	CUP	CUP	
Meeting facility, religious	CUP	CUP	CUP	CUP	—	—	
Meeting room accessory to organization house	—	—	—	—	—	—	
Museum	CUP	—	CUP	CUP	—	—	
Park, playground - Commercial	—	—	—	—	—	—	
Park, playground - Private	—	—	—	—	P	P	
Park, playground - Public	—	—	P	P	P	P	
Private residential recreational facility	—	—	—	—	—	—	
School	CUP	CUP	CUP	CUP	CUP	CUP	
School - Business, professional or trade	CUP	CUP	CUP	CUP	CUP	CUP	
Sports and outdoor recreation facilities	CUP	CUP	CUP	CUP	—	—	

Key to Zone Symbols

RR	Rural Residential/Residential Ranchette	EX-1	One-Family Exclusive Residential
R-1/E-1	Single-Family Residential	CZ	Coastal Zone

Notes:

- (1) See Article 35.11 (Glossary) for land use definitions.
- (2) Development Plan approval may also be required; see Section 35.23.030.C.
- (3) On one or more locations or lots under the control of an operator that do not exceed a total area of one acre; if the total area exceeds one acre, then a CUP is required.

(Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Chapter 35.102 (Appeals)) shall be valid for 12 months unless a time extension is approved in compliance with Section 35.84.030 (Time Extensions).

4. The approval of a Coastal Development Permit approved in compliance with Subsection D.3 (Coastal Development Permit processed in conjunction with a Conditional Use Permit, Minor Conditional Use Permit or Final Development Plan) above, shall be valid for same time period, including any time extensions, as the Conditional Use Permit or Development Plan as applicable.

G. Coastal Commission changes to the County's action on Coastal Development Permits.

1. Where an appeal has been filed with the Coastal Commission in compliance with Chapter 35.102 (Appeals) and the Coastal Commission has reversed or modified the action of the County on the Coastal Development Permit, the action of the Coastal Commission on the Coastal Development Permit shall be final.
2. If the County has approved the Coastal Development Permit, any previously approved County project permits shall be automatically:
 - a. Amended to conform to the Coastal Commission's approved Coastal Development Permit for the project; or
 - b. Terminated to conform to the Coastal Commission's denial of the Coastal Development Permit.
3. If the County has denied the Coastal Development Permit and the Coastal Commission approved the permit, the applicant shall reapply to the County for approval of the other required but previously denied project permits (e.g., Conditional Use Permit, Development Plan) in order for the County to impose appropriate conditions. However, the County's action on the re-applications shall be consistent with the approved Coastal Development Permit.
4. In the case where the Coastal Commission has imposed appropriate conditions on the Coastal Development Permit as determined by the Director, the Director may waive this re-application requirement.

H. Minor changes to Coastal Development Permits. Minor changes to an issued Coastal Development Permit shall be allowed in compliance with Section 35.84.040 (Changes to an Approved Project).

I. Notice of final action for Coastal Development Permits appealable to the Coastal Commission.

1. For those developments that are appealable to the Coastal Commission (see definition of Appealable Development and Chapter 35.102 (Appeals)) notice of the approval of a Coastal Development Permit shall be given to the Coastal Commission and to any interested person who has requested the notice and has submitted a self-addressed stamped envelope to the Department.
2. The notice shall be given within five calendar days of the final action.
3. The notice shall include conditions of approval, findings, and the procedure for appeal of the County's action to the Coastal Commission.

J. Permit revocation. An issued Coastal Development Permit may be revoked in compliance with Section 35.84.060 (Revocations).

K. Post approval procedures. The procedures and requirements in Chapter 35.84 (Post Approval Procedures) and those related to appeals in Article 35.10 (Land Use and Development Code Administration) shall apply following the decision on an application for a Coastal Development Permit.

35.82.060 - Conditional Use Permits and Minor Conditional Use Permits

- A. Purpose and intent.** The purpose of this Section is to provide for uses that are essential or desirable but cannot be readily classified as allowed uses in individual zones by reason of their special character,

uniqueness of size or scope, or possible effect on public facilities or surrounding uses. The intent of this Section is to provide for specific consideration of these uses.

- B. Applicability.** The provisions of this Section shall apply to those uses listed within this Development Code as requiring either a Conditional Use Permit or Minor Conditional Use Permit. The following references in this Section to Conditional Use Permits shall be interpreted to include both Conditional Use Permits and Minor Conditional Use Permits unless otherwise noted.
- C. Contents of application.** An application for a Conditional Use Permit shall be submitted in compliance with Chapter 35.80 (Permit Application Filing and Processing).
1. If an application for a Conditional Use Permit is submitted for a property located in the Coastal Zone, then an application for a Coastal Development Permit for the development requested by the Conditional Use Permit application shall also be submitted and shall be processed concurrently and in conjunction with Conditional Use Permit application except when the Coastal Commission approves the Coastal Development Permit because:
 - a. The development is located within the retained permit jurisdiction of the Coastal Commission, or
 - b. The project is located in an area of the County where the County's Local Coastal Program has not been certified by the Coastal Commission.
- D. Processing.**
1. After receipt of an application for a Conditional Use Permit, the Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
 2. For residential structures on lots adjacent to the sea, the application shall be subject to Design Review in compliance with Section 35.82.070 (Design Review).
 3. The Department shall refer the application for a Conditional Use Permit to the Subdivision/Development Review Committee for review and recommendation to the review authority.
 4. The review authority shall hold at least one noticed public hearing on the requested Conditional Use Permit and approve, conditionally approve, or deny the request.
 5. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 35.106 (Noticing and Public Hearings).
 6. The action of the review authority is final subject to appeal in compliance with Chapter 35.102 (Appeals).
 7. Conditional Use Permits may be granted for a period of time and upon conditions and limitations as may be required to protect the public health, peace, safety, and general welfare of the community. The conditions may be more restrictive than those required in the specific zones.
 8. In the case of a Conditional Use Permit application where the project is subject to Development Plan requirements, a Development Plan shall be required in addition to obtaining a Conditional Use Permit, except for the following:
 - a. Commercial telecommunication facilities that are permitted by a Conditional Use Permit pursuant to Section 35.44.010 (Commercial Telecommunication Facilities) provided that any structure constructed or erected as part of the telecommunications facility shall only be used as part of the telecommunication facility and shall be removed pursuant to Section 35.44.010.E.4 (Project abandonment/site restoration).
 9. Notwithstanding the requirements of Subsection 35.80.020.B (Applications subject to more than one review authority) and Section 35.82.080 (Development Plans), if a Development Plan is required in compliance with Subsection D.8 above, then the Development Plan shall also be under

the jurisdiction of the Zoning Administrator if the Conditional Use Permit would be under the jurisdiction of the Zoning Administrator provided:

