

THE ZUMBRUN LAW FIRM
A Professional Corporation
3800 Watt Avenue, Suite 101
Sacramento, CA 95821

1 RONALD A. ZUMBRUN, SBN 32684
2 TIMOTHY V. KASSOUNI, SBN 142907
3 ANGELA C. THOMPSON, SBN 238708
4 THE ZUMBRUN LAW FIRM
5 3800 Watt Avenue, Suite 101
6 Sacramento, California 95821
7 Telephone: (916) 486-5900
8 Facsimile: (916) 486-5959
9 Attorneys for Plaintiff Meadow Vista Protection

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF PLACER

MEADOW VISTA PROTECTION,

Petitioner and Plaintiff,

v.

CHEVREAU AGGREGATES, INC.;
COUNTY OF PLACER; COUNTY OF
PLACER PLANNING DEPARTMENT;
and DOES 1 through 50, inclusive,

Respondents and Defendants.

Case No.: SCV 19614

Complaint Filed: 7/12/06

PLAINTIFF'S DOCUMENTARY
EVIDENCE IN SUPPORT OF MOTION
FOR SUMMARY ADJUDICATION OF
THIRD CAUSE OF ACTION
(Cal. Rules of Court, Rule 3.1350(g))

Date: 5/8/07

Time: 8:30 a.m.

Dept.: 4

Trial Date: 6/11/07

The Hon. Charles D. Wachob

Pursuant to California Rules of Court, rule 3.1350(g), attached are true and correct copies
of documentary evidence in support of plaintiff's motion for summary adjudication filed
concurrently herewith.

///

///

TABLE OF CONTENTS

<u>Exhibit</u>	<u>Document Description</u>
1A	Declaration of Patrick M. Soluri in Support of Plaintiff's Motion for Summary Adjudication of Third Cause of Action
1B	Declaration of Fred Blomquist in Support of Plaintiff's Motion for Summary Adjudication of Third Cause of Action
1C	Declaration of Angela C. Thompson in Support of Plaintiff's Motion for Summary Adjudication of Third Cause of Action
1	July 1, 1999 Aerial Photograph
2	1998 Aerial Photograph
3	May 9, 1993 Aerial Photograph
4	November 1, 2002 Aerial Photograph
5	April 1, 2004 Aerial Photograph
6	August 1, 2005 Aerial Photograph
7	May 1, 2006 Aerial Photograph
8	Articles of Incorporation for Meadow Vista Protection
9	Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, Public Nuisance, Private Nuisance and Trespass
10	Chevreaux Aggregates, Inc.'s Verified Answer to Meadow Vista Protection's Verified Complaint
11	LD-1030 and Minutes of hearing
12	August 13, 1985 letter from Joe Chevreaux to the Placer County Board of Supervisors
13	April 21, 1971 letter from Joe Chevreaux to Richard Heikka (Placer County Planning Director)
14	April 30, 1971 letter from Richard Heikka (Placer County Planning Director) to Joe Chevreaux
15	April 26, 1972 letter from William Cramer (Assistant Planning Director) to Joe Chevreaux

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

16	Notice of Public Hearing regarding LDA-786
17	July 28, 1987 letter from Joe Chevreux to Thomas McMahan (Placer County Planning Director)
18	LDA-786 and Minutes of Public Hearing
19	July 31, 1987 letter from Thomas McMahan (Placer County Planning Director) to Joe Chevreux
20	Chevreux Aggregates, Inc.'s <i>Amended</i> Responses to Meadow Vista Protection's Form Interrogatories, Set No. One
21	Authority to Construct/Temporary Permit to Operate issued to Kiewit Pacific Company by APCD
22	November 1, 2001 letter from Gerald Edwards (Kiewit Pacific) to John Finnell (APCD)
23	October 4, 2001 APCD Office Contact Report
24	February 11, 2005 letter from Daniel Palmer (Teichert Construction) to Bill Combs (Placer County Planning Department)
25	February 22, 2005 letter from Bill Combs (Placer County Planning Department) to Daniel Palmer (Teichert Construction)
26	March 23, 2005 Press Release announcing Teichert's intent to withdraw its plans for an asphalt plant in Meadow Vista
27	February 25, 2005 Memorandum from Anthony La Bouff (Placer County Counsel) to Fred Yeager (Placer County Planning Director)
28	March 9, 2005 Memorandum from Brigit Barnes (Chevreux's counsel) to Anthony La Bouff, Scott Finley (Placer County Counsel) and Bruce Kranz (Placer County Supervisor, Fifth District)
29	March 22, 2005 letter from Anthony La Bouff (Placer County Counsel) to Brigit Barnes (Chevreux's counsel)
30	October 16, 2006 Ruling on Submitted Matter
31	Placer County Code, § 17.02.010
32	Placer County Code, § 17.04.020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

33	Placer County Code, § 17.04.030
34	Placer County Code, § 17.58.140
35	Placer County Code, § 17.58.160

DATED: February 22, 2007.

Respectfully submitted,

RONALD A. ZUMBRUN
TIMOTHY V. KASSOUNI
ANGELA C. THOMPSON
THE ZUMBRUN LAW FIRM

By Angela C. Thompson
ANGELA C. THOMPSON
Attorneys for Plaintiff Meadow Vista Protection

EXHIBIT 1A

1 RONALD A. ZUMBRUN, SBN 32684
2 TIMOTHY V. KASSOUNI, SBN 142907
3 ANGELA C. THOMPSON, SBN 238708
4 THE ZUMBRUN LAW FIRM
5 3800 Watt Avenue, Suite 101
6 Sacramento, California 95821
7 Telephone: (916) 486-5900
8 Facsimile: (916) 486-5959
9 Attorneys for Petitioners and Plaintiffs

10
11 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
12 COUNTY OF PLACER

13 MEADOW VISTA PROTECTION,

14 Petitioner and Plaintiff,

15 v.

16 CHEVREAUX AGGREGATES, INC.;
17 COUNTY OF PLACER; COUNTY OF
18 PLACER PLANNING DEPARTMENT;
19 and DOES 1 through 50, inclusive,

20 Respondents and Defendants.

Case No.: SCV 19614

Complaint Filed: 7/12/06

DECLARATION OF PATRICK M.
SOLURI IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY
ADJUDICATION
OF THIRD CAUSE OF ACTION

Date: 5/8/07

Time: 8:30 a.m.

Dept.: 4

Trial Date: 6/11/07

The Hon. Charles D. Wachob

21
22
23 I, Patrick M. Soluri, hereby declare as follows:

- 24 1. I was formerly the attorney for the plaintiff Meadow Vista Protection (MVP).
25 2. On August 15, 2005, I obtained an aerial photograph of defendant Chevreux
26 Aggregates, Inc.'s quarry site in Meadow Vista, California from TerraServer.com. The date
27 ascribed to the photograph on TerraServer's website was July 1, 1999. A true and correct copy
28 of this photograph is attached hereto as Exhibit 1.

