

Exhibit H

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**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No: 10 – 037

- a. Deny the appeal from the Planning Commission's determination that the "Red Barn" operations are in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D for)
1) outdoor retail sales outside the approved area, 2) landscaping not in conformance)
with the approved landscaping plan for ZA-3629-D, and 3) parking and storage of)
vehicles outside the approved area;)
- b. Find that the applicant is in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-)
3629-D;)
- c. Determine that the uses allowed on the "Red Barn" property are those uses stated in)
the resolutions adopted for ZA-3117, ZA-3567-D, and ZA-3629-D; and)
- d. Modify the conditions of approval for Use Permits ZA-3117, ZA-3567-D and ZA-)
3629-D to include new conditions of approval.)
(PD080726/Stagecoach Territory ("Red Barn"))

The appeal of Stagecoach Territory, Inc. from the Planning Commission's determination (Resolution 09045) that the Red Barn operations are in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D due to 1) outdoor retail sales being located outside the approved area, 2) landscaping not in conformance with the approved landscaping plan for ZA-3629-D, and 3) parking and storage of vehicles occurring outside the approved area, came on for public hearing before the Board of Supervisors of the County of Monterey on January 26, 2010, February 9, 2010, and February 23, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and all other evidence presented, the Board of Supervisors hereby finds and decides as follows:

I. RECITALS

1. On March 27, 1969, the County of Monterey ("County") approved a Use Permit (ZA-505) to allow the sale of second hand goods and an auction house on a portion of Lot 37A, Carpenteria Rancho, as shown in Exhibit B of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-005). This Use Permit expired on March 27, 1972 as shown in condition 5 of the permit, shown on Exhibit B, Page 2 of the January 26, 2010 Board of Supervisors staff report.
2. On October 29, 1970, the County approved a Use Permit (ZA-767) to allow the installation of a mobile home on a portion of Lot 37A, Carpenteria Rancho, as shown in Exhibit B of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-005). This Use Permit expired on March 27, 1972 as shown in condition 1 of the permit, shown on Exhibit B, Page 13 of the January 26, 2010 Board of Supervisors staff report.
3. On April 29, 1971, the County approved a Use Permit (ZA-846) to allow the addition of outdoor retail sales on two rows of 3' x 8' tables, a pony riding ring, a mini-bike track and crafts within the small warehouse, and a small outdoor nursery area on a portion of

Lot 37A, Carpenteria Rancho, as shown in Exhibit B of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-005). This Use Permit expired on March 27, 1972 as shown in condition 2 of the permit, shown on Exhibit B, Page 22 of the January 26, 2010 Board of Supervisors staff report.

4. On March 30, 1972, the County approved a Use Permit (ZA-1047) to allow the extension of Use Permits ZA-505, ZA-767, and ZA-846 on a portion of Lot 37A, Carpenteria Rancho, as described in Exhibit A, and shown in Exhibit B, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-005). The site plan showed an outdoor retail sales area, restrooms, nursery, refreshment stand, the mobile home, and the barn. The mini-bike track and pony ring were not shown. This Use Permit expired on March 30, 1977 as shown in condition 1 of the permit, shown on Exhibit B, Page 30 of the January 26, 2010 Board of Supervisors staff report.
5. On August 30, 1973, the County approved a Use Permit (ZA-1507) to allow a produce stand and outdoor seating area for the snack bar on a portion of Lot 37A, Carpenteria Rancho, as described in Exhibit A, and shown in Exhibit B, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-005). The site plan showed a wine tasting room as an existing operation. Caltrans submitted a letter, dated July 24, 1973, stating concerns with "additional conflicting movements and consequent distraction" from increased use of the property. They requested an additional traffic lane through this area and adequate driveways. The hearing minutes reflect that the applicant withdrew the seating area for the snack bar from the application and that the permit was issued for only the produce stand (Exhibit B, page 44 of the January 26, 2010 Board of Supervisors staff report). This Use Permit expired on March 30, 1977 as shown in condition 3 of the permit, shown on Exhibit B, Page 46 of the January 26, 2010 Board of Supervisors staff report.
6. On August 28, 1975, the County approved a Use Permit (ZA-2449) to allow the expansion of the parking area to Assessor's Parcel Numbers 141-013-004 and a portion of 141-013-008 (approximately five acres), as described in Exhibit A, and shown in Exhibit B, page 48 of the January 26, 2010 Board of Supervisors staff report.
7. In July 1976, the County approved a Use Permit (ZA-2880) to allow the relocation of a mobile home, as described in Exhibit A, and shown in Exhibit B, pages 71 – 76, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-008).
8. On April 14, 1977, the County approved a Use Permit (ZA-3117) to allow the renewal of Use Permits ZA-1047 and ZA-2449 as modified by the application, as described in Exhibit A, and shown in Exhibit B, pages 77-90, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-004, -005, and -011). The application stated it was for "indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, and wine tasting and sales," as shown on Exhibit B, pages 77 and 79 of the January 26, 2010 Board of Supervisors staff report. The site plan showed an outdoor retail sales area within a dashed area, antiques and gifts inside

the "Red Barn," snack bar, wine tasting, parking on the lower level of the property outside of the dashed area, and the relocated mobile home (from ZA-2880) (Exhibit B, Page 82 of the January 26, 2010 Board of Supervisors staff report). The approval stated that "said application for a Use Permit be granted as shown on the attached sketch." No conditions of approval were included. See Exhibit B, Pages 81, 82, and 90 of the January 26, 2010 Board of Supervisors staff report. The property approved for use under this Use Permit was within the General Commercial ("C-2") zoning district, with a Parking ("P") and Mobile Home Exclusion ("V") overlay zoning district.

9. On November 30, 1978, the County approved a Use Permit (ZA-3567-D) to allow expanding the parking lot onto the terrace area above (south of) the "Red Barn" area approved for use in earlier permits, as described in Exhibit A, and described in Exhibit B, pages 91-104 of the January 26, 2010 Board of Supervisors staff report. The application stated it was for "expansion of existing use permit to include all of C2-P zone (1000' back from Highway 101)," as stated in Exhibit B, page 91, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-045). The property approved for use under this Use Permit was within the General Commercial ("C-2") zoning district, with Parking ("P") and Mobile Home Exclusion ("V") overlay zoning districts.