- a. The use of the site proposed to be allowed by the Minor Conditional Use Permit is the only proposed use of the site, or
- b. On a developed site, no new development is proposed beyond that applied for under the Minor Conditional Use Permit.

E. Findings required for approval of Conditional Use Permits other than Conditional Use Permit applications submitted in compliance with Chapter 35.38 (Sign Standards). A Conditional Use Permit application shall be approved or conditionally approved only if the review authority first makes all of the following findings, as applicable.

1. Findings required for all Conditional Use Permits:

- a. The site for the proposed project is adequate in terms of location, physical characteristics, shape, and size to accommodate the type of use and level of development proposed;
- b. Environmental impacts.
 - (1) Within the Coastal Zone adverse environmental impacts will be mitigated to the maximum extent feasible.
 - (2) Within the Inland area significant environmental impacts will be mitigated to the maximum extent feasible.
- c. Streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.
- d. There will be adequate public services, including fire protection, police protection, sewage disposal, and water supply to serve the proposed project.
- e. The proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area.
- f. The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan, including any applicable community or area plan.
- g. Within Rural areas as designated on the Comprehensive Plan maps, the proposed use will be compatible with and subordinate to the rural and scenic character of the area.

2. Additional findings required for sites within the Coastal Zone.

- a. The proposed project will not conflict with any easements required for public access through, or public use of the site.
- b. The proposed use is consistent with the intent of the applicable zone.

3. Additional findings required for sites zoned MT-GOL (Mountainous Goleta) zone.

- a. The proposed project will not cause significant erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream water courses or water bodies.
- b. The proposed project will not cause any significant adverse effect on environmentally sensitive habitat areas.

4. Additional findings required for sites zoned MT-TORO (Mountainous Toro) zone.

- a. The proposed project will not require extensive alteration of the topography.
- b. The proposed project will not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream water courses or water bodies.
- c. The proposed project will not cause any significant adverse effect on environmentally

141-21

POR. RANCHO CANADA DE LOS PINOS

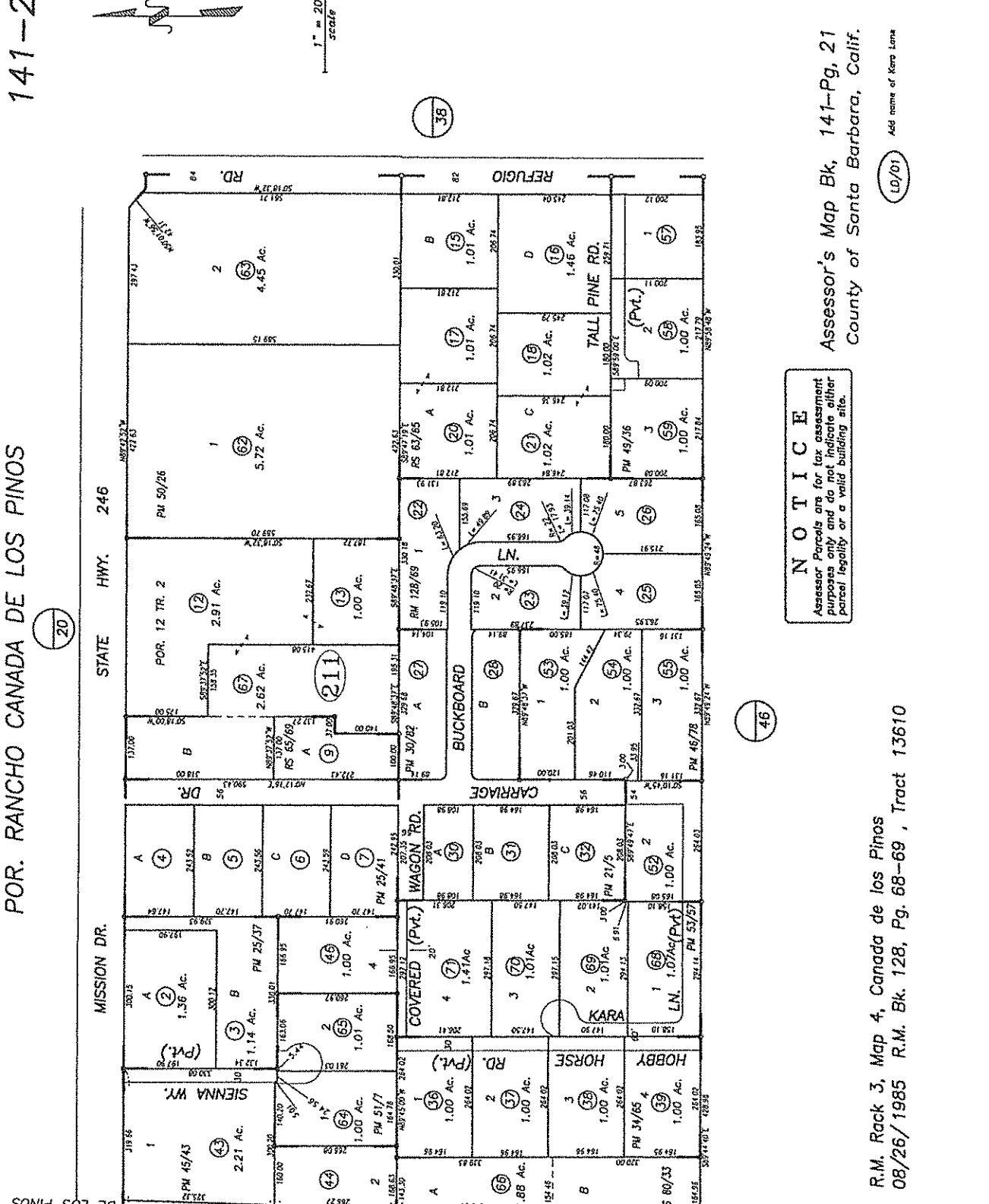
DE LOS PINOS

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NOTICE

Assessor's Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

Assessor's Map Bk, 141-Pg, 21

County of Santa Barbara, Calif.