1 3. On August 18, 2005, I obtained a second aerial photograph of the same location from
2 TerraServer.com. The date ascribed to this photograph was 1998. A true and correct copy of this
3 photograph is attached hereto as Exhibit 2.

4 I declare under penalty and perjury under the laws of the State of California that the facts
5 stated in this declaration are within my own personal knowledge and are true and correct, and if
6 called upon to do so, I could competently testify to all matters stated herein. This declaration
7 was executed this 20 day of February, 2007, at Sacramento, California.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

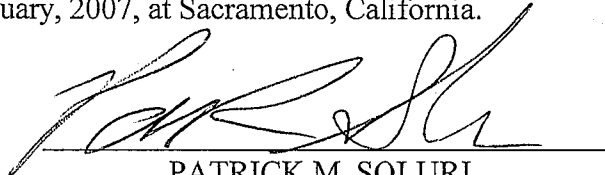

PATRICK M. SOLURI

EXHIBIT 1B

RONALD A. ZUMBRUN, SBN 32684
TIMOTHY V. KASSOUNI, SBN 142907
ANGELA C. THOMPSON, SBN 238708
THE ZUMBRUN LAW FIRM
3800 Watt Avenue, Suite 101
Sacramento, California 95821
Telephone: (916) 486-5900
Facsimile: (916) 486-5959
Attorneys for Petitioners and Plaintiffs

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF PLACER

MEADOW VISTA PROTECTION,

Petitioner and Plaintiff,

v.

CHEVREUX AGGREGATES, INC.;
COUNTY OF PLACER; COUNTY OF
PLACER PLANNING DEPARTMENT;
and DOES 1 through 50, inclusive,

Respondents and Defendants.

Case No.: SCV 19614

Complaint Filed: July 12, 2006

DECLARATION OF FRED BLOMQUIST
IN SUPPORT OF PLAINTIFF'S MOTION
FOR SUMMARY ADJUDICATION
OF THIRD CAUSE OF ACTION

Date: 5/8/07

Time: 8:30 a.m.

Dept.: 4

Trial Date: 6/11/07

The Hon. Charles D. Wachob

I, Fred Blomquist, hereby declare as follows:

1. I am a licensed surveyor (License No. 4268) with Associated Land Consultants. I have been retained by the plaintiff, Meadow Vista Protection (MVP), to provide expert analysis and opinions regarding the location and scope of defendant Chevreux Aggregates, Inc.'s (Chevreux) historical and current operations at its Meadow Vista site.

///

///

1 2. On Thursday, February 8, 2007 I performed an inspection and survey of Chevreaux's
2 Meadow Vista site. Therefore, I am generally familiar with the property and the location of the
3 asphalt plant which is currently sited there.

4 3. I have reviewed current and historic parcel maps of the area and know the boundaries
5 of historic APNs 72-030-01 and 72-020-03. APN 72-030-01 has subsequently been renumbered
6 to APN 72-030-61, and APN 72-020-03 has subsequently been divided and renumbered as APNs
7 72-020-13 and 72-020-14.

8 4. I have reviewed an aerial photograph dated May 9, 1993, which I obtained from
9 TerraServer.com on February 16, 2007 and which is attached hereto as Exhibit 3. This
10 photograph appears to accurately represent Chevreaux's Meadow Vista operations from the air.
11 There is no asphalt plant identifiable on either APN 72-030-01 or APN 72-020-03 in this
12 photograph. In fact, the area where Chevreaux has currently sited its plant is not even cleared of
13 trees in this photograph.

14 5. I have reviewed an aerial photograph dated 1998, which I received from MVP's
15 counsel and which is attached hereto as Exhibit 2. This photograph appears to accurately
16 represent Chevreaux's Meadow Vista operations from the air. There is no asphalt plant
17 identifiable on either APN 72-030-01 or APN 72-020-03 in this photograph. The area where the
18 current asphalt plant is sited is still obstructed by trees and other vegetation in this photograph.

19 6. I have reviewed an aerial photograph dated July 1, 1999, which I received from
20 MVP's counsel and which is attached hereto as Exhibit 1. This photograph appears to accurately
21 represent Chevreaux's Meadow Vista operations from the air. There is no asphalt plant
22 identifiable on either APN 72-030-01 or APN 72-020-03 in this photograph. The area where the
23 current asphalt plant is sited is still obstructed by trees and other vegetation in this photograph.

24 7. I have reviewed an aerial photograph dated November 1, 2002, which I obtained from
25 TerraServer.com on February 16, 2007 and which is attached hereto as Exhibit 4. This
26 photograph appears to accurately represent Chevreaux's Meadow Vista operations from the air.
27 There is no asphalt plant identifiable on either APN 72-030-01 or APN 72-020-03 in this

28 ///

1 photograph. However, the area where the current plant is sited has been cleared of trees and
2 graded.

3 8. I have reviewed an aerial photograph dated April 1, 2004, which I obtained from
4 TerraServer.com on February 16, 2007 and which is attached hereto as Exhibit 5. This
5 photograph appears to accurately represent Chevreaux's Meadow Vista operations from the air.
6 There is no asphalt plant identifiable on either APN 72-030-01 or APN 72-020-03 in this
7 photograph.

8 9. I have reviewed an aerial photograph dated August 1, 2005, which I obtained from
9 TerraServer.com on February 16, 2007 and which is attached hereto as Exhibit 6. This
10 photograph appears to accurately represent Chevreaux's Meadow Vista operations from the air.
11 There is a structure which appears to be an asphalt plant different from the one currently sited at
12 Chevreaux's property on APN 72-030-01.

13 10. I have reviewed an aerial photograph dated May 1, 2006, which I obtained from
14 TerraServer.com on February 16, 2007 and which is attached hereto as Exhibit 7. This
15 photograph appears to accurately represent Chevreaux's Meadow Vista operations from the air.
16 There is no asphalt plant identifiable on either APN 72-030-01 or APN 72-020-03 in this
17 photograph.

18 I declare under penalty of perjury under the laws of the State of California that the facts
19 stated in this declaration are within my own personal knowledge and are true and correct, and if
20 called upon to do so, I could competently testify to all matters stated herein. This declaration
21 was executed this 20th day of February, 2007, at Sacramento, California.

