

**Notice of Appeal to the Board of Supervisors  
REQUEST FOR FACILITATION**

DATE: JANUARY 25, 2016

TO: RACHEL VAN MULLEM, County Counsel

FROM: David Villalobos, PC Hearing Support *DMV*

Case Name: Morton Appeal of Brous Horse Barn and Hay Barn

Case Number: 15APL-00000-00014 (15LUP-00000-00276)

PC Hearing: January 6, 2016

Appeal Date: January 19, 2016

Appellants: Suzanne Kramer-Morton and Joel Morton, Sandra and Ramon Guerrero

An appeal to the Board of Supervisors of the Planning Commission's decision on the above case has been filed and will be scheduled for hearing before the Board of Supervisors. A copy of the appeal is attached and a list of the names and addresses of the affected parties are shown below.

Please consult with the case planner in setting facilitation meeting date. Please send a copy of the meeting notification letter to Hearing Support staff of Planning & Development, Attn: David Villalobos at ext. 2058.

- Attachments:
- Appeal to the Board of Supervisors dated January 19, 2016
  - Planning Commission Action Letter dated January 8, 2016
  - Planning Commission Staff Report dated December 17, 2015

**Names/Addresses of affected parties:**

**Appellant:** Suzanne Kramer-Morton & Joel Morton, 4088 Indian Way, Santa Ynez, CA 93460; (626) 665-6678  
Sandra and Ramon Guerrero, 5001 Hudson Drive, Plano, TX 75093; (214) 629-7219

**Owner:** Greg Brous, 120 Meadowlark Road, Santa Ynez, CA 93460; (805) 681-8855

**Agent (Owner):** Victor Padilla, P.O. Box 24034, Santa Barbara, CA 93121; (805) 729-0434

**Attorney (Appellant):** David C. Fainer, Jr., 1114 State Street #200, Santa Barbara, CA 93101; (805) 899-1300

**NOTE TO PLANNERS:** County of Santa Barbara procedures provide for an informal consultation meeting among parties involved in land use permit appeals. The consultation meeting occurs after an appeal is filed, and prior to the Board appeal hearing. County Counsel's office will arrange for the meeting.

The purpose of the meeting is to clarify issues pertaining to the appeal, to identify possible solutions, and to notify parties in dispute of available mediation services which may assist in resolving disagreements. An experienced County meeting facilitator will conduct the meeting, and will prepare a report for meeting participants and the County decision-maker on issues and options identified which may assist resolution of the appeal.

cc: Case File: 15APL-00000-000014 (15LUP-00000-00276)  
Glenn Russell, Director, Planning and Development  
Dianne M. Black, Director, Development Services  
Anne Almy, Supervising Planner  
Stephanie Swanson, Planner  
David Villalobos, Hearing Support

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**PLANNING COMMISSION DECISION  
 APPEALED TO THE BOARD OF SUPERVISORS  
 January 25, 2016**

Case Numbers: 15APL-00000-00014 (15LUP-00000-00276)  APN: 141-390-015  Area: Santa Ynez  District: Third	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"><b>Title:</b></td> <td>Morton Appeal of Brous Horse Barn and Hay Barn</td> </tr> <tr> <td><b>Applicant:</b></td> <td>Greg Brous</td> </tr> <tr> <td><b>Appealed by:</b></td> <td>Suzanne Kramer-Morton and Joel Morton; Sandra and Ramon Guerrero</td> </tr> <tr> <td><b>Date appealed:</b></td> <td>January 19, 2016; 4:30 P.M.</td> </tr> <tr> <td><b>Planner:</b></td> <td>Stephanie Swanson x3319</td> </tr> <tr> <td><b>Supervising Planner:</b></td> <td>Anne Almy, ext. 2053</td> </tr> </table>	<b>Title:</b>	Morton Appeal of Brous Horse Barn and Hay Barn	<b>Applicant:</b>	Greg Brous	<b>Appealed by:</b>	Suzanne Kramer-Morton and Joel Morton; Sandra and Ramon Guerrero	<b>Date appealed:</b>	January 19, 2016; 4:30 P.M.	<b>Planner:</b>	Stephanie Swanson x3319	<b>Supervising Planner:</b>	Anne Almy, ext. 2053
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<b>Supervising Planner:</b>	Anne Almy, ext. 2053												
<b>Planning Commission</b>													
<b>Hearing Dates:</b>	January 6, 2016	Approved the Project with Revisions to the Conditions of Approval	<b>Board of Supervisors</b>										
<b>Fee Paid:</b>			\$648.26										
<b>APPELLANTS REASON FOR APPEAL:</b> See attached appeal letter													
<b>FACILITATION:</b> To be determined by County Counsel.													
<b>OUTCOME OF BOS HEARING:</b>													

