



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

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**File #:** ZA 19-103, **Version:** 1

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### **PLN170974 - STAGECOACH TERRITORY INC (RED BARN)**

Public hearing to consider a Minor Amendment to a previously approved Use Permit (Resolution No. ZA-3117), which allowed indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, and wine tasting and sales. The Minor Amendment allows a relocation of 17,497 square feet of outdoor retail sales space as a result of outdoor sales space lost to a Cal-Trans interchange project in 2015.

**Project Location:** 1000 Hwy 101, 1060 Hwy 101, 1150 Hwy 101, and 1050 Hwy 101, Aromas CA 95004

**Proposed CEQA Action:** Categorically exempt per CEQA Guidelines 15301 and 15302

#### **PROJECT INFORMATION:**

**Owner:** Stagecoach Territory Inc.

**APN:** 141-013-035-000, 141-013-034-000, 141-013-037-000, and 141-131-025-000

**Agent:** Joel Panzer

**Zoning:** LC, LC/B-6

**Plan Area:** North County Area Plan

**Flagged and Staked:** No

#### **RECOMMENDATION:**

It is recommended that the Zoning Administrator adopt a Resolution to:

- a. Find that the project is operation of existing structures and replacement of existing facilities involving negligible or no expansion of the use beyond what existed prior to the Cal-Trans interchange project on Highway 101 in 2015 and therefore qualifies for a Class 1 exemption under CEQA Section 15301 and a Class 2 Exemption under CEQA Section 15302, and that none of the exceptions under CEQA guidelines Section 15300.2 apply to this project.
- b. Approve a Minor Amendment (PLN170974) to Zoning Administrator Resolution No. ZA-3117, which will allow relocation of 17,497 square feet of outdoor retail sales area in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto, and incorporated herein by reference.

#### **SUMMARY:**

The proposed Minor Amendment would allow for the relocation of 17,497 square feet of outdoor retail sales area in existing paved areas at the Red Barn/Stagecoach Territory Inc. property. The original Use Permit identified an approximately 157,048 square foot area for outdoor retail sales. In 2015, the Caltrans San Juan Interchange project resulted in the loss of 17,669 square feet of retail sales area. This Minor Amendment would allow that area to be replaced, resulting in a total sales area square footage equal to the original approval in 1977.

This item was originally scheduled for administrative approval on February 20, 2019. A request for public hearing was received on February 11, 2019, and the item was subsequently scheduled for hearing before the Zoning Administrator on March 14<sup>th</sup>. On March 12<sup>th</sup>, staff received a request from the applicant for a 45 day continuance in order to allow additional time to review the Conditions of Approval with all interested parties. The item was scheduled for Zoning Administrator hearing on May 9<sup>th</sup>; however, on April 15<sup>th</sup> staff received a request for continuance to allow their engineering team additional time to perform testing associated with construction of the restrooms pursuant to Condition No. 4. The item was continued to the May 30<sup>th</sup> Zoning

Administrator hearing.

DISCUSSION:

Project History

On April 14, 1977, the Zoning Administrator approved ZA-3117 (Exhibit D), which renewed and consolidated previous Use Permits ZA-1047 and ZA-2449 on the subject property (herein after referred to as the “Red Barn”) for indoor and outdoor retail sales of new and used merchandise, beer bar, snack food bar, and wine tasting and sales. The site plan identified the area allowed for retail sales with a dashed line. This area encompasses the Red Barn structure and extends to the south and west to encompass a section of the parking lot. The area is shown in Exhibit D and on Sheet RED-1 of the attached Site Plan. This area totals approximately 157,048 square feet.

In 2010, the Monterey County Board of Supervisors passed Resolution No. 10-037 to deny an appeal of the Planning Commission’s determination that the Red Barn operations were in violation of previously approved Use Permits, establish the uses allowed on the Red Barn property, modify the conditions of approval for previously approved Use Permits including ZA-3117, and to require the construction of a wastewater treatment and disposal facility and flush toilet facilities.

Following the decision in Resolution 10-037, Stagecoach Territory, Inc. filed a lawsuit against the County for takings, abuse of discretion/writ of mandate, and civil rights violation. The court dismissed the complaints. The County counter-sued for a nuisance. Following multiple hearings and attempts to correct ongoing code enforcement violations, a Judgement from Monterey County Superior court was issued on October 13, 2017. The judgement requires that Red Barn operations comply with the conditions of approval in Resolution No. 10-037 or cease operations. The present and future operations on the property are subject to Monterey Superior Court Case # M104908 and the approval of the Minor Amendment is authorized by the Monterey County Code, and pursuant to the terms of the existing Judgment as a means to implement its requirements.

In 2015, the Caltrans San Juan Interchange Project resulted in the loss of 17,669 square feet of outdoor retail space. This project eliminated direct access from Highway 101 and built a frontage road to provide access to the Red Barn property and residential areas at Merilyn Lane.