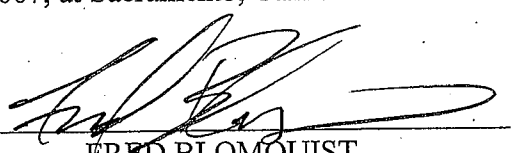
22
23 
24 FRED BLOMQUIST
25
26
27
28

EXHIBIT 1C

1 RONALD A. ZUMBRUN, SBN 32684
2 TIMOTHY V. KASSOUNI, SBN 142907
3 ANGELA C. THOMPSON, SBN 238708
4 THE ZUMBRUN LAW FIRM
5 3800 Watt Avenue, Suite 101
6 Sacramento, California 95821
7 Telephone: (916) 486-5900
8 Facsimile: (916) 486-5959
9 Attorneys for Plaintiff
10 Meadow Vista Protection

11 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
12 COUNTY OF PLACER

13 MEADOW VISTA PROTECTION,

14 Petitioner and Plaintiff,

15 v.

16 CHEVREAUX AGGREGATES, INC.;
17 COUNTY OF PLACER; COUNTY OF
18 PLACER PLANNING DEPARTMENT;
19 and DOES 1 through 50, inclusive,

20 Respondents and Defendants.

Case No.: SCV 19614

Complaint Filed: 7/12/06

DECLARATION OF
ANGELA C. THOMPSON
IN SUPPORT OF PLAINTIFF'S MOTION
FOR SUMMARY ADJUDICATION OF
THIRD CAUSE OF ACTION

Date: 5/8/07

Time: 8:30 a.m.

Dept.: 4

Trial Date: 6/11/07

The Hon. Charles D. Wachob

21 I, Angela C. Thompson, hereby declare as follows:

22 1. I am one of the attorneys for plaintiff Meadow Vista Protection (MVP) in the above-
23 entitled matter. I make this declaration in support of Plaintiff's Motion for Summary
24 Adjudication of Third Cause of Action.

25 2. Attached hereto as Exhibit 8 is a true and correct copy of the Articles of Incorporation
26 for Meadow Vista Protection.
27
28

1 3. Attached hereto as Exhibit 9 is a true and correct copy of the Verified Petition for
2 Writ of Mandate and Complaint for Declaratory and Injunctive Relief, Public Nuisance, Private
3 Nuisance and Trespass.

4 4. Attached hereto as Exhibit 10 is a true and correct copy of Chevreux Aggregates,
5 Inc.'s Verified Answer to Meadow Vista Protection's Verified Complaint.

6 5. Attached hereto as Exhibit 11 is a true and correct copy of LD-1030 and Minutes of
7 Public Hearing.

8 6. Attached hereto as Exhibit 12 is a true and correct copy of an August 13, 1985 letter
9 from Joe Chevreux to the Placer County Board of Supervisors.

10 7. Attached hereto as Exhibit 13 is a true and correct copy of an April 21, 1971 letter
11 from Joe Chevreux to Richard Heikka (Placer County Planning Director).

12 8. Attached hereto as Exhibit 14 is a true and correct copy of an April 30, 1971 letter
13 from Richard Heikka (Placer County Planning Director) to Joe Chevreux.

14 9. Attached hereto as Exhibit 15 is a true and correct copy of an April 26, 1972 letter
15 from William Cramer (Assistant Planning Director) to Joe Chevreux.

16 10. Attached hereto as Exhibit 16 is a true and correct copy of the Notice of Public
17 Hearing regarding LDA-786.

18 11. Attached hereto as Exhibit 17 is a true and correct copy of a July 28, 1987 letter from
19 Joe Chevreux to Thomas McMahan (Placer County Planning Director).

20 12. Attached hereto as Exhibit 18 is a true and correct copy of LDA-786 and Minutes of
21 Public Hearing.

22 13. Attached hereto as Exhibit 19 is a true and correct copy of a July 31, 1987 letter from
23 Thomas McMahan (Placer County Planning Director) to Joe Chevreux.

24 14. Attached hereto as Exhibit 20 is a true and correct copy of Chevreux Aggregates,
25 Inc.'s *Amended* Responses to Meadow Vista Protection's Form Interrogatories, Set No. One.

1 15. Attached hereto as Exhibit 21 is a true and correct copy of the Authority to
2 Construct/Temporary Permit to Operate issued to Kiewit Pacific Company by the Placer County
3 Air Pollution Control District (APCD).

4 16. Attached hereto as Exhibit 22 is a true and correct copy of a November 1, 2001 letter
5 from Gerald Edwards (Kiewit Pacific) to John Finnell (APCD).

6 17. Attached hereto as Exhibit 23 is a true and correct copy of an October 4, 2001 APCD
7 Office Contact Report.

8 18. Attached hereto as Exhibit 24 is a true and correct copy of a February 11, 2005 letter
9 from Daniel Palmer (Teichert Construction) to Bill Combs (Placer County Planning
10 Department).

11 19. Attached hereto as Exhibit 25 is a true and correct copy of February 22, 2005 letter
12 from Bill Combs (Placer County Planning Department) to Daniel Palmer (Teichert
13 Construction).

14 20. Attached hereto as Exhibit 26 is a true and correct copy of a draft Press Release
15 announcing Teichert's intent to withdraw its plans for an asphalt plant in Meadow Vista.

16 21. Attached hereto as Exhibit 27 is a true and correct copy of a February 25, 2005
17 Memorandum from Anthony La Bouff (Placer County Counsel) to Fred Yeager (Placer County
18 Planning Director).

19 22. Attached hereto as Exhibit 28 is a true and correct copy of a March 9, 2005
20 Memorandum from Brigit Barnes (Chevreaux's counsel) to Anthony La Bouff, Scott Finley
21 (Placer County Counsel) and Bruce Kranz (Placer County Supervisor, Fifth District).

22 23. Attached hereto as Exhibit 29 is a true and correct copy of a March 22, 2005 letter
23 from Anthony La Bouff (Placer County Counsel) to Brigit Barnes (Chevreaux's counsel).

24 I declare under penalty of perjury under the laws of the State of California that the facts
25 stated in this declaration are within my own personal knowledge and are true and correct and, if
26
27
28

THE ZUMBRUN LAW FIRM
A Professional Corporation
3800 Watt Avenue, Suite 101
Sacramento, CA 95821

1 called upon to do so, I could competently testify to all matters stated herein. This declaration
2 was executed this 21st day of February, 2007, at Sacramento, California.