cc: Glenn Russell, Director  
 Dianne M. Black, Assistant Director  
 Alice McCurdy, Deputy Director  
 Anne Almy, Supervising Planner  
 Stephanie Swanson, Planner  
 Records Management  
 Elisa Moser, Accounting  
 Petra Leyva, Building & Safety  
 David Villalobos, Hearing Support



COUNTY OF SANTA BARBARA

Planning and Development

[www.sbcountyplanning.org](http://www.sbcountyplanning.org)

# Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

**APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of:**

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions

## THIS PACKAGE CONTAINS

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

## AND, IF ✓'D, ALSO CONTAINS

South County Office 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	Energy Division 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	North County Office 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	Clerk of the Board 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax: (805) 568-2249
Website: <a href="http://www.sbcountyplanning.org">www.sbcountyplanning.org</a>			

## SUBMITTAL REQUIREMENTS

8 Copies of the attached application.

8 Copies of a written explanation of the appeal including:

- If you are not the applicant, an explanation of how you are an "aggrieved party" ("Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.");
- A clear, complete and concise statement of the reasons or grounds for appeal:
  - Why the decision or determination is consistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; or
  - There was error or abuse of discretion;
  - The decision is not supported by the evidence presented for consideration;
  - There was a lack of a fair and impartial hearing; or
  - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

1 Check payable to County of Santa Barbara.

✓ Note: There are additional requirements for certain appeals including:

✓

- a. **Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. **Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



PLANNING & DEVELOPMENT  
APPEAL FORM

SITE ADDRESS: 120 Meadowlark Road

ASSESSOR PARCEL NUMBER: 141-390-015

Are there previous permits/applications? no

Are there previous environmental (CEQA) documents? no

1. Appellants: Suzanne Kramer-Morton & Joel Morton Phone: 626-665-6678 FAX: n/a  
 Mailing Address: 4088 Indian Way, Santa Ynez, CA 93460 Email: jmorton626@verizon.net  
 and  
 Sandra and Ramon Guerrero Phone: 214-629-7219 FAX: n/a  
 Mailing Address: 5001 Hudson Drive, Plano, TX 75093 Email: ramong@sbcglobal.net

2. Owner: Greg Brous Phone: 805-681-8855 FAX: unknown  
 Mailing Address: 120 Meadowlark Road, Santa Ynez, CA 93460 E-mail: cnc4greg@yahoo.com

3. Agent: Victor Padilla (agent for Owner) Phone: 805-729-0434 FAX: unknown to Appellants  
 Mailing Address: P.O. Box 24034 E-mail: unknown to Appellants

4. Attorney: David C. Fainer, Jr. (atty. for Appellants) Phone: 805-899-1300 FAX: 805-963-5988  
 Mailing Address: 1114 State Street #200, Santa Barbara, CA 93101 E-mail: dfainer@fainerlaw.com

COUNTY USE ONLY

Case Number: \_\_\_\_\_ Companion Case Number: \_\_\_\_\_  
 Supervisorial District: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
 Applicable Zoning Ordinance: \_\_\_\_\_ Receipt Number: \_\_\_\_\_  
 Project Planner: \_\_\_\_\_ Accepted for Processing \_\_\_\_\_  
 Zoning Designation: \_\_\_\_\_ Comp. Plan Designation \_\_\_\_\_

**COUNTY OF SANTA BARBARA APPEAL TO THE:**

XX BOARD OF SUPERVISORS

\_\_\_\_\_ PLANNING COMMISSION: \_\_\_\_\_ COUNTY \_\_\_\_\_ MONTECITO

RE: Project Title: "Rous Horse Barn and Hay Barn"

Case No.: 15APL-00000-000014 (15LUP-00000-00276)

Date of Action: January 6, 2016

I hereby appeal the \_\_\_\_\_ approval XX approval w/conditions \_\_\_\_\_ denial of the:

\_\_\_\_\_ Board of Architectural Review – Which Board? \_\_\_\_\_

\_\_\_\_\_ Coastal Development Permit decision

\_\_\_\_\_ Land Use Permit decision

XX Planning Commission decision – Which Commission? County Planning Commission

\_\_\_\_\_ Planning & Development Director decision

\_\_\_\_\_ Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

\_\_\_\_\_ Applicant

XX 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:

The Appellants are the closest neighbors of the Applicant and will be the persons most impacted by the adverse effects of the project. Note that the "project" is much larger than a horse barn and a hay barn and constitutes an intense use of the Applicant's property with potentially significant environmental effects on the Santa Ynez River and on the Appellants.