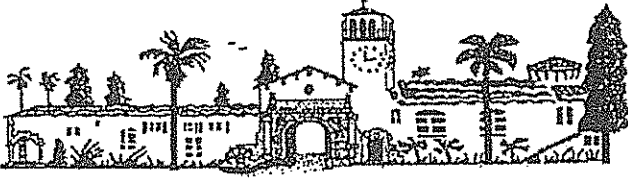
08/26/1985 R.M. Bk. 128, Pg. 68-69, Tract 13610

Add name of Kern Lema

**County of Santa Barbara
Planning and Development**

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director



June 22, 2015

John Vander Meulen
Michelle L. Vander Meulen
1386 Solomon Road
Santa Maria, CA 93455

RE: Resolution of Case #: 15ZEV-00000-00040/15BDV-00000-00049
APN: 105-00-033
Address: 4655 Song Lane

Dear Property Owners:

Pursuant to my letter dated May 28, 2015, Planning & Development determined that the use of the multipurpose arena by motorized vehicles required approval of a Conditional Use Permit pursuant to Section 35.23.030 of the Santa Barbara County Land Use & Development Code. Planning & Development (P&D) has not received additional complaints subsequent to the May 28, 2015 letter and it appears that the arena is no longer being utilized by mechanized vehicles. Accordingly, the above referenced zoning and building enforcement cases have been closed.

Please be advised that should P&D receive complaints that can be substantiated regarding the use of the arena by motorized vehicles, a new violation complaint will be opened and you will be subject to fees and fines as applicable pursuant to Chapter 24A and Chapter 35 of the Santa Barbara County Code.

Thank you for working with Planning & Development in resolving your case in a cooperative manner. Please contact me if you have any further questions regarding this case.

Sincerely,

Petra Leyva
Code Enforcement Program - North/South County
Phone: (805) 568-2071
Email: petra@co.santa-barbara.ca.us

**AUTHORITY: SANTA BARBARA COUNTY CODE CHAPTER 24A
Santa Barbara County Land Use & Development Code § 35.108.070.E
Santa Barbara County Code Chapter 14**

6-4

THE LAW FIRM OF
BRENNEMAN, JUAREZ & ADAM LLP
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

GERTRUDE D. CHERN (1920-2002)
RICHARD C. BRENNEMAN INC.
MARIO A. JUAREZ INC.
RICHARD E. ADAM, JR. INC.

625 EAST CHAPEL STREET
SANTA MARIA, CA 93454
TEL: 805-922-4553
FAX: 805-928-7262

September 8, 2015

Via Certified U.S. Mail

RECEIVED

Petra Leyva, Supervising Planner
Santa Barbara County Planning & Development Department
624 Foster Rd.
Santa Maria, CA 93455

SEP 14 2015
S.B. COUNTY
PLANNING & DEVELOPMENT

*Re: Request for Clarification of Your Letters of May 28, 2015 and June 22, 2015
Regarding Permitted Use on John Vander Meulen 7.5 Acre Private Property*

Dear Ms. Leyva:

This office represents John Vander Meulen relative to the permitted use of his private property (APN 105-000-033) (the "Property"), Santa Barbara County Case Numbers 15ZEV-00000-00040 and 15BDV-00000-00049, and your letters dated May 28, 2015 and June 22, 2015.

As you are aware, Mr. Vander Meulen periodically rides motorcycles on an oval "track" on the 7.5 acre Property (Zoned 3-E-1). He has done so since 2001. The Property (as a whole) has been used for motorcycle riding since 1990. The vast majority of the Property is unimproved land.

I. Background.

In early 2015, I am informed that P&D opened an "investigation" (and opened the above mentioned case numbers) relative to potential (1) building/grading violations and (2) zoning/use violations.

On May 28, 2015, you sent Mr. Vander Meulen a letter stating – relative to the issue of use – that "The use of this 'arena' [i.e. referring to the circular track] by motorized vehicles (primarily motorcycles) does not qualify as an 'accessory use.'" More specifically, your letter states the following;

- (1) "Accessory Use is defined as: A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity."
- (2) "The use of the 'arena' for motorized vehicles to ride, race, train, test, practice, etc. generates significant noise, dust and odor not typical or customary to the average residentially zoned parcel."

RECEIVED
SEP 11 2015
S.B. COUNTY (NORTH)
PLANNING & DEVELOPMENT

- (3) "The current use of the 'multi-purpose area' may qualify as a Sports and Outdoor Recreation Facility...[examples of which] include: baseball fields, football fields, polo fields, [and] softball fields...A Sports and Outdoor Recreational Facility requires approval of a Conditional Use Permit (CUP) pursuant to Section 35.23.030 [of the LUDC].

On June 22, 2015, you sent Mr. Vander Meulen a follow up letter indicating that "the above mentioned zoning and building enforcement cases have been closed." In said letter, your further reiterate P&D's position that "the use of the 'multipurpose arena' by motorized vehicles requires approval of a Conditional Use Permit."

On August 19, 2015, you issued a Notice of Determination of Fine to Mr. Vander Meulen, stating that (a) you had advised Mr. Vander Meulen that "the use of the multipurpose arena by motorized vehicles required a CUP, and (b) P&D received a complaint stating that "motorized vehicles were using the arena...[and that] there were approximately 7 cars/trucks, a motor home, 3 EZ up shade structures and 15-20 people [on the Property]." Ultimately, "after considering the facts and circumstances surrounding the violation, a fine in the amount of \$100.00" was assessed.