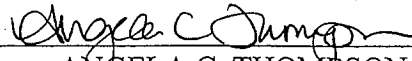
3
4 
5 ANGELA C. THOMPSON
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1



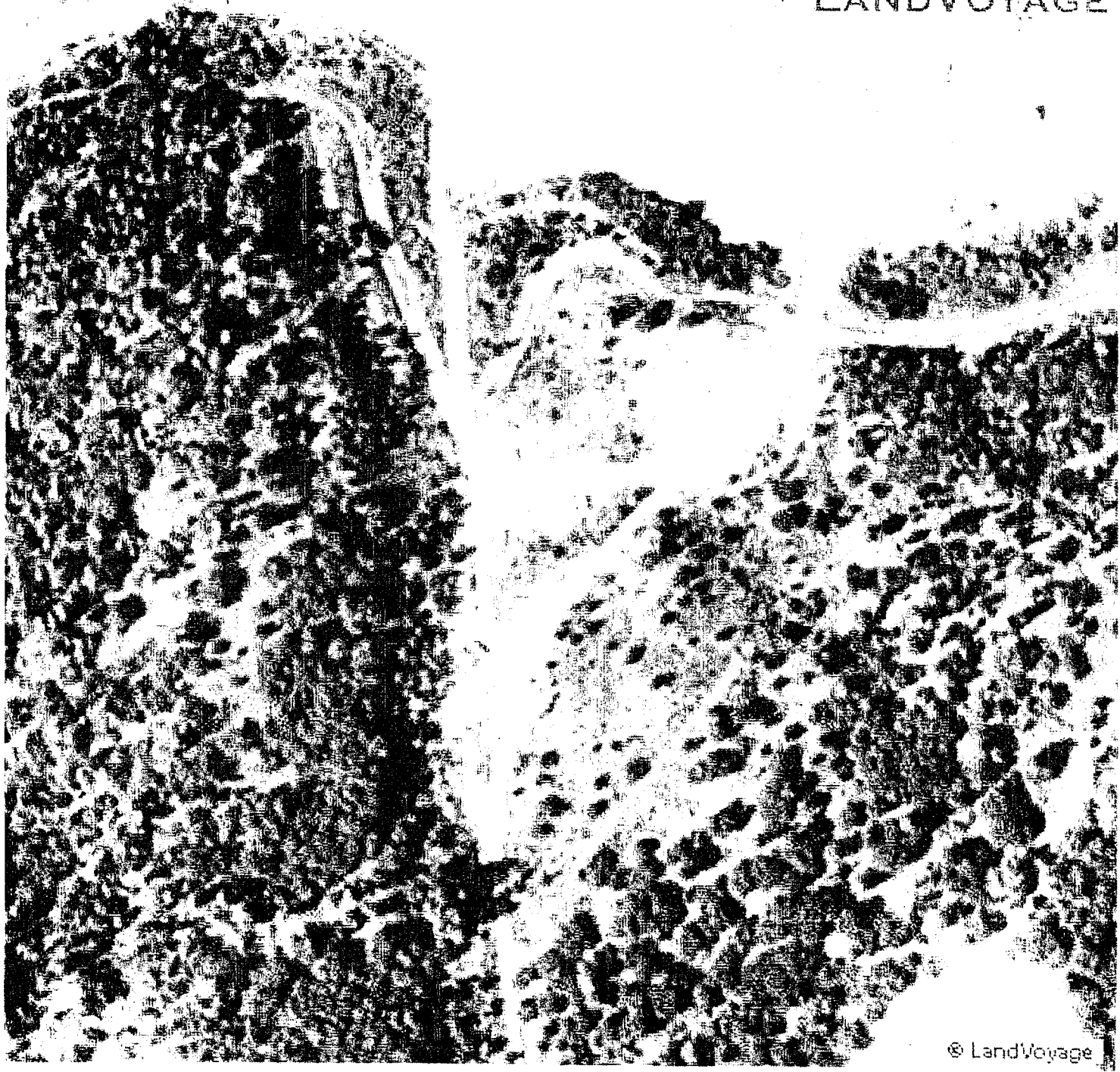
EXHIBIT 2



EXHIBIT 3

5/3/92

LANDVOYAGE



© LandVoyage

EXHIBIT 4

11/2/00

GlobeXplorer™



EXHIBIT 5

4/1/2004

Chetophora

Chetophora

EXHIBIT 6

8/1/2005

clb@ppd.com

Image © 2005 AirPhotoUSA

EXHIBIT 7

5/1/2006

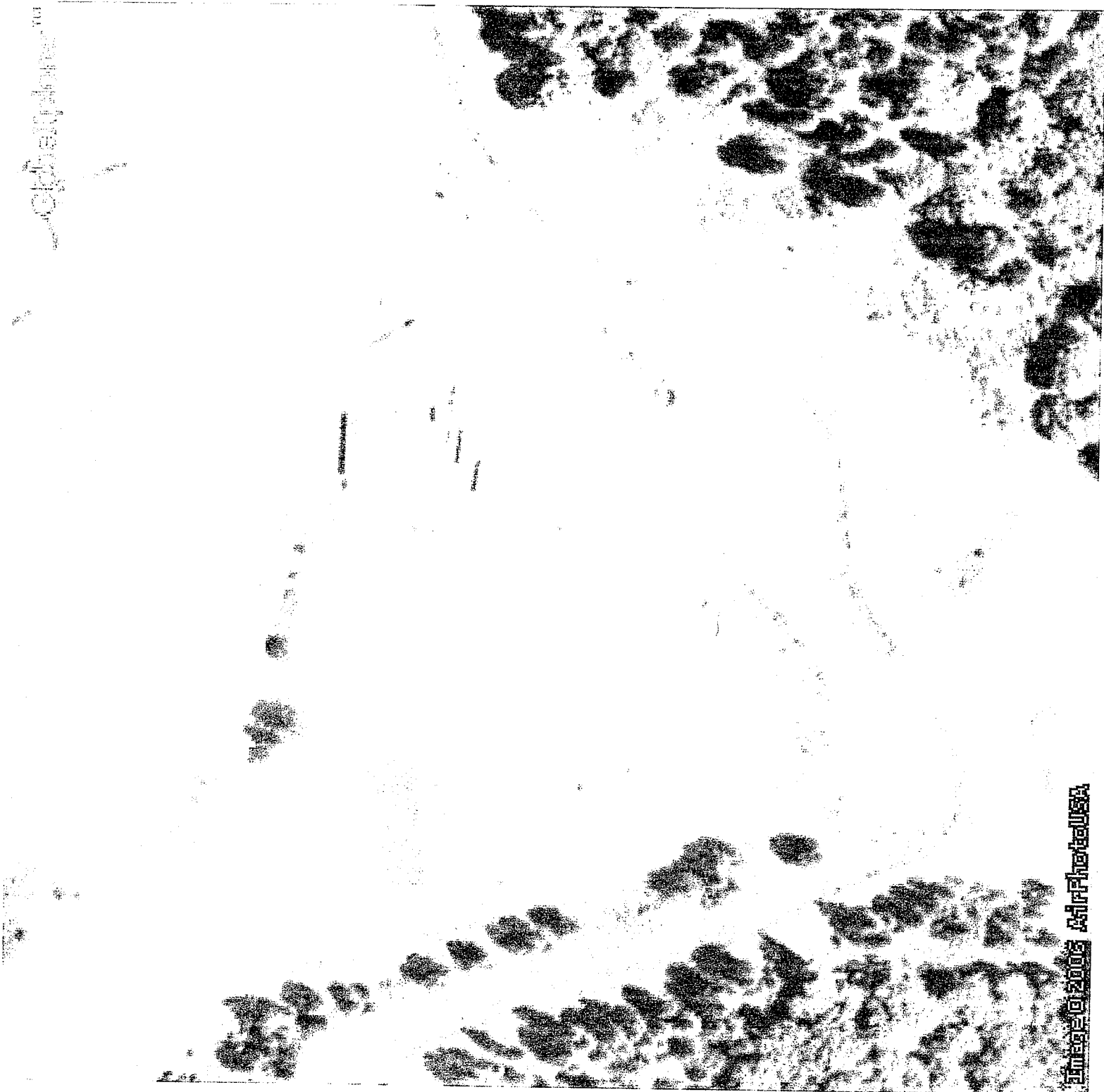


Image 02006 AirPhotoUSA

EXHIBIT 8

ARTICLES OF INCORPORATION

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

ARTICLE ONE

FEB 17 2005

The name of this corporation shall be
Meadow Vista Protection

KEVIN SHELLEY
Secretary of State

ARTICLE TWO

A. This corporation is a nonprofit **PUBLIC BENEFIT CORPORATION** and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public purposes.

B. The specific purposes of this corporation are:

(1) The corporation provides a means for its members to associate and take constitutionally protected action that includes, in particular, the education of its members, governmental officials and others in regard to public health, safety and welfare, primarily in regard to environmental and land use issues in the greater Meadow Vista Area.

(2) Members of the corporation include area residents, business people and other interested citizens who recognize and are seriously concerned about the existence of and solution to environmental, health, safety and related regional, county-wide, local and area problems. The corporation is particularly concerned with the education of persons regarding such things as traffic safety and congestion, noise & light pollution and health-related air pollution problems and public safety as related to manufacture, storage and transport of hazardous materials, as well as the protection, enforcement and enhancement of democratic self-government to assure honest, fair and efficient government.

(3) The corporation and its members are strongly concerned with environmental protection, including the conservation and enhancement of fast-dwindling, irreplaceable environmental resources. The corporation also seeks the administrative, political and judicial enforcement of federal, state and local laws concerned with environmental protection and the health, safety and general welfare of citizens in Placer and Nevada Counties.

(4) In addition to providing a vehicle for the exercise of constitutional rights of the highest order, and in addition to guaranteeing complete anonymity in regard to membership, donations and related matters, the corporation seeks to remind and educate its members, government decision-makers and the public in general of these problems, conditions and concerns, their solution or mitigation, and the social and economic values reflected by these actions.

ARTICLE THREE

The name and address in the State of California of this incorporation's initial agent for service of process is:

Stewart Feldman
1117 Woodpecker Lane
P. O. Box 231
Meadow Vista, CA 95722

ARTICLE FOUR

The name of the unincorporated association, which is being incorporated, by the
filing of the articles, is
Meadow Vista Protection

ARTICLE FIVE