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 attachment entitled "Grounds for Appeal to Board of Supervisors". In addition, see David Fainer's letter dated January 4, 2016, addressed to County Planning Commission, and powerpoint presentation for January 6 hearing, which are incorporated by reference.

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

- a. 

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- b. 

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- c. 

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- d. 

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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.

*Suzanne Kramer-Morton* *Suzanne Kramer-Morton* 01-15-16  
Print name and sign – Suzanne Kramer-Morton, Appellant Date

*Joel D. Morton* *Joel D. Morton* 01-15-16  
Print name and sign – Joel Morton, Appellant Date

Print name and sign – Sandra Guerrero, Appellant Date

Print name and sign – Ramon Guerrero, Appellant Date

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

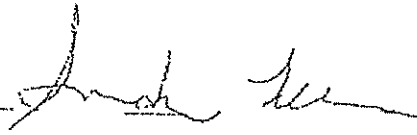
**CERTIFICATION OF ACCURACY AND COMPLETENESS** Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

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Print name and sign – Suzanne Kramer-Morton, Appellant  
Date

Print name and sign – Joel Morton, Appellant  
Date

Sandra Guerrero  
Print name and sign – Sandra Guerrero, Appellant



11/14/15  
Date

Ramon Guerrero  
Print name and sign – Ramon Guerrero, Appellant



11/14/15  
Date

## GROUNDNS FOR APPEAL TO BOARD OF SUPERVISORS

### 1. Background.

1.1 The parties in this matter reside in Santa Ynez in a development commonly known as Meadowlark. The properties are at the bottom of Meadowlark Rd. near the Santa Ynez River. Applicant's property has two entrances – one of which is a driveway to the Applicant's home, which is a good distance from the Appellants' homes. In contrast, the Applicant's intensive horse operations are reached from a small access road that runs between his property and the entrances to the Appellants' homes. This road has no outlet for outside traffic and ends at the base of the Santa Ynez riverbank.

1.2 Prior to Applicant building his first large horse barn, virtually the only noise heard by Appellants from their homes coming from the Applicant's property was from birds, wildlife, and a very occasional small aircraft overhead. Appellants moved to Meadowlark because of the quiet, serene nature of their properties. However, the Applicant's intensive horse operation has drastically affected the Appellants' quiet enjoyment of their homes due to the noise, light, and visual impacts of the Applicant's use of his property. In addition, the Applicant's use of his property may also affect not only the Appellants, but other customers of Meadowlark Mutual Water Company as well impacting fish and other wildlife and water quality in the Santa Ynez River.

### 2. Introduction: This Appeal Reaches the "Whole Project", Not Just 2 Barns.

2.1 The instant appeal is about more than just the land use building permit for a horse barn and hay barn. The appeal of the land use permit relating to the Applicant's horse operation represents Appellants' effort to have the County regulate the Applicant's property in accordance with the Land Use and Development Code ("LUDC") and to follow the proper process under the California Environmental Quality Act ("CEQA"). Appellants are the owners of the properties directly across from Applicant's horse operation and the proposed site for the additional barns.

2.2 The wrong type of permit (a land use permit) has been applied-for and approved.

2.3 Instead of a Land Use Permit ("LUP"), a conditional use permit should be required – consistent with provisions of Section 35.42.060 (Animal Keeping) of the LUDC.

2.4 Regardless of which permit is required under the LUDC, the horse operation is enabled by and carried out within all the structures and other improvements on the Applicant's property and that project (the horse operation) has been piecemealed

over time as a series of individual structures, without review of the entire scope of the operation on the Applicant's property or its environmental impact due to improper use of CEQA exemptions, in lieu of environmental review.

### 3. Discussion of Applicant's Property and Horse Operation Project.

3.1 The project, in the truest sense of that word, is an intense use of the Applicant's property inconsistent with the rural residential neighborhood in which the Applicant and the Appellants live. All of the properties involved in this appeal, including the Applicant's property, are zoned AG-I (in which uses are supposed to be more restricted than in the AG-II zone).