The Use Permit stated it was "granted as shown on the attached sketch, subject to the following conditions of approval" (Exhibit B, page 93, of the January 26, 2010 Board of Supervisors staff report):

1. That the site be landscaped and/or fenced by the applicant and that the landscaping and/or fence plan be approved by the Director of Planning.
2. That all landscaped areas and/or fences shall be continuously maintained in a litter-free, weed-free, healthy growing condition.
3. That there be no increase in the sales activity on the existing or proposed parking lot areas. (emphasis added)

10. The properties approved for use under Use Permits ZA-3117 and ZA-3567-D were zoned General Commercial with Parking ("P") and Mobile Home Exclusion ("V") overlay zoning districts in the 1970's when Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D were approved. The property approved for the parking lot use under Use Permit ZA-3629-D was zoned Rural ("N") with a Trailer Exclusion ("J") overlay zoning district during the 1970's. In 1991, zoning was changed to Light Commercial ("LC") for these areas, which remains in place through 2009. The area of the Red Barn property to the 'rear' of the C-2 district was zoned Rural ("N") during the 1970's. In 1991, zoning was changed to Rural Density Residential for this area. See Exhibit A, pages 5 and 6, and Exhibits B and F of the January 26, 2010 Board of Supervisors staff report.
11. On May 10, 1979, the County approved a Use Permit (ZA-3629-D) to allow expanding the parking lot on the parcel northeast of the "Red Barn" area approved for use in the earlier permits. The application stated it was for "Parking" (section 9) of about 950 spaces (section 13) as stated in Exhibit B, page 106, of the January 26, 2010 Board of

Supervisors staff report (Assessor's Parcel Number 141-013-007). The resolution approving the project included condition 9, requiring that "all traffic movements to and from Route 101 be restricted to right-turns only," condition 1 requiring a landscape plan approved by the Director of Planning, and condition 11, requiring a rezoning of the property where the sales operations and earlier approved parking areas were located. The property approved for the parking use under this Use Permit was within the Rural ("N") zoning district, with a Trailer Exclusion ("J") overlay zoning district. See Exhibit A and Exhibit B, pages 104-144, of the January 26, 2010 Board of Supervisors staff report.

The Use Permit included the following conditions of approval (Exhibit B, pages 109-110, of the January 26, 2010 Board of Supervisors staff report):

1. That the site be landscaped, including land sculpturing and fencing, where appropriate, by the applicant and that a plan for such improvements be approved by the Director of Planning.
2. That all landscaped areas and/or fencing shall be continuously maintained by the applicant in a litter-free, weed-free condition, and all plant material shall be continuously maintained in a healthy, growing condition.
3. That the location, type, and wattage of all exterior lights on the property be approved by the Planning Commission.
4. That the proposed changes in access be approved by the California Transportation Commission prior to use. This also includes those openings to be closed.
5. Provide a drainage improvement study onsite and offsite. Study to be approved by the County Surveyor and California Department of Transportation.
6. That the frontage road connecting to the 60 foot easement at the northerly end of the property be a minimum of 100 feet from the intersection. Location to be approved by the County Surveyor.
7. Obtain an encroachment permit from Caltrans and construct a commercial driveway at the north end of the property as proposed, including acceleration and deceleration lanes in accordance with State standards.
8. That the parking area be maintained in a mud-free and dust-free condition.
9. That all traffic movements to and from Route 101 be restricted to right-turns only.
10. That it is the property owners responsibility not to impair any drainage facilities which could affect the drainage of the existing highway.
11. That the applicant request rezoning of his property from a "C-2-P-V" District to a "H-1-P-D-B-4" District."

No restrictions on outdoor sales were necessary related to this permit as it was a Use Permit to allow parking on a Rural zoned parcel, which did not allow other commercial uses (Exhibit F.3 of the January 26, 2010 Board of Supervisors staff report).

No statements were found in the record that the applicant intended to expand outdoor retail uses (Exhibit A, page 9, and Exhibit B, pages 105-144, of the January 26, 2010 Board of Supervisors staff report).

12. In 1979, county staff and the Planning Commission had recommended (Exhibit B, pages 126, 130, 136-137, and 140-141 of the January 26, 2010 Board of Supervisors staff report), and the Zoning Administrator adopted as part of approving Use Permit ZA-3629-D (Exhibit B, pages 109-110, 112, 130, and 143) a condition (condition 11) to rezone the C-2-P-V portion of the property to a commercial district that allowed more county control over expanding commercial uses. The General Commercial zoning district would have allowed many commercial uses to be established without county control, as described in Exhibit A, page 7, of the January 26, 2010 Board of Supervisors staff report.
13. The Zoning Ordinance in effect during the period the Use Permits were being considered (Monterey County Ordinance 911) described the uses allowed in the C-2 district in Section 22. Section 22.a listed the uses allowed without discretionary county control ("Uses Permitted"). Section 22.b listed the uses allowed that required a Use Permit. Pages 5 – 8, Exhibit A, of the January 26, 2010 staff report outlines the "Uses Permitted" for the General Commercial zoning district and describes the staff and Planning Commission concerns raised during hearings for Use Permit ZA-3629-D relating to site intensification. Outdoor retail sales were listed under Section 22.b, uses that required a Use Permit. See also Exhibit B, pages 109, 112, 126, and 138, and Exhibit F of the January 26, 2010 Board of Supervisors staff report
14. On May 29, 1979, the applicant appealed the decision of the Zoning Administrator through their representative, Myron Etienne, Jr. (Exhibit A, page 8 and Exhibit B, Page 111, of the January 26, 2010 Board of Supervisors staff report). On appeal to the Board of Supervisors, condition 11 was deleted and a new condition was added requiring that the property owner notify the county of any change in property ownership (Exhibit B, page 130, of the January 26, 2010 Board of Supervisors staff report).
15. In November 2008, the property owners were notified that the outdoor retail sales were in violation of Use Permits issued for this property. The County issued a Notice of Violation and letter on November 21, 2008. A letter was sent on March 17, 2009 outlining the outcome of research related to the issued Use Permits for the property. See Exhibit G of the January 26, 2010 Board of Supervisors staff report. Staff met with the property owner and representatives in December 2008 and again in April 2009 to discuss possible solutions. After discussions and meetings, the following four violations were identified:
 - ⬇ Outdoor retail sales outside the authorized area (Use Permit ZA-3117, ZA-3567-D, Condition 3, and ZA-3629-D) [note: the Use Permits are described in the rest of this resolution without the D at the end, as the history on them shows them with and without the 'D'. The current Use Permits, for purposes of this resolution, are cited as ZA-3117, ZA-3567, and ZA-3629]
 - ⬇ Left turn from Highway 101 into the site (Use Permit ZA-3629, Condition 9)
 - ⬇ Parking and storage of vehicles in Rural Density Residential area (Use Permit ZA-3567)
 - ⬇ Lack of required landscaping in conformance with approved landscaping plan (ZA-3629, Conditions 1 and 2; approved landscaping plan found in project file)