The corporation shall have nine (9) directors.

ARTICLE SIX

Bylaw Provisions

(a) Directors. The manner in which Directors shall be chosen and removed from office, their qualifications, powers, duties, compensation and tenure of office, the manner of filling vacancies on the Board and the manner of calling and holding meetings of Directors, shall be stated in the Bylaws.

(b) Members. The authorized number, if any, and qualifications of members of the corporation, the filing of vacancies, the different classes of membership, if any, the property, voting and other rights and privilege of members, and their liability to dues and assessments and the method of collection, and the termination and transfer of membership shall be as stated in the Bylaws.

ARTICLE SEVEN

Dedication and dissolution

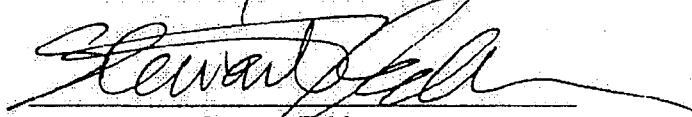
(a) The property of this corporation is irrevocably dedicated to charitable or public benefit purposes and no part of the net income or assets of this organization shall ever inure to the benefit of the director, officer, or member thereof, or to the benefit of any private persons.

(b) On dissolution or winding up of the corporation, its assets remaining after payment of, or provisions for payment of, all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable or public purposes and which has established its tax-exempt status under Internal Revenue Code Section 501 (c) (3).

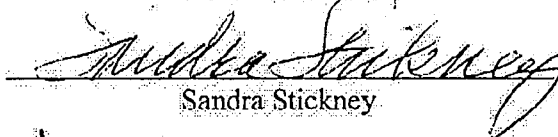
(c) If this corporation holds any assets in trust, such assets shall be disposed of in such manner as may be directed by decree of the superior court of the county in which the corporation has its principal office, on petition therefore by the Attorney General or by any person concerned in the liquidation, in a proceeding to which the Attorney General is a party.

IN WITNESS WHEREOF the undersigned being the Incorporators of Meadow Vista Protection in these Articles of Incorporation have executed these Articles of Incorporation on

2/16, 2005.



Stewart Feldman



Sandra Stickney



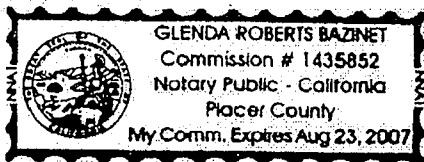
James Schreiber

STATE OF CALIFORNIA
COUNTY OF PLACER

On 2-16, 2005, before me Glenda Roberts Bazinet, a Notary Public, personally appeared: Stewart Feldman, Sandra Stickney & James Schreiber, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same their authorized capacities and that by their signatures on the instrument the persons or entity on behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

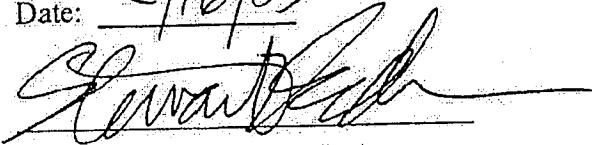




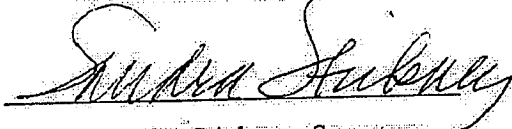
DECLARATION

The undersigned declare under penalty of perjury under the laws of the State of California that they are the president, secretary & treasurer respectively, of the unincorporated association referred to in the Articles of Incorporation to which this declaration is attached. The incorporation of the association was authorized by means of the articles to which the verified statement has been approved by the association in accordance with its rules and procedures and that said association has duly authorized its incorporation by means of said articles.