3.2 The project concentrates a potentially very large number of horses (and the associated noise and other impacts) closest to the boundary line bordering the Appellants' homes.

3.3 An improper rationale has been used by the County Planning Commission (on recommendation of P&D staff) in analyzing the amount of barns that should be allowed pursuant to a land use permit. Staff advised the Commission that (a) an unlimited number of horses is allowed on the Applicant's 29-acre property since the site is over 20 acres, and that so long as the total square footage of structures was less than 20,000 square feet, a land use permit for the structures was proper. What was missing from the analysis is a recognition that since almost 80% of the Applicant's property is in the flood plain and barns cannot be built there at all, this means concentrating all the structures on the portion of the Applicant's property outside the flood plain and closest to the Appellants homes – thereby creating significant impacts on the neighbors.

3.4 Appellants would have no objection to the Applicant keeping horses out of doors day and night in pasture areas where no buildings can be built in the eastern portion of the Applicant's property (which area, incidentally, borders AG-II zoned lands to the east). However, the Applicant instead proposes to house the unlimited number of horses allowed on his property (per staff) in barns built exclusively on the 6.5 acres of his property on which structures can be built which is the area near Appellants homes. As discussed with the Planning Commission, the Applicant has disclosed to Appellants his intention to have 50 or more horses – all of whom would be housed in metal barns overnight ... close to the Appellants' homes.

3.5 The staff analysis bases the amount of the barns that can be built on the number of horses allowed on the total size of the property, *rather than on the number of horses allowed in the areas where barns can be built – since barns cannot be located elsewhere.* Appellants contend that a reasonable limit on the size of barns on the Applicant's property would be barns sufficient for 14 horses, the number of horses allowed in the AG-I zone on a 6.5 acre property.

3.6 As a matter of understanding impacts on the residential neighbors, 14 horses is less than 30% of the number of horses (50) that the Applicant has disclosed his intention to have and for which he proposes to have barns built close to the Applicants. The Applicant already has over 30 horses on his property. For example, there would be a lot less noise from 14 horses, rather than 50 (or 30) horses, kicking the metal walls of the barns throughout the night, etc., as discussed further below.

3.7 The extent of intense use of the Applicant's property is also clear from the multiple zoning violations that exist on Applicant's property-- including:

(a) Applicant's construction of a horse barn in the flood zone without any permits at all (which is now proposed to be disassembled and then reconstructed close to the Appellants' homes),

(b) Applicant's construction of a hay barn that allegedly was not a permanent structure in the Applicant's effort to avoid permitting requirements,

(c) An unpermitted structure used for storage, and

(d) Applicant's unlawful use of four accessory structures as worker housing (including installation of showers, etc. in the structures) -- this zoning violation has occurred on this property more than once!

3.8 As well, as noted in the P&D staff report, the original plans submitted to the County included "mislabeled structures that do not match the permit history", which was a very diplomatic way of phrasing for the Applicant providing inaccurate information to the County. See the staff report to the Commission, at page 4.

#### 4. Discussion of Noise Impacts

4.1 Noise from the intense, commercial thoroughbred horse breeding operation on the Applicant's property is a particularly important concern for the Appellants who have already experienced considerable noise-related impacts from horses in the Applicant's existing metal barns from noise generated by horses and from noise generated by workers.

4.2 Considerable noise is generated by the existing workers on the property who talk loudly, yell, and sometimes use profanity all of which can be heard by Appellants. The workers also use a high pitched leaf blower every day to clean the barn which is constantly switched on and off creating a piercing sound. Workers ride ATV's and other un-muffled off road vehicles to travel around Applicant's property which can also be heard. Troublesome as this noise is, which results from the intensity of use by the Applicant close to the Appellants' homes, it is only a part of the overall noise problem.

4.3 The horses on the Applicant's property are thoroughbreds, which are a high-strung, sensitive breed. These horses frequently whinny and kick the metal walls of the barn when upset/acting up, during feeding time, when horses are being transferred around the barn and when rolling in the bedding and hitting their legs on the walls. There is already a lot of kicking of the sides of the existing metal barns, and the amount of kicking noise will only increase greatly with an additional barn.