16. The November 2008 Notice of Violation letter contained a description that outdoor retail sales were outside the area approved under Use Permit ZA-3117. The area was depicted in the original file materials and attached in Exhibit B, pages 77-90, specifically shown by dashed line on the sketch that was included and referenced in the resolution for ZA-3117 (see Exhibit B, page 82, of the January 26, 2010 Board of Supervisors staff report). The area was depicted on the site plan with a dashed line. This line was superimposed on aerial photographs prepared and attached to the January 26, 2010 Board of Supervisors staff report in Exhibits D, E.1, and E.2. Site visits by Code Enforcement and other county staff and aerial photos (see slide numbers 18 and 19 of the August 5, 2009 PowerPoint presentation prepared by county staff, and also presented to the Board of Supervisors on February 9, 2010) demonstrate that outdoor retail sales are located outside the area approved under Use Permit ZA-3117.
17. A left turn lane from southbound Highway 101 to the Red Barn property has been in use, as demonstrated by site visits by Code Enforcement and other county staff and aerial photos (see slide number 20 of the August 5, 2009 PowerPoint presentation prepared by county staff, and also presented to the Board of Supervisors on February 9, 2010). Caltrans eliminated this left turn movement through restriping and installation of a median barrier between the June 24, 2009 and August 5, 2009 Planning Commission public hearings on the Red Barn.
18. As described in Recital 9, above, Use Permit ZA-3567 was to allow expanded parking on the upper terrace of the property, within the General Commercial zoning district. County staff who prepared the zoning maps have depicted the location of the zoning line, which has not changed location since 1978 when the Use Permit was issued, on current aerial photographs. Site visits by Code Enforcement and other county staff and aerial photos (see particularly slide number 21 of the August 5, 2009 PowerPoint presentation prepared by county staff, and also presented to the Board of Supervisors on February 9, 2010) demonstrate that parking and storage of vehicles has crossed the zoning district line into the Rural Density Residential zoning district (formerly the Rural zoning district). The Rural zoning district, and subsequent Rural Density Residential zoning district, does not allow parking and storage without a Use Permit. Parking and storage was not permitted by Use Permit ZA-3567 and is a violation of the permit.
19. Use Permit ZA-3629 required that landscaping be installed and maintained in accordance with an approved landscape plan. The approved landscape plan is found in the project file. The August 5, 2009 PowerPoint presentation prepared by county staff, and submitted to the Board of Supervisors for the January 26, 2010 and February 9, 2010 public hearings, includes a 2009 aerial photograph of the area approved for the expanded parking lot as slide number 23. The aerial photograph clearly shows that the required landscaping does not exist as approved under the approved landscaping plan (slide number 22 of the same PowerPoint presentation). As stated by the appellant in the Notice of Appeal, the landscaping was planted but removed during a drought in the 1980s. A revised landscaping plan was never submitted for this changed circumstance, and the vegetation has not been replanted to remain in compliance with the approved landscaping plan. The lack of approved landscaping is a violation of Use Permit ZA-3629.

20. The property owner and their representatives disagreed with staff's conclusions and a hearing before the Planning Commission was set to consider whether violations were occurring and to consider revocation or modification of the Use Permits if violations were determined as a result of the testimony. Correspondence between the county and the applicant were attached as Exhibit G to the January 26, 2010 Board of Supervisors staff report.
21. A public hearing at the Planning Commission was scheduled for June 10, 2009. Notice was mailed to property owners within 300 feet of the property boundaries, mailed to other interested parties, including the property owners and their representatives, posted on the project site and published in the *Salinas Californian*. All notices were mailed, posted, or published at least ten days prior to the hearing.
22. Prior to the June 10, 2009 Planning Commission meeting, staff received a request for continuance from the property owner's representatives. See the June 10, 2009 Planning Commission staff report and Exhibit G of the June 24, 2009 Planning Commission staff report. The Planning Commission continued the public hearing to June 24, 2009 (10-0 vote).
23. County staff prepared a staff report for the June 24, 2009 public hearing. The staff report contained a two page summary report and Exhibits A through I (page 2 of June 24, 2009 Planning Commission staff report). After opening the public hearing on June 24, 2009 and hearing staff's presentation, the Planning Commission took testimony to continue the public hearing to a later date due to an unexpectedly large crowd, which could not be accommodated in the Board Chambers. The Planning Commission motion, which passed by a 7-0 (with three absent) vote, was to continue the public hearing to a special night meeting on August 5, 2009.
24. Between June 24 and August 5, 2009, Caltrans eliminated the left turn lane from southbound Highway 101 onto the Red Barn property through restriping and installing a median barrier as verified by a site visit by county staff.
25. On June 24, 2009 and on August 5, 2009, the Planning Commission held public hearings on alleged violations of Use Permits ZA-3117, ZA-3567, and ZA-3629.
26. County staff presented a staff report prepared for the June 24, 2009 public hearing, a PowerPoint presentation prepared for the June 24, 2009 public hearing, and a PowerPoint presentation prepared for the August 5, 2009 public hearing.
27. Testimony was presented at public hearings at both the June 24, 2009 and the August 5, 2009 hearings by county staff, the property owner's representatives, and by the public. After testimony was completed, the Planning Commission closed the public hearing and made a motion to 1) find that the Red Barn operations are in violation of the Use Permits, 2) direct staff to return on September 9, 2009 with specific findings in regard to those violations and modifications to the existing Use Permits to include the requirement that

the applicant must apply for a Use Permit for any expansion beyond the scope of the existing Use Permits, 3) that staff would recommend a timeline for the submittal of the application after consultation with the applicant, 4) allow the existing uses to continue until the dates established by that timeline but without prohibiting code enforcement procedures by other responsible authorities, such as building inspection or health departments, and 5) continue the hearing to September 9, 2009. The motion passed by a vote of 7-0 (with three absent).

28. These recitals are based on the specific documents and reports cited in the above Recitals. The documents and reports are attached as Exhibits to the January 26, 2010 Board of Supervisors staff report or contained in Monterey County Planning Department file numbers ZA-3117, ZA-3567-D, ZA-3629-D, and PD080726 found at the Monterey County Resource Management Agency-Planning Department.
29. On September 9, 2009, the Monterey County Planning Commission adopted Resolution 09045 finding the following:
 1. The Red Barn operations are in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D (as described in the above Recitals) for 1) outdoor retail sales outside the approved area, 2) landscaping not in conformance with the approved landscaping plan for ZA-3629-D, and 3) parking and storage of vehicles outside the approved area;
 2. The area approved for outside retail sales is as depicted by dashed line on **Attachment B** [to the Planning Commission Resolution].
 3. The uses allowed on the “Red Barn” property are those uses stated in the resolutions adopted for ZA-3117, ZA-3567-D, and ZA-3629-D. The uses stated in those Use Permits are as follows:
 - ✚ Indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, wine tasting and sales, and a relocated mobile home, as shown in the resolution for ZA-3117 (Assessor’s Parcel Number 141-013-004, -005, and -011);
 - ✚ Expansion of the parking lot onto the terrace area above (south of) the “Red Barn” area approved for use in ZA-3117, as shown in the resolution for ZA-3567-D (Assessor’s Parcel Number 141-013-045);
 - ✚ Expansion of the parking lot to the parcel northeast of the “Red Barn” area approved for use in ZA-3117 and ZA-3567-D, as shown in the resolution for ZA-3629-D. The application stated it was for “Parking” (section 9) of about 950 spaces (section 13) as stated in Exhibit B, page 106, of the January 26, 2010 Board of Supervisors staff report (Assessor’s Parcel Number 141-013-007).