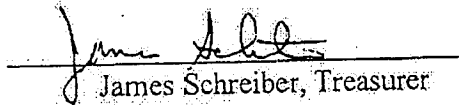
Date: 2/16/05



Stewart Feldman, President



Sandra Stickney, Secretary



James Schreiber, Treasurer



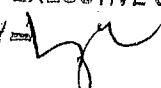
EXHIBIT 9

THE ZUMBRUN LAW FIRM
A Professional Corporation
3800 Watt Avenue, Suite 101
Sacramento, CA 95821

1 RONALD A. ZUMBRUN, SBN 32684
2 TIMOTHY V. KASSOUNI, SBN 142907
3 ANGELA C. THOMPSON, SBN 238708
4 THE ZUMBRUN LAW FIRM
5 3800 Watt Avenue, Suite 101
6 Sacramento, California 95821
7 Telephone: (916) 486-5900
8 Facsimile: (916) 486-5959
9 Attorneys for Petitioner and Plaintiff

FILED
PLACER COUNTY
SUPERIOR COURT OF CALIFORNIA

JUL 12 2006

JOHN MENDES
EXECUTIVE OFFICER & CLERK
By  Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

MEADOW VISTA PROTECTION,

Petitioner and Plaintiff,

v.

CHEVREUX AGGREGATES, INC.;
COUNTY OF PLACER; COUNTY OF
PLACER PLANNING DEPARTMENT;
and DOES 1 through 50, inclusive,

Respondents and Defendants.

Case No.: **ECV 19614**

PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF, PUBLIC NUISANCE, PRIVATE
NUISANCE AND TRESPASS

Petitioner and plaintiff Meadow Vista Protection hereby alleges as follows:

INTRODUCTION

1. Petitioner and plaintiff Meadow Vista Protection (MVP) brings this action against respondents and defendants County of Placer and County of Placer Planning Department (together County) to compel the County to engage in a thorough factual and legal inquiry as to the validity and scope of entitlements held by defendant Chevreux Aggregates, Inc. (Chevreux) and to enforce the relevant permit conditions and County ordinances regarding the same.

2. In addition, petitioner and plaintiff brings this action against defendant Chevreux to enjoin Chevreux from conducting operations in violation of its use permits and County

1 ordinances and to seek damages for public nuisance, private nuisance and trespass resulting from
2 previous and continuing violations.

3 3. MVP is a local grass roots organization comprised of residents of the unincorporated
4 Placer County community of Meadow Vista, California, and the surrounding area, as well as
5 nonresident supporters. MVP was organized in 2005 for the purpose of protecting the interests
6 of its members from activities proposed or conducted in the area that would pose an adverse risk
7 to the health, safety and welfare of Meadow Vista residents.

8 4. Chevreux currently operates a quarry at its site in Meadow Vista, California,
9 pursuant to a conditional use permit issued in 1965. Upon information and belief, Chevreux is
10 currently conducting surface mining outside the boundaries authorized by that permit. In
11 addition, the output of the quarry currently exceeds that anticipated at the permit's issuance.
12 Also upon information and belief, Chevreux is in violation of conditions regarding blasting,
13 protection of water quality, and dust mitigation at the quarry site.

14 5. Chevreux also currently operates a concrete batch plant at its quarry site, pursuant to
15 a conditional use permit issued in 1994. Both the quarry operation and the concrete plant
16 adversely impact the Meadow Vista community through excessive noise, dust, pollution and
17 heavy truck traffic.

18 6. Chevreux has recently obtained an air pollution permit to begin operation of an
19 asphalt plant under a conditional use permit issued in 1972. This conditional use permit was
20 either never implemented or has lapsed due to many years of nonuse, making the operation of
21 such a plant illegal. Moreover, Chevreux intends to position the new asphalt plant 1,000 feet
22 away from the site originally permitted in 1972 and has not applied for a new permit for this
23 material deviation from the original permit.

24 7. In September 2005, legal counsel for MVP sent a letter to Deputy County Counsel
25 Scott Finley outlining MVP's concerns regarding Chevreux's 1972 permit and requesting a
26 specific determination of whether the proposed asphalt plant was still a permissible use. The
27 County never responded to this letter in writing, but in a telephone call to MVP's legal counsel,
28 indicated that no action would be taken on the letter.

1 8. Meanwhile, Chevreaux has continued multiple operations in violation of its
2 applicable permits and attendant permit conditions, resulting in substantial and continuing injury
3 to the residents of Meadow Vista, MVP, and its members.

4 9. Therefore, petitioner and plaintiff MVP seeks a writ of mandate directing the County
5 to evaluate the scope of Chevreaux's use permit LD-1030 and to enforce the relevant permit
6 conditions and County ordinances regarding the same or, in the alternative, a declaratory
7 judgment that Chevreaux is not properly operating within LD-1030; a declaratory judgment that
8 the conditional use permit issued in 1972 is no longer valid and that Chevreaux has no vested
9 right to operate an asphalt plant in Meadow Vista; injunctive relief preventing Chevreaux from
10 further violations of the applicable use permits and County code provisions; damages for public
11 and private nuisance and trespass; and attorneys' fees, among other requested relief as set forth in
12 the prayer.

13 PARTIES

14 10. Petitioner and plaintiff Meadow Vista Protection is a California nonprofit
15 corporation, organized and existing by virtue of the laws of the State of California, with its
16 principal place of business in Placer County, California.

17 11. Defendant Chevreaux Aggregates, Inc., is a California for-profit corporation,
18 organized and existing by virtue of the laws of the State of California, with its principal place of
19 business in Placer County, California.

20 12. Respondent and defendant County of Placer is a political subdivision of the State of
21 California.

22 13. Respondent and defendant County of Placer Planning Department (Planning
23 Department) is responsible for the regulation and enforcement of all zoning and planning matters
24 within the County.

25 14. MVP is ignorant of the true names and capacities of respondents and defendants
26 named as DOES 1 through 50 and therefore sues said respondents and defendants by such
27 fictitious names. Petitioner and plaintiff will amend this petition and complaint to allege the true
28 names of DOES 1 through 50 when they are ascertained. Petitioner and plaintiff is informed and

1 believes that each of the fictitiously named respondents and defendants is responsible in some
2 capacity for the acts and events alleged herein or is an indispensable party thereto.

3 15. MVP is informed and believes, and based thereon alleges, that at all times
4 mentioned herein respondents and defendants, and each of them, were acting on their own behalf,
5 in concert with each other, and concurrently as the agents, servants, or employees of the
6 remaining respondents and defendants, and of each other, in committing the acts alleged and
7 were acting within the course and scope of their authority as such agents, servants or employees.