The proposed amendment will allow relocation of 17,497 square feet of outdoor retail sales area on existing paved areas adjacent to the approved sales area footprint. The areas designated for relocation are identified as areas A, B, C, D, and E as shown on the attached site plan. These five areas combined will accommodate approximately 50 vendor spaces on existing paved ground appropriate to accommodate this use. There will be no net gain of sales area from the approved Use Permit ZA-3117. This amendment does not allow any new uses. The interior of the Red Barn structure was originally used as sales area; however, this structure is currently not authorized for use due to the absence of fire sprinklers. This amendment does not change the status of the Red Barn structure. Use of the interior of the structure remains prohibited until required inspections are obtained from RMA-Building and from the Aromas Tri-County Fire Protection Department.

Both the Judgment of the Court and Resolution No. 10-037 require the Applicant to build a wastewater treatment and disposal facility and flush toilet facilities. Condition #4 of this permit does not alter that existing requirement, rather, it seeks to impose a realistic timeframe during which the Applicant can complete the required construction and allows for potential revocation of this proposed Minor Amendment in the event construction is not completed within the two-year time period. The two-year time period begins with approval of the Minor Amendment. Within one year of permit approval the property owner or representative shall obtain

necessary permits for the facilities, and within two years from the minor amendment approval, the facilities must be constructed and final inspection obtained.

#### Correspondence Received

Staff received correspondence from three individuals with concerns about the proposed Minor Amendment. The correspondence is attached as **Exhibit F**. All three letters raised the same concerns, including:

The square footage of retail sales area was lost due to the court case (M104908), not due to the interchange project.

In the decades following the issuance of ZA-3117 in 1977, operations at the flea market had extended beyond the area permitted by Use Permit ZA-3117. The judgement issued under Case No. M104908 required Stagecoach Territory Inc. to return to its original footprint under the Use Permit; however, Caltrans took approximately 17, 699 square feet of permitted sales area within the original footprint. The Minor Amendment would not conflict with the requirements of the Judgment and would allow the Applicant to recapture that lost square footage and resume a total footprint of comparable size to that permitted by ZA-3117.

Compensation from the State of California was received for the property value and for the loss of sales revenue resulting from the CalTrans Interchange project.

The particulars of the exchange between Stagecoach Territory Inc. and the State of California are not applicable to the Minor Amendment. The project qualifies as a Minor Amendment pursuant to Monterey County Code Section 21.74.120.A because the project is consistent with the approved Use Permit and does not represent a substantial change. Additionally, the Minor Amendment is authorized pursuant to the terms of the existing Judgement in Monterey Superior Court Case #M104908.

The requirement for restrooms should be fulfilled before any expansion can take place.

The court issued Judgement and Resolution No. 10-037 required construction of restrooms. There is no legal prohibition on granting the Minor Amendment to return to the total square footage allowed by ZA-3117 prior to the construction of restrooms. As an added measure, staff is recommending a Condition of Approval that requires that restrooms be constructed within two years of approval of the minor amendment. This provides additional incentive for the restrooms to be constructed on a timely basis because failure to construct the restrooms within that time frame could result in the revocation of this minor amendment.

Additional comments in the letters received reflect opinions as to the management of the Red Barn flea market. Staff does not have any basis to respond from a planning perspective as the matter does not pertain to planning decisions.

#### CEQA

The Minor Amendment is categorically exempt pursuant to CEQA Guidelines 15301 and 15302. CEQA Guidelines Section 15301 categorically exempts operation of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Minor Amendment will not result in any expansion of use beyond that which was permitted by ZA-3117; therefore, the project qualifies for this exemption. CEQA Guidelines Section 15302 categorically exempts replacement or reconstruction of existing structures and facilities where

the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The project involves replacement of outdoor retail sales area that was lost as a result of the Caltrans project. The replacement area is on the same site and will have the same purpose and capacity as the area lost. It will still be used for outdoor retail sales area and will not be any expansion of square footage over that which was permitted.

**OTHER AGENCY INVOLVEMENT:**

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau  
RMA-Public Works  
RMA-Environmental Services  
Water Resources Agency  
Aromas Tri-County Fire Protection District  
County Counsel

The proposed project was not reviewed by the North County Land Use Advisory Committee (LUAC). Pursuant to the guidelines adopted by the Board of Supervisors on April 28, 2015 the project did not warrant review by the LUAC because it is not development requiring CEQA review, does not involve a Lot Line Adjustment involving conflicts, does not involve a variance, and does not involve a Design Approval subject to review by the Zoning Administrator or Planning Commission.

Prepared by: Cheryl Ku, Senior Planner, Ext: 6049  
Approved by: John Dugan, Deputy Director  
Reviewed by: Brandon Swanson, Interim Chief of Planning

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution, including

- Conditions of Approval
- Site Plan

Exhibit B - Project Data Sheet

Exhibit C - Vicinity Map

Exhibit D - Zoning Administrator Resolution ZA-3117

Exhibit E - Board of Supervisors Resolution No. 10-037

Exhibit F - Correspondence Received

cc: Front Counter Copy; Craig Spencer, Interim RMA Services Manager; Joel Panzer, Agent; Stagecoach Territory Inc., Applicant/Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN170974.