APPEAL AND APPLICANT CONTENTIONS¹

30. Stagecoach Territory, Inc. filed an appeal from the September 9, 2009 decision of the Monterey County Planning Commission. On September 9, 2009, the Planning Commission had determined the following:
1. The Red Barn operations are in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D, as described in the Recitals of Resolution 09045, for 1) outdoor retail sales outside the approved area, 2) landscaping not in conformance with the approved landscaping plan for ZA-3629-D, and 3) parking and storage of vehicles outside the approved area;
 2. The area approved for outside retail sales is as depicted by dashed line on Attachment B of Monterey County Planning Commission Resolution No. 09045.
 3. The uses allowed on the “Red Barn” property are those uses stated in the resolutions adopted for ZA-3117, ZA-3567-D, and ZA-3629-D. The uses stated in those Use Permits are as follows:
 - ✚ Indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, wine tasting and sales, and a relocated mobile home, as shown in the resolution for ZA-3117 (Assessor’s Parcel Number 141-013-004, -005, and -011);
 - ✚ Expansion of the parking lot onto the terrace area above (south of) the “Red Barn” area approved for use in ZA-3117, as shown in the resolution for ZA-3567-D (Assessor’s Parcel Number 141-013-045);
 - ✚ Expansion of the parking lot to the parcel northeast of the “Red Barn” area approved for use in ZA-3117 and ZA-3567-D, as shown in the resolution for ZA-3629-D. The application stated it was for “Parking” (section 9) of about 950 spaces (section 13) as stated in Exhibit B, page 106, of the January 26, 2010 Board of Supervisors staff report (Assessor’s Parcel Number 141-013-007).
- a) On September 18, 2009, an appeal was timely filed for Stagecoach Territory, Inc. by Myron E. Etienne, Jr., representative for the property owner, on the basis that the findings or decision or conditions are not supported by the evidence; and that the decision was contrary to law. The contentions are contained in the Notice of Appeal (**Exhibit K** of the Staff Report prepared for the January 26, 2010 Board of Supervisors meeting) and listed below with responses from staff.
- b) The Board of Supervisors makes the following findings regarding the appellant’s contentions pursuant to Monterey County Code section 21.74.060.B:

¹ All citations in brackets “[]” are references to page numbers from Exhibit B of the January 26, 2010, Board of Supervisors Staff Report.

The appellant contends the following (See **Exhibit K of the Staff Report prepared for the January 26, 2010 Board of Supervisors meeting**):

Contention 1 – The Findings are not supported by the Evidence.

“Evidence presented by the Applicant (Appellant, herein) clearly demonstrated that, Stagecoach Territories, Inc. is not in violation of its use permits because:

1) *When the applicant received approval in 1979 for Use Permit ZA-3625 [sic] to “relocate” the former parking area shown on the 1977 Use Permit (ZA-3117) (see Exhibit 1 attached [to the September 18, 2009 appeal]) to the new 17-acre parking lot (see Exhibit 2 attached) to the northeast of the Red Barn, and the Board of Supervisors, thereafter, removed Condition #11 of ZA-3625 [sic] requiring a rezoning of the former parking area to a Design Control district, the County, by its actions, acknowledged and approved expansion of the existing outdoor retail sales area to the area that was formerly used for parking.*

The applicant, in good faith, relied upon the County’s actions in 1979 and has been conducting outdoor retail sales in the former parking area for 30 years, without question by the County, since receiving approval and constructing the new “relocated” parking area on 17 acres to the northeast of the Red Barn.”

2) *Landscaping was planted in the 17 acre parking area and along Highway 101 (ZA-3625). Some landscaping died during the drought in the 1980’s and some remains. The applicant will replant the parking lot median areas and along Highway 101. We have discussed this with the Director of Planning.*

3) *Vehicles have only been parked on the commercially zoned area of the terraces as approved by Use Permit ZA-3567. As shown on an overlay of the 1978 use permit map (ZA-3567) with an aerial photo of the Stagecoach Territory property (see Exhibits 3-1 & 3-2 attached), vehicles are only parked in the commercial area of the terraces, as approved with the 1978 permit.”*

Response

Regarding statement 1:

See the staff response, below, to Contention 2, incorporated herein by reference.

In addition, it is not clear when the expansion of the outdoor retail sales occurred. As stated in Exhibit A to the Board of Supervisors January 26, 2010, Staff Report, page 9 of 26, and as shown in Exhibit I to the Board of Supervisors January 26, 2010, Staff Report, a 1990 application still showed the area around the outdoor retail sales approved under ZA-3117 as parking area. The County has not known for 30 years that the expansion had occurred, contrary to appellant’s allegation, and the County does not have any evidence as to when the expansion did occur.

Regarding statement 2:

The applicant and staff have met on this violation and have agreed that a revised landscaping plan will be submitted for review and approval. The violation would be cleared through replanting as approved under a revised landscaping plan.

Regarding statement 3:

The applicant and staff have met regarding the location of the boundary for the parking area approved by ZA-3567. The applicant thought they were in compliance with the location approved under the permit. Precise location of the zoning district boundary by county staff from official zoning maps show that encroachments have occurred in the past (staff testimony submitted at the January 26, 2010, Board of Supervisors meeting). The property owner has agreed to ensure that the parking is limited to the area approved by the permit and will provide a barrier to ensure that boundary line is correct. The construction of the barrier, with confirmation from Planning Department staff, would clear this violation.

Contention 2 – The Decision was Contrary to Law

“Stagecoach Territory, Inc. has operated its outdoor retail sales area in the former parking area for 30 years with the full knowledge of, acquiescence of, and without any objection by, the County of Monterey.

In 1979, as part of the use permit approval for ZA-3625 [sic], the applicant told the County that they would be expanding their outdoor retail sales to the former parking area when the new 17-acre parking lot was approved. (see Exhibits 4-1, 4-2 & 4-3 attached) [staff note: attached to the September 18, 2009 appeal] Thereafter, in reliance upon the county’s actions surrounding the 1979 approval of ZA-3625 [sic], the applicant, in fact, expanded the outdoor retail sales to the former parking area. It would have made no sense for the applicant to tell the County it was going to expand its outdoor retail uses and “relocate” the parking without a plan for use of the former parking area. Additionally, at that time, the applicant would have asked for an expanded use permit, if the County had told the applicant that it needed to amend their existing permit (ZA 3117) to expand the outdoor retail sales area.

The evidence shows 1) that in 1979 the County was appraised of the fact that Stagecoach Territory (then Ellingwood) was going [sic] “relocate” the parking area to a new area and use the former parking area for expanded outdoor sales; 2) that the county knew that once the new parking area was approved, Stagecoach Territory would use the former parking area for outdoor retail sales; 3) Stagecoach Territories did not believe it needed a new use permit to expand the outdoor retail sales area and no one at the County told Stagecoach Territory that it would need to amend its existing use permit (ZA-1337 [sic]) to expand their outdoor sales area; and 4) Stagecoach Territory, in fact, in reliance upon the County’s actions, expanded the outdoor retail sales area to the former parking area when the new parking lot was approved.