8 JURISDICTION AND VENUE

9 16. Jurisdiction of this Court is invoked pursuant to Code of Civil Procedure section
10 1085. This complaint's request for injunctive relief is authorized by Code of Civil Procedure
11 section 526 and the request for declaratory relief by Code of Civil Procedure section 1060.
12 Venue in the County of Placer is appropriate, as it is the residence of all defendants.

13 STATEMENT OF FACTS

14 (Gravel Operation)

15 17. Chevreux commenced an in-stream sand and gravel dredging and processing
16 operation (Gravel Operation) in the Bear River near Lake Combie in or about 1947.

17 (Quarry Operation)

18 18. In 1965, an Edward Pruss (Pruss) applied for and obtained conditional use permit
19 (CUP) LD-1030 to commence a surface mining and processing operation on APNs 72-020-01
20 and 72-030-01 (the Quarry). (Attached hereto as Exhibit 1 is LD-1030, incorporated herein by
21 reference.) The County's records for LD-1030, including the minutes of the public hearing by
22 the Zoning Administrator, give no indication that surface mining activities had occurred at the
23 Quarry prior to the issuance of LD-1030.

24 19. LD-1030 was subject to six conditions of approval with which Pruss was required to
25 comply. These conditions included restrictions on blasting, water quality control requirements
26 and dust mitigation requirements. In addition, LD-1030 was approved on the understanding that
27 the number of trucks leaving and entering the site would not exceed 20 per day. (Attached hereto
28 as Exhibit 2 are the Minutes from the 1965 hearing, incorporated herein by reference.)

20. Chevreux acquired the Quarry sometime between 1965 and 1971. All rights and obligations under LD-1030 were transferred to Chevreux upon the acquisition of the Quarry.

21. On information and belief, Chevreux is mining outside the boundaries of LD-1030. Also on information and belief, Chevreux is not complying with the conditions regarding blasting, water quality and dust mitigation. Current production at the Quarry is in the hundreds of truckloads per-day range, which far exceeds the 20 trucks per-day figure represented at issuance of the CUP.

(Asphalt Operation)

22. In 1971, Chevreux sought and obtained a CUP (LDA-691) to purportedly "reinstall" an asphalt batch plant (the Asphalt Plant) at the Gravel Operation. Even though Chevreux had purportedly operated an asphalt batch plant at the Gravel Operation on an "intermittent" basis in years prior to 1971, the County determined that a CUP was necessary for this activity.

23. In 1972, Chevreux obtained a different CUP (LDA-786) to authorize the permanent relocation of the Asphalt Plant from the Gravel Operation to a canyon area located on APN 72-030-01 (a separate parcel), a point approximately 600 feet away. (Attached hereto as Exhibit 3 is LDA-786, incorporated herein by reference.) By its express terms, LDA-786 allowed only one asphalt plant to be operational at any given time; i.e., the new permit was for relocation of the previously permitted plant, not for a new plant.

(Concrete Operation)

24. In 1988, Chevreux sought a permit (CUP 1199) to operate a portable concrete batch plant (the Concrete Plant) at the Gravel Operation but withdrew the application in early 1989 in the face of opposition from local residents and demands that an environmental impact report (EIR) be prepared for the project.

25. In 1993, Chevreux reapplied for a permit to operate a portable concrete batch plant. Again there was significant opposition from Meadow Vista residents. County staff made several requests to Chevreux for additional information, ultimately determining that an EIR was required. In early 1994, Chevreux filed an appeal objecting to the EIR requirement.

27. At the time Cheveraux received its CUP for the Asphalt Plant, the Placer County Code provided that a conditional use permit must be implemented within two years of its issuance or it expires and becomes void. Upon information and belief, Cheveraux never properly implemented LDA-786 within the first two years of its issuance.

28. The current Placer County Code (which became effective in 1995) also provides that a conditionally permitted use which is discontinued for more than 12 consecutive months causes the permit to lapse. (Placer County Code 17.58.160 B.2.b. and B.3.) The use may not resume until a new CUP is obtained and the applicant complies with all conditions.

29. On information and belief, no asphalt plant was operated from 1976 through 2001 or from 2002 through the present. Furthermore, aerial photographs of the site from 1998 and 1999 confirm that no asphalt plant was present or operative during those years. (Attached hereto as Exhibit 5 are aerial photographs, incorporated herein by reference.)

21 30. In October 2004, Chevreaux applied to the Air Pollution Control District (APCD)
22 for an Authority to Construct/Temporary Permit to Operate an asphalt plant. Chevreaux's
23 operation was to generate approximately 40,000 tons of asphalt per quarter. The APCD granted
24 this application and issued the requested permit.

31. In January of 2005, Teichert Aggregates (Teichert) also applied for an asphalt plant permit from the APCD for the Chevreux site, pursuant to a contract with CalTrans to repair a nearby section of Interstate 80. The Teichert operation was to manufacture approximately

1 213,000 tons of asphalt per quarter and would involve continuous trucking into and out of the
2 plant between the hours of 7:00 p.m. and 5:00 a.m.

3 32. Due to the detrimental noise, health and environmental effects of such a massive
4 operation, the Meadow Vista area residents raised objections to the operation of the Teichert
5 asphalt plant. In the face of local opposition and due to the questionable validity of LDA-786,
6 Teichert eventually abandoned its intent to use the Chevreux site, deciding instead to import
7 asphalt for the project from elsewhere in California. Teichert withdrew its APCD application in
8 April 2005, so a permit was never issued.

9 33. Chevreux's 2004 APCD permit was scheduled to expire in June 2005, but
10 Chevreux requested, and was granted, a one-year extension until June 30, 2006.

11 34. Nevertheless, in April 2006, Chevreux applied for, and received, another APCD
12 permit to operate a portable Asphalt Plant. Currently, Chevreux is amassing the equipment
13 necessary to begin operation of the plant and could begin producing asphalt in a matter of days.

14 35. The 2004, 2005, and 2006 Chevreux and Teichert applications all designate the
15 Asphalt Plant as a "new" plant to be relocated more than 1,000 feet from the original site
16 permitted by LDA-786. (Attached hereto as Exhibit 6 are the maps attached to the three APCD
17 applications, incorporated herein by reference.) The new site is 1,000 feet closer to nearby
18 homes and schools in Meadow Vista. Chevreux does not have, and has not applied for, a CUP
19 to move the Asphalt Plant to this new location.

20 36. The Meadow Vista Municipal Advisory Council (MAC) sent a letter to the Board on
21 April 12, 2005 formally requesting the Board to direct the Planning Department to "initiate
22 public hearings to determine the validity and scope of Chevreux's permit LDA-[786]."
23 However, the Board issued no such directive, or at least no such hearing was ever held by the
24 Planning Department.