4.4 The loud, clanging noise resulting from a powerful, athletic horse's horseshoe hitting the metal side of the barn, and the reverberation of the metal walls of the barn after the initial kick, has a significant effect because it is so grating and metallic. This occurs irregularly through the night and never takes on the quality of "background noise". Since the Applicant keeps the thoroughbred horses in barns at night all year long, and because they may be in the barn for parts of every day, the amount of this type of kicking noise is substantial and year-round.

4.4 In addition, there is (and will be even greater) additional noise from the breeding-related nature of the Applicant's use of his property. After a foal is a few months old, it is weaned from its mother – which entails separating the foal and mother during both day and night. The new barn that is proposed by the Applicant would be used for weaning the foals, in which the foals are separated from their mothers and which causes each foal to call out loudly for his/her mother and the mare to answer her foal ... all night long. (It can also be expected that the upset foal and the upset mare may also kick the walls of their stalls more than usual, as well.) Because the foals are born at different times and therefore reach the weaning age at different times, there is an extended period in which one or more foals is calling out loudly to its mother. Appellants were unable to leave their windows open at night during the hottest months this past year due to the disturbing noise that occurred during several weeks of weaning.

4.5 Because the barns are metal, the opening and closing of the metal stall doors can generate a good deal of noise as the doors are opened and closed. The loud noise of the metal stall doors being opened and shut can occur throughout the evening and early morning as workers visit the barns or bring horses in and out.

4.6 A series of mitigation measures should be studied, such as requiring the horse barns be relocated away from and reoriented away from the Appellants, and that internal walls be added (e.g., of plywood) with soundproofing between the plywood and outer metal walls – in order to mitigate noise impacts from kicking. Other mitigation measures (such as plywood doors on the barns) might also be studied – but this requires an environmental review process!

4.7 A further dimension of the noise impacts generated by the intense horse operation on the Applicant's property is noise generated by traffic on the small road between the Applicant's horse barn area and the Appellant's homes, as discussed in more detail in Paragraph 5.2 below. Given the condition of the road, there is a good deal of extra noise from the large amount of traffic using this road, in addition to the sound of

engines and brakes. At a minimum, a mitigation measure would be to require that the road be re-paved by the Applicant and he be made responsible for its upkeep – in order to reduce this noise impact on the Appellants.

4.8 There was no analysis by staff of the disruptive quality of the kicking noise or the calling out of weaning foals and their mothers, or of other noise effects associated with the Applicants' operations, and no consideration of this issue, by the Planning Commission. The fact that concentrating so many breeding thoroughbreds near to neighbors would have significant noise effects was simply given short shrift.

5. Discussion of Other Impacts of the Horse Operation on the Appellants.

5.1 There is also existing significant light pollution from the Applicant's existing horse operation which uses bright, sodium lights. Such bright lights in an otherwise dark area are already very noticeable to the Appellants, and such light impacts are bound to increase with the addition of more barns, more horses, and more workers. Applicant often leaves the lights on past the 9:00 pm curfew, sometimes leaving them on all night. Such impacts were not given serious attention in the staff report and were not considered by the Planning Commission.

5.2 Applicant's commercial horse operation has already substantially increased the traffic on the access road to his barn. The most direct route to the barn areas is along the road bordering the Appellants' properties to a point where braking and a turn into the Appellants' property occurs – all near to the Appellants' homes. Such vehicular traffic generates yet additional noise impacts on the Appellants. Prior to Applicants horse operation only a couple of cars a day traveled on this single lane road which services an entrance to the Morton house and the sole property access/ entrance for the Guerrero home. Now there is constant traffic on this road during all hours of the day going to the Applicant's horse operation including delivery of supplies, workers, farriers, veterinarian, movements of horses in and out, among others. There are also several large semi-trucks with tractor-trailers and commercial horse vans entering the property using this small road. The amount of vehicular traffic will only increase if the Applicant is allowed to add additional barn capacity to his existing operation, allowing more horses and requiring more deliveries and more movement of horses and more workers. A mitigation measure might be to redirect traffic through a gate and new driveway that would avoid most horse-operation-related traffic

5.3 Traffic-related impacts were not given serious attention in the staff report and were not considered by the Planning Commission. In fact, staff merely stated that the extra vehicular traffic from the horse operation would be absorbed by the allowable trip routes for the main house and guest house, albeit completely ignoring the Applicant's own admission that he was illegally using the four designated tack rooms to house employees whose vehicle traffic would not be accounted for in the allotted trip routes for persons residing on the property.