As stated above, the Applicant relied on the County's acquiescence to utilization of the area which had been formerly designated for parking for increased flea market use. The owners of the Red Barn have worked long and hard to make the venture a success, providing jobs to over 700 Board of Equalization licensed businesses on the property, have hired 10 full time personnel and 14 part time personnel. Requiring the Applicant to resume sales in the same area that was approved in 1977 in ZA-3117 would result in huge loss and would destroy the efforts of thirty years to build the business to what now amounts to approximately \$5,000,000 in sales generally [sic] annually by the current scope of the enterprise."

Response

The record does not support appellant's contention that the applicants told the county that they would be expanding the outdoor retail sales or that the County approved expansion of the outdoor retail sales area. The record does not include any evidence that County decision-making bodies were aware that the applicants had intended to expand the outdoor retail sales area. The referenced language cited from exhibits for the appeal states as follows:

Appeal Exhibit 4-1: The document cited by the appellant is a Staff Memorandum relating to ZA-3629, a Use Permit to allow parking on an adjoining parcel that was zoned "Rural" at that time. The memorandum states, as underlined by the appellant in the Notice of Appeal, that "if the parking can be relocated to adjoining property, the C-2-P portion would further [sic] developed for various general commercial uses." This text clearly cites general commercial uses. The zoning ordinance at the time allowed many commercial uses as a permitted use ("Uses Permitted" as stated in the ordinance). Expanding those commercial uses, which were allowed by right if they met standards, was certainly discussed and was a concern by staff and the hearing bodies. However, there is no evidence that expanding the area of outdoor retail sales was the concern. In fact, expanding outdoor retail sales would have required a Use Permit or Use Permit Amendment to the commercially zoned areas of the property when the 1979 Use Permit was issued (see Ordinance 911, Section 22.b.4). This permit (ZA-3629) was only issued for a parking lot for the "Rural" zoned portion of the property. The Use Permit did not grant any new rights for the commercially zoned properties approved under Use Permits ZA-3117 or ZA-3567. The statement that staff was appraised that the Ellingwoods were going to expand outdoor sales is not supported by any specific statements found in the record.

Appeal Exhibit 4-2: The document cited by the appellant is the Zoning Administrator Resolution approving ZA-3629, a Use Permit to allow a parking lot on an adjoining parcel that was zoned Rural. The resolution states, as underlined by the appellant in the Notice of Appeal, that "the relocation of the existing parking now is a "C-2" District will allow further development of that property." As explained above, that is a true statement in relation to allowing the

development of general commercial uses that were "Uses Permitted" in the zoning ordinance in effect at that time, Ordinance 911. Section 22.a described commercial uses that were allowed without requiring a discretionary permit; however, outdoor retail sales was not among those listed uses. Outdoor retail sales is a use that is listed as requiring a Use Permit. As Use Permit ZA-3629 was not issued for the commercially zoned portions of the Red Barn site (it was only issued for Assessor's Parcel Number 141-013-07, the "Rural" zoned parcel adjacent to the Red Barn operation), it did not grant any authority to amend the earlier permits to allow an expansion of outdoor retail sales on the commercially zoned parcels. The record does not include any clear statement by the applicant, representatives, the property owner, staff, or the decision-making bodies that outdoor retail sales would be expanded, or were contemplated to be expanded, as a result of any of the permits, including ZA-3629.

Appeal Exhibit 4-3: The document cited by the appellant is the Planning Department staff's report to the Board of Supervisors, prepared for the appeal from the Planning Commission's decision to impose condition 11 while approving ZA-3629, a Use Permit to allow a parking lot on an adjoining parcel that was zoned "Rural." The staff report states, as underlined by the appellant in the Notice of Appeal, that "the applicant's stated purpose of the parking area was to relocate the existing parking in the "C-2" District in order to utilize that area for increased commercial uses." In looking at the entire record presented to and by staff through the multiple hearings on this permit, there was never any statement that the concern for expanding commercial uses was related to the outdoor retail sales, as explained above. To further support the notion that the concern was related to permitted uses, the Zoning Administrator, upon the Planning Commission's recommendation, applied a condition to rezone the commercially zoned portion of the site to ensure that it had control, through discretionary permits, on any expansion of commercial uses. As the zoning ordinance already allowed that control for outdoor retail sales (Ordinance 911, Section 22.b), if the stated purpose of the applicant, and the concern by staff, was related to the expansion of the outdoor retail sales, then the condition would not have been necessary. Any expansion of the outdoor retail sales would have required a Use Permit or Use Permit Amendment at that time. The reference to "increased commercial uses" related to expansion of uses that were listed as "Uses Permitted" in the zoning ordinance, not expansion of the physical area where sales could occur.

As can be seen, the applicant never told the county it was going to expand the outdoor retail sales, as alleged in this contention. The appellant's statement that it did not make sense to relocate the parking without a plan for use is logical; however, nowhere in the record is the intent explained as to what uses were being contemplated. The list of permitted uses ("Uses Permitted") was quite extensive and any of them could have been pursued, once the parking lot was expanded, with just a building permit, or by initiation of use if no building was being constructed. The site also may have needed additional parking for the intensity of

uses at the site at that time, so no additional uses were pursued. This is all conjecture. The facts are that a Use Permit was required to expand the area of outdoor retail sales. That Use Permit would have had to apply to the commercially zoned parcels. Neither of those actions occurred.

Contention 3

“See discussion Sections 5 and 6 above regarding applicants authorized expansion in to the former parking area under the 1977 and 1979 use permits (ZA-3117 & ZA-3625 [sic]).

As shown on an overlay of the 1978 use permit map (ZA-3567) with an aerial photo of the Stagecoach Territory property, vehicles are only parked in the terrace area in the commercial area, as approved with the 1978 permit.

As for landscaping of the 17-acre parking area, landscaping was planted in the median areas and along Highway 101. Some landscaping died during the drought in the 1980's and some remains. The applicant will replant the parking lot median areas and along Highway 101. This has been discussed with the Director of Planning.

When this matter was first initiated, it was quite clear that the motivating factor behind the vote of the Planning Commission was generated, in part, by the concern over the traffic jams which frequently occur in the area of the flea market. A substantial segment of the public is of the opinion that the flea market is the sole cause of the traffic jams that occur at that location.

Consequently, the Applicant contracted with Hatch Mott McDonald (“Hatch Mott”), a traffic expert firm, one of whose primary members is Keith Higgins, a well known and respected expert used on many occasions by the County of Monterey in years past. We entered into an agreement with Hatch Mott to prepare an analysis of the traffic situation at this location, with emphasis on the days the flea market is held.