II. Discussion.

As a preliminary matter, the term "Arena" is neither mentioned (in the instant context) in the LUDC, nor is it defined. The term "Multipurpose Arena" (or "Multipurpose Facility") is not mentioned at all in the LUDC.

More importantly, we believe that the track fits the definition of "Accessory Use." First, notwithstanding the assertions made in your letter of May 28, the track is, in fact, "customarily incidental" to the principal structure as well as the surrounding area. Indeed, two (2) of the properties in the immediate vicinity of the Property in question (and five of the properties in Key Site D) have either motorcycle race courses or are routinely utilized for the riding of motorized vehicles (e.g. motorcycles) for personal recreation.

Further, we do not believe that the track can be characterized as a Sports and Outdoor Recreation Facility (e.g. a baseball field, a soccer field, etc.). As a preliminary matter, it isn't a "Facility" at all. It is a flat oval on bare ground. There is no "structure" (other than a short fence, which will be removed shortly) on the oval that would trigger a "Facility" categorization. Nor, although not dispositive, is there any public use of the track.

Finally, we are disturbed at P&D's policy of assessing a fine for an alleged violation that P&D did not witness. In our opinion, this presents a very slippery slope in that persons with personal animus against a third party could present P&D with false claims (whether dealing with date, time, or action) against said third party. P&D's acceptance of the truth and accuracy of such claims without personal verification inappropriately shifts the burden to the third party who has no ability to confront the accusers (who is, per County policy, cloaked in a veil of anonymity). In short, verification by independent P&D Staff should be a prerequisite to issuing such a fine.

III. Request For Clarification

Notwithstanding the position noted above, Mr. Vander Meulen will suspend the use of the oval track, and further, will pay said fine (with a reservation of right) in a timely manner.

However, with the exception of the track and a single family home, as previously stated, the vast majority of Mr. Vander Meulen's 7.5 acres is unimproved ground; it is pastureland in an undisturbed state.

Mr. Vander Meulen, his children, and close friends would like to continue riding motorcycles on this private property for personal recreation. He intends to do so within the confines of the County thresholds. To wit, he will ensure that sound levels will not reach 65 Dba at the closest property line, and he will ensure (via watering) that dust does not escape to surrounding properties. In short, his activity will be no more invasive to surrounding properties than a back yard BBQ.

In order to safeguard against future complaints, I believe it is prudent for Mr. Vander Meulen to know exactly what type of riding can occur on the Property pursuant to Santa Barbara County Code. As such, I would like a response to the following questions so as to be able to meaningfully advise Mr. Vander Meulen:

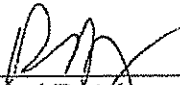
- (1) Is the County of Santa Barbara asserting that Mr. Vander Mullen *is never allowed to ride motorcycles for personal recreation on any portion* of his 7.5 acre Property at any time?
 - a. If so, please provide a precise explanation, citing the specific provisions of the LUDC that supports this explanation.
- (2) If Mr. Vander Meulen is allowed to ride motorcycles on some portions of his 7.5 acre property for personal recreation, please identify the specific areas on said Property in which he is allowed to do so.
- (3) If Mr. Vander Meulen is allowed to ride motorcycles on some portion of this 7.5 acre property for personal recreation, please identify the number of persons that can ride motorcycles on the Property at any given time.
- (4) If Mr. Vander Meulen is allowed to ride motorcycles on his 7.5 acre property for personal recreation, please identify any restrictions and/or thresholds (along with the specific corresponding authority) with which Mr. Vander Meulen may need to comply.
- (5) Finally, should Mr. Vander Meulen be hosting the event for charitable purposes, please explain whether LUDC Section 35.42-260.F.4 is applicable. As you know, said Section makes clear that no permit is required "for a lot that is five gross acres or more in area...[so long as] the number of persons present at the event at any one time does not exceed 300." For example, if Mr. Vander Meulen desires to host an event to raise funds for an injured rider, would such a scenario require a permit of any kind? If not, please provide a precise explanation, citing the specific rationale and provision of the LUDC that supports this rationale.

Your responses to these questions are necessary for Mr. Vander Meulen to conform his conduct to LUDC standards.

As always, I thank you for your prompt reply to these important questions. Should you have any questions or wish to discuss the matter personally, please do not hesitate to contact me at the above number.

Sincerely,

BRENNEMAN, JUAREZ & ADAM

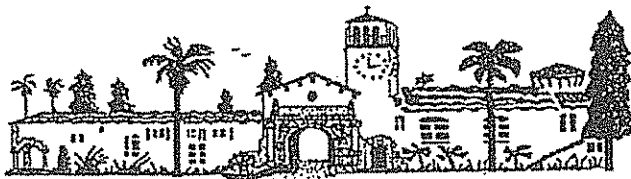

Richard E. Adam, Jr., attorneys for Mr.
Vander Meulen

Cc: Via Email Only to
grussell@co.santa-barbara.ca.us

6-9

County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director
Dianne Black, Assistant Director



September 29, 2015

Mr. Richard E. Adam, Jr.
Brenneman, Juarez & Adam, LLP
625 E. Chapel Street
Santa Maria, CA 93454

RE: September 8, 2015 Request for Clarification

Dear Mr. Adam,

As you requested, Planning & Development is responding to your client's request for clarification as stated in your letter dated September 8, 2015.

(1) Is the County of Santa Barbara asserting that Mr. Vander Meulen *is never allowed to ride motorcycles for personal recreation on any portion* of his 7.5 acre Property at any time?

Response: No. Planning & Development has never asserted that Mr. Vander Meulen is not allowed to ride motorcycles for personal, noncommercial recreation or other uses accessory and subordinate to the residential zone designation of his property addressed as 4655 Song Lane.

- a. If so, please provide a precise explanation, citing the specific provisions of the LUDC that supports this explanation.

Response: Not applicable.

(2) If Mr. Vander Meulen is allowed to ride motorcycles on some portions of his 7.5 acre property for personal recreation, please identify the specific areas on said Property in which is allowed to do so.