5.4 Inevitably, with a horse operation of the type and size that Applicant and proposes to expand, there are dust, odor and fly issues. These impacts are greatest on the Appellants, whose homes are adjacent to the horse barns.

5.5 Development of proper mitigation measures as to light, noise and other impacts certainly is possible in an environmental review process, if there was an environmental review process. For example, a mitigation measure affecting noise might be to redirect traffic through a new gate and new driveway that would avoid most horse-operation-related traffic using the small road beside the Appellant's property, in conjunction with reorienting and relocating barns away from the areas closest to the Appellant's properties.

6. Potential Environmental Effects on Water Wells & on Santa Ynez River.

6.1 The environmental effects of the Applicant's existing operations on the water wells of the Meadowlark Mutual Water Company, which supplies all of the properties in the Meadowlark subdivision, and on water quality and fish and other wildlife in the Santa Ynez River never were studied.

6.2 What was acknowledged by the Applicant at the Planning Commission hearing was that he spreads manure and urine-soaked bedding throughout portions of his property in the Flood Plain of the very nearby Santa Ynez River, in areas near to and overlying the Meadowlark Mutual Water Company wells. Applicant has used both hay and sawdust as bedding in the stalls of his barns, which bedding is spread in the flood plain along with manure from the stalls.

7. CEQA Requires Environmental Review; Use of an Exemption was Improper.

7.1 Since the Applicant's project was characterized as merely a LUP with a CEQA exemption, nothing has been studied in the fashion contemplated by CEQA – with an environmental analysis on which the public can comment and County staff can make an effort to study the project in more detail before it ever reaches a decision-maker. As noted above in several different paragraphs, environmental review might assist all involved in identifying available and appropriate mitigation measures – which has not occurred in the process followed to date.

7.2 It is acknowledged that the P&D's well-written staff report to the Planning Commission included a discussion of ameliorating impacts of the project as to horse waste, but this was a discussion of mitigation of impacts that cannot be analyzed in compliance with CEQA in this way. The larger idea in CEQA is that the environmental review process will ultimately avoid impacts by allowing a full and proper consideration of issues that would otherwise escape scrutiny.

7.3 A CEQA exemption is not proper in this matter. An error of the Planning Commission (on a 3 to 2 vote) was to characterize the project merely as a horse barn and



a hay barn that qualify for an exemption from CEQA. Under CEQA Guideline 15300.2(c), there is an exception to projects that might otherwise qualify for an exemption if there is a “reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”

7.4 Two Planning Commissioners (quite properly) expressed their concerns about environmental effects and the lack of an environmental analysis – since a CEQA exemption means that there was (and will be) no environmental analysis.

7.5 There is a “reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances,” as stated in CEQA Guideline 15300.2(c). There are unusual circumstances in this matter as follows:

- *The effect of the physical layout of the Applicant’s property:* The intensity of the Applicant’s existing uses, especially when further increased by the two proposed barns, are an unusual circumstance since nearly all of the noise, light and traffic impacts of the Applicant’s horse operation for a large number of horses (allowed, per staff, by the property’s total acreage) are concentrated in the area closest to the neighbors, due to the flood plain occupying about 80% of the Applicant’s property. Such noise, light, traffic, odor, and insect-related (horseflies) impacts on the Appellants collectively constitute a nuisance, and should not be deemed ordinary or allowable.
- *The proximity of the Applicant’s property to the Santa Ynez River:* The Applicant’s property is located in the flood zone of, and very close to, the Santa Ynez River. The handling of horse manure and urine-soaked bedding from the horse stalls in the barns have the potential to impact water quality, fish and other wildlife in the Sant Ynez River – due to runoff from waste spread where it can reach the River in storm conditions.
- *The Applicant’s property overlies residential water wells serving many people:* In the middle of the Flood Plain overlying 80% of the Applicant’s property, and right next to the orchard where the Applicant spreads horse waste, there is a structure housing wells that serve the Meadowlark Mutual Water company, which serves many properties and persons in the meadowlark subdivision with residential water service.

8. A Conditional Use Permit, Rather Than a LUP, Should be Required.

8.1 The P&D staff noted that there would be an undisputed need for a conditional use permit and for environmental review if the Applicant was boarding horses of members of the public on his property. The Appellants requested that the Planning Commission have P&D staff verify the ownership of horses on the Applicant’s property and require that the Applicant establish that he is the sole owner of the horses on his

property. This request was ignored. In fact, in light of the zoning violations, very careful scrutiny of the operations on the Applicant's property is called-for.