Hatch Mott issued a report dated June 5, 2009, following an intense study of the traffic issues in this area. They made the following conclusion:

‘It is clear from the findings of this report that traffic generated by the Red Barn flea market plays a role in traffic operation issues along the Highway 101 corridor, but the Red Barn is not the main and/or only cause of these problems. Traffic congestion and safety problems in the area have been observed on weekdays and Saturdays when the flea market is closed.’ “

The Notice of Appeal goes on to discuss recommendations from Hatch Mott McDonald, that the applicants entered into an Agreement with Hatch Mott McDonald to prepare a topographic survey and base map, prepare improvement plans, existing conditions plan, and improvement plan, and to review material

requested from the County of Monterey and from Caltrans. The Applicants state that they will construct recommended improvements and have the traffic consultant observe site operations after the improvements have been constructed. Specific detail of this portion of the appeal can be found on pages 3 through 5 of the appeal (Exhibit K to the Board of Supervisors January 26, 2010 staff report).

Response

Regarding the parking area beyond the boundaries approved under ZA-3567:

The application requested an expansion of the parking lot to be on the upper terrace for the area zoned commercial "...all of C2-P zone..." of the property. Part of the property was zoned "Rural" and was not to be used as part of the Red Barn operations, including that it was not to be used for parking [Official Zoning Maps, Ordinance 911 (as amended by Ordinance 1409), Section 6.a, Sheet 10-10B]. The County demonstrated, using the official zoning maps, that encroachment has occurred in the past outside the commercial zoned area of this parcel. A slide was presented by staff to the Planning Commission on August 5, 2009, September 9, 2009, and to the Board of Supervisors on February 9, 2010, showing the official zoning district boundaries overlain on an aerial photograph showing parking encroaching outside the boundary [see slide number 21 of the August 5, 2009 PowerPoint presentation, presented to the Planning Commission, and presented to the Board of Supervisors on February 9, 2010, prepared by county staff]. The applicant has agreed, in discussions with staff, to locate the official boundary for the zoning district and construct a barrier to ensure that the parking stays within the authorized area.

Regarding the landscaping of the 17-acre parking area:

Approval of Use Permit ZA-3629 required, by conditions of approval, that a landscaping plan be submitted for approval and that the landscaping be maintained. The conditions are as follows [109-110]:

1. *That the site be landscaped, including land sculpturing and fencing, where appropriate, by the applicant and that a plan for such improvements be approved by the Director of Planning.*
2. *That all landscaped areas and/or fencing shall be continuously maintained by the applicant in a litter-free, weed-free condition, and all plant material shall be continuously maintained in a healthy, growing condition.*

The current site landscaping was compared to the approved landscaping plan found in Monterey County Planning Department file no. ZA-3629. As shown on an aerial photograph presented by staff to the Planning Commission on August 5, 2009 and September 9, 2009, and to the Board of Supervisors on January 26, 2010, the landscaped area was no longer in compliance with the approved landscaping plan (August 5, 2009 PowerPoint presentation to the Planning Commission, prepared by county staff, and shown to the Board of Supervisors at the February 9, 2010 public hearing, includes a 2009 aerial photograph of the area

approved for the expanded parking lot and approved landscape plan as slide numbers 22 and 23). As stated by the appellant, much of the landscaping died in the 1980s (Section 7 of Exhibit K to January 26, 2010, Board of Supervisors staff report). No evidence of an approved revised landscaping plan was found. The Planning Commission determined that Stagecoach Territory was in violation of these conditions of approval for Use Permit ZA-3629 (Monterey County Planning Commission Resolution 09045). The property owners, in meeting with staff, have agreed to submit a revised landscape plan and work to restore the landscaping in compliance with any approved landscape plan.

Regarding the appellant statement that the motivating factor for the Planning Commission decision was traffic jams:

The Planning Commission considered the evidence of whether the operations at the Red Barn were in compliance with the approved Use Permits. It was not 'quite clear,' as the appellant states, that the motivating factor was traffic concerns. The reasons for the decision of the Planning Commission are set forth in the resolution (Monterey County Planning Commission Resolution 09045). No evidence has been submitted, as well, that "a substantial segment of the public is of the opinion that the flea market is the sole cause of the traffic jams that occur at that location," as stated by the appellant. To the contrary, most testimony is that the Red Barn operations contribute to the traffic in the area, and as confirmed by the Stagecoach Territory's traffic engineer in the Notice of Appeal, page 3: "It is clear from the findings of this report that traffic generated by the Red Barn flea market plays a role in traffic operation issues along the Highway 101 corridor..." Most testimony by the public recognized the contribution of the operations to traffic issues, but did not state that the Red Barn operations were the sole source, as alleged in the Notice of Appeal.

Regarding the rest of this contention from the Notice of Appeal:

The applicant is able to study and improve site circulation improvements, without the need to return for a Use Permit Amendment so long as site uses are not intensified or other discretionary permit triggers are not encountered. The recommendations of their traffic engineer are welcomed and staff will work with the property owners and Caltrans to improve traffic conditions in the area, as determined appropriate by Caltrans.

31. The appeal was scheduled to be heard by the Monterey County Board of Supervisors on December 8, 2009. On November 13, 2009, the appellant requested a continuance of the item to January 19, 2010 (Letter from Myron E. Etienne, Jr., Noland Hamerly Etienne & Hoss, dated November 13, 2009). Staff notified the appellant that there was no Board of Supervisors meeting on January 19, 2010, and appellant agreed to schedule the item for January 26, 2010. At least 10 days prior to the January 26, 2010 public hearing, notices of the hearing before the Board of Supervisors were published in the Salinas Californian and the Monterey County Herald and were posted on and near the property and mailed to property owners within 300 feet of the subject property as well as interested parties. On January 22, 2010, the appellant requested a continuance of the item until at least March 2,

2010 ((Letter from Myron E. Etienne, Jr., Noland Hamerly Etienne & Hoss, dated January 22, 2010). At the Board of Supervisors hearing on January 26, 2010, the appellant withdrew the request for a continuance. However, after the Board of Supervisors opened a public hearing regarding the continuance request, the Board of Supervisors voted to continue the hearing to February 9, 2010. The Board held a public hearing and took testimony from the appellant and the public on February 9, 2010.