Response: Mr. Vander Meulen may use any portion of his residential property for personal, noncommercial recreation that does not conflict with the residential zone designation or those uses permitted within residential zones.

Planning & Development maintains its determination that the formal track (or as designated by the property owner as a multi-purpose arena)¹ cannot be found accessory, incidental or subordinate to a typical residential property. As your client was advised in my letter dated May 28, 2015, the use of the track/multi-purpose arena for motorized vehicles requires approval of a Conditional Use Permit (CUP)

(3) If Mr. Vander Meulen is allowed to ride motorcycles on some portion of this 7.5 acre property for personal recreation, please identify the number of persons that can ride motorcycles on the property at any given time.

Response: Santa Barbara County Code Chapter 35 (Zoning) does not quantify the number of persons who may participate or establish a numeric threshold for accessory residential uses/activities. The Land Use & Development Code definition² of Accessory Uses allows for a flexible, case by case analysis with an overriding constraint that in no case will the accessory use(s) negatively impact surrounding properties.

The maximum number of persons that can ride motorcycles on the property for personal, noncommercial activities would be established by the number of riders that would not negatively affect the surrounding neighborhood with excessive noise, dust, and generation of traffic or other nuisance issues.

(4) If Mr. Vander Meulen is allowed to ride motorcycles on his 7.5 acre property for personal recreation, please identify any restrictions and or restrictions and/or thresholds (along with the specific corresponding authority) with which Mr. Vander Meulen may need to comply.

Response: As limited to those activities governed under County Code Chapter 35 (Zoning) Mr. Vander Meulen is responsible for compliance with all applicable sections of the Santa Barbara County Land Use & Development Code including but not limited to §35.23.030 (Residential Zones Allowable Land Uses), §35.42.020 (Accessory Structures and Uses) and §35.42.260 (Temporary Uses and Trailers).

(5) Finally, should Mr. Vander Meulen be hosting the event for charitable purposes, please explain whether LUDC §35.42.260.F.4 is applicable. As you know, said Section makes clear that no permit is required "for a lot that is five gross acres or more in area...{so long as} the number of persons present at the event at any one time does not exceed 300." For example, if Mr. Vander Meulen desires to host an event to raise funds for an injured rider, would such a scenario require a permit of any kind? If not, please provide a precise explanation, citing the specific rational and provision of the LUDC that supports this rationale.

¹ February 10, 2015 email communication from John Vander Meulen to Petra Leyva: "First, please correct your terminology to reflect that we are discussing a multi-purpose arena, not a track."

² "A use that is customarily incidental, appropriate and subordinate to the use of the principal structure or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other property in the vicinity."

Response: A Determination by Dr. Glenn Russell, the Director of Planning and Development was released on September 2, 2014 (see attached) defining the following:

Charitable Function - *An event or activity whose primary purpose is of a charitable or noncommercial nature.*

Charitable (as applied to an event or function) - *An event or activity that is held by or sponsored for the sole benefit of an organization(s) that currently has tax exempt status under either state or federal law (26 U.S.C. § 501(c)(3); Cal. Revenue and Tax Code § 23701).*

Non-Commercial function or event - *An event or activity that does not have any commercial component including but not limited to admission and membership fees, product promotion and sales, public advertising, and does not involve any remuneration to the property owner or tenant.*

In order to assist Mr. Vander Meulen in determining if a specific proposed event qualifies as an event not subject to a zoning permit the information listed below would need to be provided to Planning & Development staff with sufficient time prior to the event to allow for consideration.

Requested Information

1. The nature of the event proposed.
2. The maximum number of anticipated attendees.
3. The location/building onsite where the event will be held. Please note that only structures permitted for human occupation may be used as event gathering space.
4. Identification of the tax exempt charitable organization (if applicable) and a copy of the applicable Tax Exempt status documentation.
5. Information on admission/participation fees to be collected at the event or donations requested.
 - Identification of the recipient (individual, charitable organization or cause) of all funds raised/collected.
 - Confirmation that all money raised or collected will be given to the designated individual/organization for which the funds were raised (please note that money collected cannot be used for site up-keep/maintenance, supplies, equipment, provisions or other).

I hope the responses provided will assist Mr. Vander Meulen in his efforts to remain in conformance with the County Land Use & Development Code. Please don't hesitate to contact me should you have any questions.

Sincerely,



Petra Leyva, Supervising Planner
Building & Safety Division

Leyva, Petra

From: John Vander Meulen [john@imagesscreenprinting.com]
Sent: Tuesday, February 24, 2015 1:32 PM
To: Leyva, Petra
Subject: RE: Case #15ZEV-00000-00040
Attachments: img099.jpg; img105.jpg

Ms. Leyva,

I've attached a copy of the sales ticket provided to me by the truck driver and an aerial photo of the property including dimensions and calculations. As I stated during our first phone conversation, I have not changed the grade of the property, nor have I manipulated or brought in enough material to require a permit. Please let me know exactly what section and sub section of chapter 35 I am accused of violating?

I look forward to your response and to resolving this matter in a timely fashion.

- John Vander Meulen

From: Leyva, Petra [mailto:Petra@co.santa-barbara.ca.us]
Sent: Thursday, February 12, 2015 10:22 AM
To: 'John Vander Meulen'
Subject: RE: Case #15ZEV-00000-00040

Mr. Vander Meulen,

My request for information is to determine if a grading or erosion control permit is required without a site visit as the grading ordinance does not exempt arenas.

Two of the complaints submitted by reporting parties state that dump trucks full of road base and dirt were brought to the site. Bringing road base and/or dirt to a parcel may trigger the requirement for a grading or erosion control permit.

For example any site that has exposed surface soils of greater than 5,000 square feet requires an erosion control permit. This is why I am asking for the dimensions of the multi-purpose arena. In addition any site that imports material or manipulates 50 cubic yards or more requires a grading permit. This is why I am asking if any material was brought to the site, the depth of the surface materials placed on the multi-purpose arena.