8.2 Appellants assert that it is incongruous that a property owner in the AG-I zone who boards, say, 10 to 20 horses owned by members of the public is subject to a requirement of obtaining a conditional use permit, with accompanying automatic environmental review – but that a property owner in the AG-1 zone who can only build on 6.5 acres of his property may have an unlimited number of high-strung and noisy thoroughbred race horses and can seek to have barns for up to 50 horses in a commercial thoroughbred race horse breeding operation located close to his neighbors, using an over-the-counter land use permit and claiming a CEQA exemption.

8.3 Section 35.42.060 of the LUDC (concerning “Animal Keeping”) states that the “intent of this Section is ensure that animal keeping does not create an adverse impact on adjacent properties” and includes examples of such adverse impacts as dust, fumes, insect infestations, noise, odor, pollution of streams, etc.

8.4 In the AG-1 Zone, horses are exempt from regulation provided that the General Regulations are met and there are no more than 1 horse per 20,000 square feet if the lot is less than 20 acres, BUT a “commercial boarding and raising of animals for members of the public” requires a Conditional Use Permit. See Table 4-1 on page 4-19 of the LUDC.

8.5 Thus, there are two reasons that a LUP is not proper. The first is if the General requirements are not met. The second is if there is commercial boarding and raising of animals for members of the public.

8.6 The General Requirements are that (1) “the use, activity, or structure is established and operated in compliance with the setback requirements, height limits, parking requirements and other applicable standards of this Development Code” and “the required provisions and conditions of any existing, approved permits for the subject lot”, and (2) “any permit or approval required by regulations other than this Development Code is obtained (for example, a Building Permit and/or Grading Permit).” LUDC Section 35.20.040. The Appellants assert that the General Requirements simply are not met because of the history of (and ongoing, uncorrected) zoning violations and the fact that the barn closest to the road between Applicant's property and the Appellants' property was built partially in the setback. A survey now being conducted should confirm that violation of setback.

8.7 The Planning Commission erroneously discounted Appellants' argument that the Applicant is engaged in a commercial “public” use of his property. *See* Attachments A-K to David Fainer's Jan. 4, 2016 letter to the Planning Commission. In brief summary, such evidence established that Applicant is operating a commercial breeding operation for thoroughbred horses as follows:

- Applicant *advertises as a commercial breeder* in the *California Thoroughbred Industry Directory* under the stable name of Rio del Sol Stables (whose address was and is 120 Meadowlark Road). See also Rio del Sol Stables business card.
- Both Applicant's business card and business listing include a website that was "taken down" immediately upon the filing of Appellants original appeal in July, 2015. The Planning Commission ignored Appellants request to require the Applicant to submit all of the content of the original website as it previously existed to show that he had nothing to hide about the true nature of his operation.
- Despite Applicant's claim that the large number of horses on his property are owned exclusively by him to be used solely for his personal use, Appellants submitted evidence that Applicant is buying and racing horses with other entities in which he has no ownership interest.

9. Conclusion.

For the reasons set forth above and as also discussed in the January 4, 2016 Letter to the Planning Commission and in the Powerpoint slides presented at the Planning Commission hearing:

- The Planning Commission, by denying the Appellants' appeal and approving the land use permit, failed to proceed in the manner required by law (under CEQA and the LUDC);
- The Planning Commission's decision is not supported by findings; and
- The Planning Commission's findings are not supported by substantial evidence in light of the whole record.

Additionally, under the unique circumstances of this matter, and despite the gracious efforts by the Planning Commission otherwise to provide a fair hearing, the Planning Commission failed to provide Appellants a fair hearing by reason of ignoring the Appellants' reasonable requests that, before the Planning commission took action, the Commission should instruct the P&D staff (a) to verify the ownership of horses on the Applicants' property and (b) to obtain the information from the Rio del Sol Stables website that was "taken down" shortly after Appellants' appeal was filed in July 2015. Verifying the ownership of horses and obtaining the "taken down" website are beyond the power of the Appellants but were surely within the power of the Planning Commission to require of the Applicant. In the absence of obtaining such information, the presumption should be that such information would contradict the findings. With apologies to Robert Frost, the "road not taken" by the Planning Commission (i.e., to obtain the information that only the County can obtain) "has made all the difference".

Such matters can be remedied by the Board of Supervisors granting the appeal and requiring environmental review, and also requiring a conditional use permit.