32. The Board of Supervisors, pursuant to Monterey County Code section 21.74.060.A, has authority to modify conditions upon finding a violation of a Use Permit or its conditions.
33. The Board of Supervisors, after public hearing on February 9, 2010, directed staff to return with a resolution on February 23, 2010 to finalize their decision, including modification of conditions of approval. The "Red Barn" structure is approximately 20,000 square feet in area and has been closed for commercial uses due to code violations. Per the Board's direction, the modified conditions allow the temporary use of a portion of the parking area, authorized under Use Permit ZA-3117, for outdoor retail sales during the period that the "Red Barn" structure is being renovated to bring it up to code requirements. This temporary additional outdoor retail use area is only intended to replace the temporary loss of the indoor sales area and is subject to size and time limits per the modified conditions of approval.
34. Evidence to support the above recitals is as follows:
 - a) Administrative Record found in Monterey County Planning Department file no. PD080726
 - b) Monterey County Staff Reports prepared for the January 26, 2010, and February 9, 2010, Board of Supervisors public hearings, including but not limited to Exhibits A, B, D - F, I, J and K.
 - c) Monterey County Staff Report prepared for the February 23, 2010, Board of Supervisors meeting.
 - d) Testimony (oral and written) presented to the Board of Supervisors at its January 26, 2010, February 9, 2010, and February 23, 2010, public hearings related to Stagecoach Territory appeal.
 - e) Monterey County Planning Commission Resolution 09045, adopted September 9, 2009.
 - f) Testimony presented to the Monterey County Planning Commission at public hearings on August 5, 2009 and September 9, 2009.
35. The California Environmental Quality Act does not require preparation of an environmental document for this action by the Board of Supervisors, pursuant to CEQA Guidelines section 15321—categorical exemption for adoption of an administrative decision enforcing or revoking an entitlement for use.

II. DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Deny the appeal from the Planning Commission's determination that the Red Barn operations are in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D;
- b. Find that the Red Barn operations are in violation of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D, as described in the above Recitals, for 1) outdoor retail sales outside the approved area, 2) landscaping not in conformance with the approved landscaping plan for ZA-3629-D, and 3) parking and storage of vehicles outside the approved area (ZA-3567-D);
- c. Determine that the uses allowed on the "Red Barn" property are those uses stated in the resolutions adopted for ZA-3117, ZA-3567-D, and ZA-3629-D, which are as follows:
 - ✚ Indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, wine tasting and sales, and a relocated mobile home, as shown in the resolution for ZA-3117 (Assessor's Parcel Number 141-013-004, -005, and -011);
 - ✚ Expansion of the parking lot onto the terrace area above (south of) the "Red Barn" area approved for use in ZA-3117, as shown in the resolution for ZA-3567-D (Assessor's Parcel Number 141-013-045—currently Assessor's Parcel Number 141-013-011);
 - ✚ Expansion of the parking lot to the parcel northeast of the "Red Barn" area approved for use in ZA-3117 and ZA-3567-D, as shown in the resolution for ZA-3629-D. The application stated it was for "Parking" (section 9) of about 950 spaces (section 13) as stated in Exhibit B, page 106, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-007).
- d. Modify the conditions of approval for Use Permits ZA-3117, ZA-3567-D and ZA-3629-D to include new conditions of approval, as attached hereto as **Attachment A** and hereby incorporated. The area approved for outside retail sales is as approved under Use Permit ZA-3117 and as depicted by dashed line on **Attachment B**, except as modified by the attached conditions of approval.

PASSED AND ADOPTED on this 23rd day of February, 2010, upon motion of Supervisor Parker, seconded by Supervisor Calcagno, by the following vote, to-wit:

AYES: Supervisors Calcagno, Parker, Potter

NOES: Supervisors Armenta, Salinas

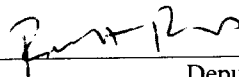
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on February 23, 2010.

Dated: March 2, 2010

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____



Deputy

RESOLUTION 10-037 - ATTACHMENT A
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: Red Barn (Stagecoach Territory)
 File No: PD080726 APNs: 141-013-004, 005 and 011
141-131-001
 Approved by: Board of Supervisors Date: February 23, 2010

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*



RMA - Planning Department

1.	<p>PD001 - SPECIFIC USES ONLY This decision (PD080726) allows the continued operation of the Red Barn (Stagecoach Territory) operations as approved under Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D. Outdoor Retail Sales are limited to the area depicted in Attachment B after March 5, 2010. Uses determined by the earlier permits are as follows:</p> <ul style="list-style-type: none"> ➤ Indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, wine tasting and sales, and a relocated mobile home, as shown in the resolution for ZA-3117 (Assessor's Parcel Number 141-013-004, -005, and -011); ➤ Expansion of the parking lot onto the terrace area above (south of) the "Red Barn" area 	<p>Adhere to conditions and uses specified in this decision. Cease the use of the outdoor retail sales area located outside the boundary as depicted in Attachment B by March 5, 2010.</p> <p>Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department.</p>	<p>Owner/ Applicant</p> <p>RMA Planning</p>	<p>Ongoing unless otherwise stated</p>
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		<p>approved for use in ZA-3117, as shown in the resolution for ZA-3567-D (Assessor's Parcel Number 141-013-011) and limited to the commercially zoned portion of the property. Expansion of the parking lot to the parcel northeast of the "Red Barn" area approved for use in ZA-3117 and ZA-3567-D, as shown in the resolution for ZA-3629-D. The application stated it was for "Parking" (section 9) of about 950 spaces (section 13) as stated in Exhibit B, page 106, of the January 26, 2010 Board of Supervisors staff report (Assessor's Parcel Number 141-013-007).</p> <p>The property is located at 1000 Highway 101, Aromas (Assessor's Parcel Number 141-013-004, 005, 011 and 141-131-001), North County Area Plan. This determination was made in accordance with County ordinances and land use regulations subject to the following terms and conditions. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (RMA-Planning Department)</p>	<p>To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.</p>	<p>WRA RMA - Planning</p>		
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2.	<p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A decision regarding the status of Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D (Resolution 10-037) was made by the Board of Supervisors for Assessor's Parcel Numbers APNs: 141-013-004, 005, 011 and 141-131-001 on February 23, 2010. The determination, modifying conditions of approval and clarifying the earlier Use Permits, was granted subject to 10 modified or added conditions of approval which run with the land. A copy of the decision is on file with the Monterey County RMA - Planning Department and the Clerk of the Board of Supervisors." (RMA-Planning Department)</p>	<p>Obtain appropriate form from the RMA-Planning Department.</p> <p>The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.</p>	<p>Owner/ Applicant RMA- Planning</p>	<p>Within 30 days of the Board of Supervisors final action.</p>
3.	<p>PDSP001 - CONDITIONS OF APPROVAL FOR USE PERMITS ZA-3117, ZA-3567-D, AND ZA-3629-D (NON-STANDARD)</p> <p>The conditions of approval for Use Permits ZA-3117, ZA-3567-D, and ZA-3629-D remain in full force and effect with this decision, except as modified herein and specifically identified by a new condition of approval.</p>	<p>Comply with all earlier conditions of approval except as specifically stated in this resolution.</p>	<p>Owner/ Applicant</p>	<p>As outlined in the applicable condition of approval.</p>