I look forward to your response and working with you in a cooperative fashion to resolve this matter in a timely manner.

Petra Leyva

From: John Vander Meulen [mailto:john@imagesscreenprinting.com]
Sent: Tuesday, February 10, 2015 11:09 AM
To: Leyva, Petra; John Vander Meulen
Subject: RE: Case #15ZEV-00000-00040

Dear Ms. Leyva,

First, please correct your terminology to reflect that we are discussing a multi-purpose arena, not a track. My children have been 4-H members for years, in both their club horse project and the county horse mastership project. I am seriously concerned that this situation is going to impact their progress in their horse projects.

I am confused by your request for the depth of surface materials. Depth in relationship to what? The arena is the same level as the rest of the property. No grading has been done, only smoothing the surface to remove weeds and provide a safe surface.

I don't have the dimensions off the top of my head, but I can get them for you. Google Earth has photos of my property going back to at least 2003 if can you use that.

John Vander Meulen
Images Screenprinting & Embroidery
john@imagescreenprinting.com

From: Leyva, Petra [<mailto:Petra@co.santa-barbara.ca.us>]
Sent: Tuesday, February 10, 2015 10:22 AM
To: 'John Vander Meulen'
Subject: RE: Case #15ZEV-00000-00040

Mr. Wander Meulen,

I am trying to determine the amount of grading for the track without performing a site visit. Can you please provide me with the track dimensions and depth of surface materials?

Thank You

Petra Leyva

From: John Vander Meulen [<mailto:john@imagescreenprinting.com>]
Sent: Monday, February 09, 2015 12:16 PM
To: Leyva, Petra
Subject: Case #15ZEV-00000-00040

Hí Petra,

I was just following up from our conversation last week. You hadn't found any violations, but wanted to double check a few things to be sure. Could you please reply to this message or give me a call @ 805-925-7170 and let me know where we stand?

Thank You!

- John Vander Meulen



County of Santa Barbara
Planning and Development

Glenn S. Russell, Ph.D., Director
Dianne Black, Assistant Director

May 28, 2015

Certified Mail
7012 3460 0002 9227 8739

John Vander Meulen
Michelle L. Vander Meulen
1386 Solomon Road
Santa Maria, CA 93455

RE: Case No.: 15ZEV-00000-00040/15BDV-00000-00049
APN: 105-010-033
Address: 4655 Song Lane

Dear Mr. and Ms. Vander Meulen

As you are aware, Planning & Development (P&D) has been investigating a violation complaint filed in January of this year regarding grading of a racetrack and use of the parcel for motorcycle events (property owner described as a "multipurpose arena") on your property addressed as 4655 Song Lane. Based on the information gathered during Planning & Development's investigation and the conclusions Mr. Crandall made during his site inspection conducted on April 30, 2015, it was determined that the "arena" structure itself does not require zoning or building permits (walls less than six feet in height, less than 50 cubic yards of grading). However, the use of this "arena" by motorized vehicles (primarily motorcycles) does not qualify as an "accessory use".

Pursuant to Article 35.11 (Glossary) of the Santa Barbara County Land Use & Development Code (LUDC) Accessory Use is defined as: *A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.* The use of the "arena" for motorized vehicles to ride, race, train, test, practice, etc. generates significant noise, dust and odor not typical or customary to the average residentially zoned parcel. Furthermore, given the long narrow configuration of the lot and its proximity to the surrounding residentially developed neighborhoods, the impacts of these activities are exacerbated.

The current use of the "multi-purpose area" may qualify as a Sports and Outdoor Recreation Facility. Pursuant to Article 35.11 (Glossary) of the LUDC a Sports and Outdoor Recreation Facility is defined as: *Public and private facilities for various outdoor sports and other type of recreation, where the facilities are oriented more toward participants than spectators.* Examples include: baseball, football, polo, softball, soccer, skateboard parks, tennis and handball, etc.

A Sports and Outdoor Recreation Facility requires approval of a Conditional Use Permit (CUP) pursuant to Section 35.23.030 Table 2-7. For your reference I have attached LUDC section 35.82.060.E. This section of the LUDC details the required finding for approval of a CUP. The

decision to approve or deny the CUP will be made by the County Planning Commission in a noticed public hearing should you choose to pursue a CUP for this use. Please note, that the use of the "multipurpose arena" by motorized vehicles must immediately cease until such time as a Conditional Use Permit has been issued.

Thank you for your attention to this matter. Please feel free to contact me should you have any additional questions.

Sincerely,



Petra Leyva
Supervising Planner
(805) 568-2071

cc: Steve Mason, Administration & Operations Manager
Brad Crandall, Supervising Grading Inspector

Enclosures: Article 35.11 definition of Accessory Use
Article 35.11 definition of Sports and Outdoor Recreation Facility
Section 35.23.030 Table 2-7, Allowed Land Uses and Permit Requirements for Residential Zones
Section 35.82.060.E, Findings required for approval of Conditional Use Permits

CHAPTER 35.110 - DEFINITIONS

Sections:

- 35.110.010 - Purpose
- 35.110.020 - Definitions of Specialized Terms and Phrases

35.110.010 - Purpose

This Chapter provides definitions of terms and phrases used in this Development Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the County Code, these definitions shall control for the purposes of this Development Code. If a word is not defined in this Chapter, or in other provisions of the Santa Barbara County Code, the Director shall determine the correct definition utilizing the latest edition standard dictionary.

35.110.020 - Definitions of Specialized Terms and Phrases

As used in this Development Code, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

A. Definitions, "A."

Abut. To physically touch or border upon; or to share a common property line.

Accessory Agricultural Structure. A structure designed and constructed primarily for storing farm implements or supplies, hay, grain, poultry, livestock or horticultural products that supports the agricultural use of the lot.

Accessory Residential Structure or Use. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to a residence, and does not change the character of the residential use. This definition includes the following attached and detached accessory structures, and other similar structures normally associated with a residential use of property. Accessory Agricultural Structures are separately defined. Examples of this land use include the following:

- | | |
|------------------------------|--------------------------------------|
| artist studios | spas and hot tubs |
| cabanas | storage sheds |
| garages | swimming pools |
| gazebos | tennis and other onsite sport courts |
| greenhouses (non-commercial) | workshops |
| guesthouses | |

Also includes the indoor storage of automobiles, personal recreational vehicles and other personal property, accessory to a residential use.

Accessory Retail or Services. The limited retail sale of various products, or the provision of certain personal services within a health care facility, hotel, office, or industrial complex, to employees or customers of, or visitors to the principle use. Examples of these uses include pharmacies, gift shops, and food service establishments within hospitals; convenience stores and food service establishments within hotel, office and industrial complexes; and barber and beauty shops within residential care facilities.

Accessory Structure. A structure located upon the same site as the structure or use to which it is accessory. The use of an accessory structure is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site.

Accessory Use. A use that is customarily incidental, appropriate and subordinate to the use of the principal structure, or to the principal land use of the site and that does not alter the principal use of the lot or adversely affect other properties in the vicinity.

Adjacent. See "abut."




County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

1

TO: Staff and Interested Parties
FROM: Dr. Glenn S. Russell, Director 
DATE: September 2, 2014
RE: Determination of words undefined in the LUDC

The following is a Director's Determination as to the meaning of certain words that are currently undefined in the LUDC.

The LUDC grants exemptions from permits for temporary events held by charitable organizations. The size and frequency of such exempt events varies depending on the size of the lot. It has become clear that in order to adequately and appropriately evaluate proposed events for this exemption, it is necessary to clarify the meaning of key terms used in the LUDC that are not currently defined. The purpose of this determination is to clarify several key terms in that regard. This will benefit property owners, applicants, and planners who are processing applications, and help guide enforcement decisions. This determination only applies to inland areas of the County, and does not apply within the Coastal Zone.

Pursuant to Section 35.102.040.A.3.a of the Land Use and Development Code ("Development Code"), this Director Determination is a determination on the meaning and applicability of certain provisions of the Development Code. Because the following terms are currently undefined in the Development Code or other provisions of the Santa Barbara County Code, I determined the correct definition by utilizing and referring to the latest edition standard dictionary as provided for in Section 35.110.010. The following terms are defined in the context of Temporary Uses and Section 35.42.260 of the Development Code.

Existing Definitions:

"Temporary Use" (LUDC Chapter 35.110-Definitions):

"Temporary use within the Inland area is defined as the use of a structure or land for an event for a limited period of time where the site is not to be permanently altered by grading or construction of accessory facilities. Examples of temporary uses include: art shows, car washes, charitable functions, seasonal sales lots".

Section 35.42.260 (Temporary Uses and Trailers) that provides the zoning regulations and standards for temporary uses includes the synonymous terms "event" and "function," which are not currently defined in the LUDC.

New Definition:

"Event" or "Function": Any gathering of individuals assembled with a common purpose, including but not limited to ceremonies, competitions, festivals, fundraisers, weddings, parties, or similar activities that take place on a temporary and occasional basis.

Existing Definition:

"Charitable Function": An event or activity whose primary purpose is of a charitable or noncommercial nature.

The above definition includes the words "charitable" and "noncommercial," which are not currently defined in the LUDC.

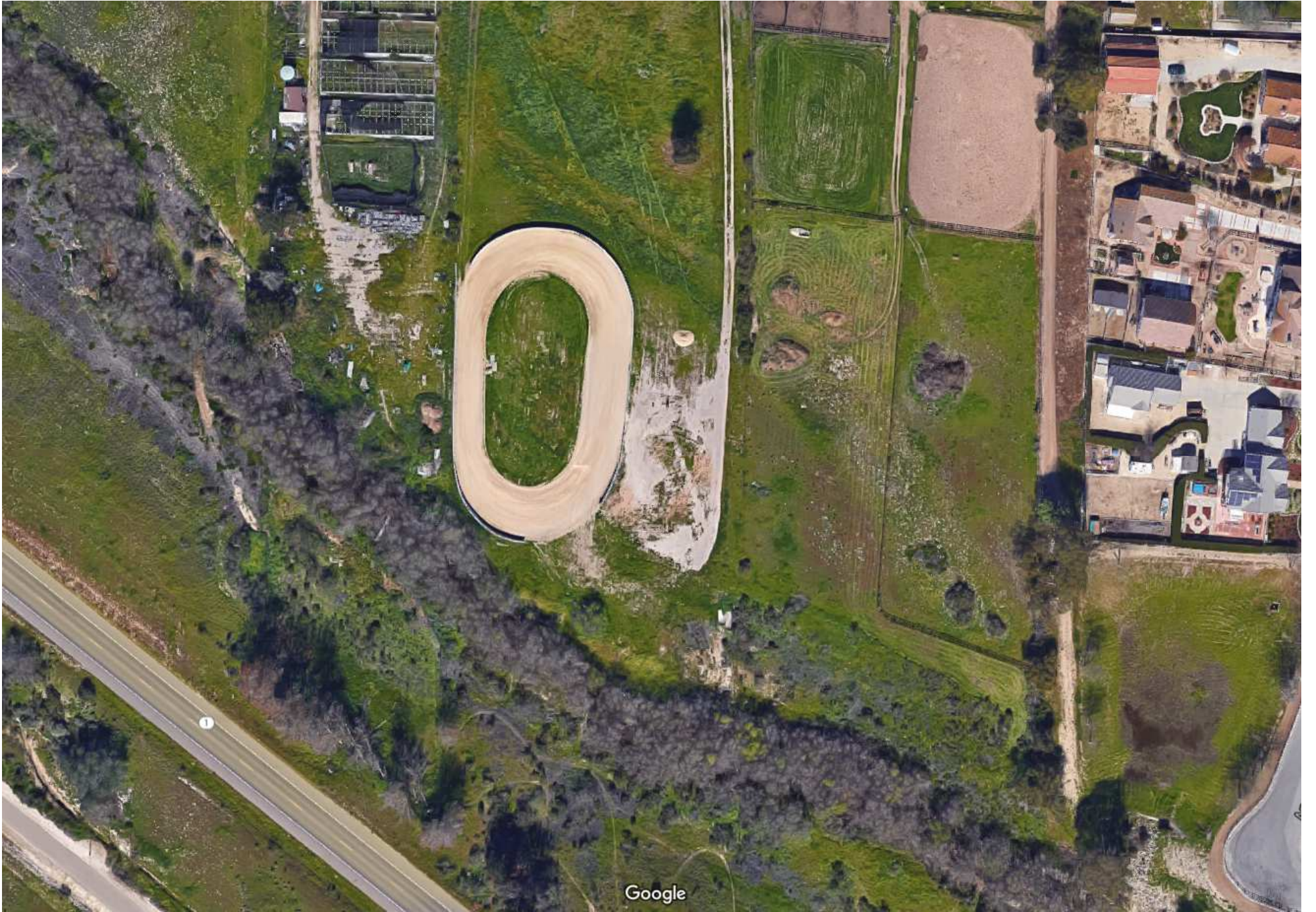
New Definitions:

"Charitable" (as applied to an event or function): An event or activity that is held by or sponsored for the sole benefit of an organization(s) that currently has tax exempt status under either state or federal law (26 U.S.C. § 501(c)(3); Cal. Revenue and Tax Code § 23701).

"Non-Commercial" function or event: An event or activity that does not have any commercial component including, but not limited to admission and membership fees, product promotion and sales, public advertising, and does not involve any remuneration to the property owner or tenant.



Track



Petition against motorcycle race track

Location : 1386 Song Lane

Parcel (APN): 105-010-033

Owner : John Vandermuellen

Sign this petition to protest the recent operation of a racetrack and Motorcycle events that affect the adjacent residential community surrounding this operation. These activities are new and are impacting the residential community adversely.

The undersign objects to the Noise, dirt and dust that is produced by such events. This activity is also devaluing the surrounding properties and infringing on the privacy rights and tranquility of the neighborhood. This type of activity is not conducive with the expected residential peace and solitude that we, the undersigned, have come to expect. We are also concerned about the unmuffled motor bikes with the portable gas cans and the potential for fire hazards to the area and local homes.

① Name: Jeff Beckels Date 4-2-15

Address: 1309 Morgan Trail, S.M., CA 93455

② Name: Janie Jauchel Date 4-2-15

Address: 1309 Morgan Trail, S.M., CA 93455

③ Name: Sandra Bassett Date 4-2-15

Address: 1323 Morgan Trail

④ Name: Candace Haskell Date 4/22/15

Address: 1335 Morgan Trail

Name: _____ Date _____

Address: _____

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- 5 Name: ARCH DOLAN OF
Paul & Denny Date 3/28/2015
Address: 4744 APPALOOSA TRAIL
- 6 Name: Cathy LEES
Cathy Lees Date 3-28-15
Address: 1300 Quarter Horse trail
- 7 Name: GREG LEES
y6 Date 3-28-15
Address: 1300 QUARTERHORSE TRAIL
- 8 Name: Dawn Brand
Dawn Brand Date 3/28/15
Address: 4701 Paint Horse Trail
- 9 Name: Richard Justice
Richard Justice Date 3-28-15
Address: 4775 APPALOOSA TRL. S. N CA 93455

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⑩ Name: MITCHELL HARDIN MITCHELL Date 28 MAR 2015
Address: 4737 APPALOOSA TRAIL

⑪ Name: DAVID W. HALL Date 3/28/15
Address: 4753 APPALOOSA TRAIL SANTA MARIA CA 93455

⑫ Name: GARY SMITH Date 3/29/2015
Address: 4689 APPALOOSA TRAIL SANTA MARIA CA

⑬ Name: LORENZA SMITH Date 3/29/2015
Address: 4689 APPALOOSA TRAIL SANTA MARIA CA

⑭ Name: JULIAN VILLARREAL JR. Date 3/29/2015
Address: 4680 APPALOOSA TRAIL, SANTA MARIA CA. 93455

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15 Name: James Clement Date 3-29-15
Address: 4667 Appaloosa Trail

16 Name: CHRIS CLEMENT ~~Chris Clement~~ Date 03-29-15
Address: 4667 APPALOOSA TRAIL SW 93455

17 Name: STEVE FLEMING Steve Fleming Date 3/29/2015
Address: 4664 APPALOOSA TRAIL

18 Name: Sherry Fleming Date 3-29-2015
Address: 4664 Appaloosa Trail S. Fleming

19 Name: Susan Tuttle Ken-Cutt Date 3-29-15
Address: 4621 Appaloosa TR 93455

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20 Constance Hathaway
Name: Constance Hathaway Date 3/29/2015
Address: 1356 Arabian Trl S M

21 Name: BRIAN MONIGHETTI Date 3/29/15
Address: 1336 ARABIAN TRAIL

22 Name: Haody Nunez Date 3/29/15
Address: 4652 APPALOOSA TRAIL

23 Name: Cyndi Nunez Date 3/29/15
Address: 4652 Appaloosa Trl 93455

24 Name: Donna Martinez Date 3/29/15
Address: 4643 Appaloosa Trail

Petition against motorcycle race track


Location : 1386 Song Lane

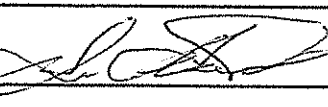
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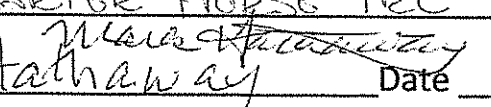
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25 Name: Jenny Stron  Date 3-29-15
Address: 4609 APPALOOSA TR OREUTT CA 93455

26 Name: Shaun Henderson  Date 3-29-15
Address: 4725 APPALOOSA TRAIL OREUTT CA 93455

27 Name: Lo Carson Date 3/29/15
Address: 1285 QUARTER HORSE TRL SM

28 Name: Lanier R Carson Date 3/29/15
Address: 1285 QUARTER HORSE TRL SM

29 Name: Mark Hathaway  Date 3/29/15
Address: 1356 Arabian Trl SM