4.	<p>PDSP002 - LANDSCAPE PLAN (NON-STANDARD) Replacing Condition 1 of ZA-3629-D</p> <p>The site shall be landscaped. Prior to March 15, 2010, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping and shall include an irrigation plan. The landscaping shall be installed by June 15, 2010. The permanent irrigation system shall be installed by August 1, 2010. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning Department)</p>	<p>Submit landscaping plan</p> <p>Plant all vegetation on approved landscape plan</p> <p>Install permanent irrigation system.</p>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>By March 30, 2010</p> <p>By June 15, 2010</p> <p>By August 1, 2010</p>	
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5.	<p>PDSP003 - FENCING (Non-Standard) A fencing plan shall be submitted for review and approval of the Planning Director. The fence shall be installed on the zoning district boundary between the Light Commercial zoning district and the Rural Density Residential zoning district and shall be of sufficient design and construction to preclude vehicles from driving through to the Rural Density Residential area for parking or storage. Access gates may be provided in the fence, but must be closed on Sundays. The fence shall be constructed of wood or metal, shall not be greater than six feet tall, and the materials and design shall be subject to approval by the Planning Director. (RMA - Planning Department)</p>	<p>Submit fencing plan to Planning Department.</p> <p>Install fencing</p>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>By March 15, 2010.</p> <p>By April 15, 2010.</p>	
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6.	<p>PDSP004 - TEMPORARY OUTDOOR RETAIL SALES AREA (Non-Standard)</p> <p>Discontinue use of the "Red Barn" structure until approved for occupancy by the Building Services Department. The action by the Board of Supervisors on February 23, 2010 to modify conditions of approval of Use Permits ZA-3117, ZA-3567, and ZA-3629 authorizes the temporary use of a portion of the parking area, approved under Use Permit ZA-3117, for temporary outdoor retail sales. The area designated shall in no case exceed the total area of the "Red Barn" structure or 20,000 square feet, whichever is less. This temporary use area shall be delineated on a plan submitted to the RMA-Planning Department for review and approval. The plan shall include demarcation, as required by Condition 7.</p> <p>When commercial use of the "Red Barn" structure is restored, by obtaining a final inspection and occupancy by the RMA-Building Services Department, the additional temporary outdoor retail use area shall return to use as an approved parking area within 14 days. In no case shall this temporary outdoor retail sales area be allowed beyond July 1, 2010 without amendment of the Use Permit. (RMA-Planning Department)</p>	<p>Submit outdoor retail sales area plan to Director of Planning. The plan will need to be approved by the Planning Director, Building Services Director, and Fire Department.</p> <p>Survey the area for outdoor retail sales and submit plan required by Condition 7.</p> <p>Return outdoor retail sales to area designated by Board of Supervisors' action dated February 23, 2010 as the area allowed by Use Permit ZA-3117.</p>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>Prior to any retail use outside the area designated in Use Permit ZA-3117 for outdoor retail sales</p> <p>Within 14 days of obtaining occupancy or final inspection, whichever occurs first, from the RMA-Building Services Department or July 1, 2010, whichever occurs first.</p>
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7.	<p>PDSP005 - SURVEY AND DELINEATE OUTDOOR SALES AREA (Non-Standard)</p> <p>The applicant shall provide a surveyed plan that delineates the permanent area approved for outdoor retail sales under Use Permit ZA-3117, as determined by the Board of Supervisors in 2010. In addition, a surveyed plan for the temporary outdoor retail sales area shall be provided, as authorized by Condition 6, above. The plan shall include emergency access aisles, aisle widths, booth locations, and a demarcation plan showing how pavement will be marked for booth and aisle locations. A legal description of the permanent outdoor retail sales area boundary, and a separate legal description of the approved temporary outdoor retail sales area boundary, shall be submitted along with the plan.</p> <p>The pavement shall be painted in approved colors for the permanent and outdoor sales area, aisle widths between rows of booths, and the outer extent of the temporary and permanent outdoor sales area, and in other approved colors for clearly delineating emergency access aisles. (RMA-Planning Department)</p>	<p>Survey the site and submit plan for review and approval by the RMA-Directors of Planning and of Building Services, and by the Fire District. Paint the pavement according to the approved plan.</p>	<p>Owner/ Applicant's surveyor or engineer</p>	<p>Prior to expanding the outdoor retail sales into the area authorized for the temporary outdoor sales area.</p>	
8.	<p>PDSP006 - COMPLIANCE ORDER (Non-Standard)</p> <p>Permits may not be issued for additional entitlements until violations of the County Code, identified in the Compliance Order issued December 8, 2009, by the Monterey County RMA-Building Services Department, have been cleared. (RMA-Planning Department)</p>	<p>Ensure clearance of violations prior to issuance of entitlements, as applicable.</p>	<p>RMA- Planning Department</p>	<p>Ongoing</p>	

9.	PDSP007 - VENDOR COMPLIANCE (Non-Standard) All vendors operating at the site must be in compliance with all applicable County Code requirements.	Ensure vendors are in compliance with all code requirements.	Owner	Ongoing	
Health Department Environmental Health Division					

10.	<p>1. The applicants' registered civil engineer shall submit a conceptual design narrative for the wastewater treatment and disposal facilities and flush toilet facilities to RWQCB and EHD for review and approval. The applicants' engineer shall design the size of the facilities upon verifiable data as to the number of patrons, vendors and employees at this site. The applicant's engineer shall fully address all RWQCB requirements relative to required soils testing, borings, percolation studies, depth to groundwater determination and all other necessary requirements of the RWQCB. Requirements for wastewater treatment and disposal and flush toilet facilities shall be in compliance with the Basin Plan of the Regional Water Quality Control Board (RWQCB) and Monterey County Code MCC 15.20.</p> <p>2. Submit for review and approval comprehensive, engineered plans to RWQCB and EHD and all required regulatory agencies. The plans for the wastewater treatment and disposal facilities and flush toilet facilities shall be designed to accommodate wastewater flows per the Basin Plan and MCC 15.20. Pay all applicable fees and obtain all required permits.</p>	<p>The applicant's engineer shall demonstrate to the satisfaction of the Director of Environmental Health that this condition is complied with in the time frames as indicated.</p>	<p>Owner and Applicant's engineer</p>	<p>1. Thirty (30) days from February 15, 2010.</p> <p>2. Sixty (60) days from the date of the approved conceptual design narrative as noted in item #1.</p>	
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		<p>3. Begin construction of the wastewater treatment and disposal facilities and flush toilet facilities under permit from all required regulatory agencies.</p> <hr/> <p>4. Complete construction of the wastewater treatment and disposal facilities and flush toilet facilities and obtain sign-off of the final inspection from all required regulatory agencies. (Environmental Health)</p>		<p>120 days from the date of the approved engineered plans for the wastewater treatment and disposal facilities and flush toilet facilities as noted in item #2.</p> <hr/> <p>120 days from the date of the beginning of construction of the wastewater treatment and disposal facilities and flush toilet facilities as noted in item #3.</p>	
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END OF CONDITIONS

Attachment 'B'

Red Barn

Approved Uses

SAN JUAN RD

HIGHWAY 101


Red Barn -
Indoor retail
sales

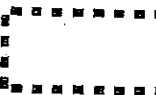
Snack
Bar

Wine
Tasting &
Sales

Barn

Mobile
Home

 Parking Area

 Outdoor sales area
established by
1977 use permit



0 200 Feet

Photo Date: 2007

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