25 37. Members of MVP and residents of Meadow Vista have repeatedly requested that the
26 Planning Department evaluate Chevreux's entitlements to the Asphalt Plant and the Quarry and
27 enforce the permit conditions and Placer County Code provisions of which Chevreux is in
28 violation. Legal counsel for MVP sent a comprehensive report and request for action to the

County in September 2005. However, the County has taken no action to investigate Chevreaux's use permits or enforce the conditions of those permits. To the contrary, at a MAC meeting on June 1, 2006, Michael Johnson, the current Placer County Planning Director, stated unequivocally, "[LDA-786] will never lapse."

FIRST CAUSE OF ACTION

(Mandate – Quarry Operation)

38. Petitioner and plaintiff hereby incorporates by reference the allegations of paragraphs 1 through 37 as though fully set forth herein.

39. Respondent and defendant Planning Department is the agency responsible for approving development projects within the County and for enforcing the zoning provisions of the Placer County Code against violators.

40. Despite requests from MVP, the Planning Department has failed or refused to take any action to investigate or to enforce Chevreaux's compliance with the conditions of LD-1030 or its adherence to the boundaries imposed by LD-1030. Such refusal to act is a violation of the duties of respondent and defendant Planning Department as defined in Placer County Code 17.60.020.

41. Review of administrative refusals to act under Code of Civil Procedure section 1085 extends to refusals to perform a duty resulting from an office, trust or station. The Planning Department has refused to perform the duties attendant to its office, as the representative and agent of the residents of the County of Placer.

WHEREFORE, petitioner and plaintiff prays for judgment against respondents and defendants as hereinafter set forth.

SECOND CAUSE OF ACTION

(Declaratory Relief – Quarry Operation)

42. Petitioner and plaintiff hereby incorporates by reference the allegations of paragraphs 1 through 41 and paragraphs 46 through 63 as though fully set forth herein.

43. An actual controversy has arisen and now exists between MVP and defendant Chevreaux regarding Chevreaux's Quarry operation. Petitioner and plaintiff MVP contends that

1 defendant Chevreux is surface mining outside the boundaries approved by its conditional use
2 permit LD-1030. In addition, petitioner and plaintiff contends that the current output of the
3 Quarry operation exceeds that allowed by LD-1030, based on representations made by Pruss at
4 the hearing on the CUP. Petitioner and plaintiff also contends that Chevreux is not in
5 compliance with the conditions of LD-1030 regarding blasting, water quality control and dust
6 mitigation at the site. Defendant Chevreux maintains that its current operations and output at
7 the Quarry are completely compliant with the terms and conditions of LD-1030.

8 44. No adequate remedy, except as set forth in the Prayer herein, exists by which the
9 rights of the parties heretofore may be determined.

10 45. Petitioner and plaintiff therefore prays for a judicial determination of its rights and
11 Chevreux's duties in connection with the operations listed herein.

12 WHEREFORE, petitioner and plaintiff prays for judgment against defendant Chevreux
13 as hereinafter set forth.

14 THIRD CAUSE OF ACTION

15 (Declaratory Relief – Asphalt Operation)

16 46. Petitioner and plaintiff hereby incorporates by reference the allegations of
17 paragraphs 1 through 45 and paragraphs 50 through 63 as though fully set forth herein.

18 47. An actual controversy has arisen and now exists between MVP and defendant
19 Chevreux regarding Chevreux's Asphalt Plant operation. Petitioner and plaintiff MVP
20 contends that defendant Chevreux's permit LDA-786 has lapsed due to long periods of nonuse.
21 Alternatively, MVP contends that the relocation of the plant 1,000 feet from the originally
22 permitted site is a material deviation requiring Chevreux to apply for a new CUP. Defendant
23 Chevreux maintains that its rights to the Asphalt Plant are vested and the new plant site is
24 within the parameters of LDA-786.

25 48. No adequate remedy, except as set forth in the Prayer herein, exists by which the
26 rights of the parties heretofore may be determined.

27 49. Petitioner and plaintiff therefore prays for a judicial determination of its rights and
28 Chevreux's duties in connection with the operations listed herein.

1 WHEREFORE, petitioner and plaintiff prays for judgment against defendant Chevreaux
2 as hereinafter set forth.

3 FOURTH CAUSE OF ACTION

4 (Injunction)

5 50. Petitioner and plaintiff hereby incorporates by reference the allegations of
6 paragraphs 1 through 49 and paragraphs 53 through 63 as though fully set forth herein.

7 51. The actions of defendant Chevreaux in mining outside the boundaries permitted by
8 LD-1030, in failing to abide by the conditions imposed by LD-1030, and in operating an asphalt
9 plant in violation of LDA-786 will cause and have caused irreparable injury and harm to MVP
10 members and other Meadow Vista residents. With its recently obtained APCD permit,
11 Chevreaux has been amassing equipment necessary to begin production of asphalt and could
12 begin producing asphalt at any time. Petitioner and plaintiff therefore seeks temporary,
13 preliminary and permanent injunctive relief enjoining defendant Chevreaux from further
14 violating its conditional use permits and their conditions and from operating an asphalt plant at
15 any site on its property.

16 52. No adequate remedy, except as set forth in the Prayer herein, exists by which the
17 rights of the parties heretofore may be determined.

18 WHEREFORE, petitioner and plaintiff prays for judgment against defendant Chevreaux
19 as hereinafter set forth.

20 FIFTH CAUSE OF ACTION

21 (Public Nuisance)

22 53. Petitioner and plaintiff hereby incorporates by reference the allegations of
23 paragraphs 1 through 52 and paragraphs 57 through 63 as though fully set forth herein.

24 54. Defendant Chevreaux's blasting activities at the Quarry cause excessive noise and
25 ground vibrations on and near the property of nearby residents, including members of MVP.
26 Chevreaux's failure to mitigate dust from its Quarry and Concrete Plant excessively
27 compromises the air quality in and around Meadow Vista. The combined operations cause
28 hundreds of truckloads to leave and enter the site every day at all hours, resulting in traffic

1 congestion and speeding in this rural community, excessive wear and tear on local taxpayer-
2 maintained roads, air brake and engine noise, dust pollution, significant air pollution from diesel
3 fuel, and littering of garbage on private property by Chevreaux's truck drivers. In so doing,
4 defendant Chevreaux has interfered with the comfortable enjoyment and use of MVP members'
5 property.

6 55. Moreover, by operating outside the scope of its use permits, Chevreaux's operations
7 constitute a continuing nuisance that is a separate offense every day.

8 56. This interference with the property rights of MVP members is ongoing and
9 continuous in nature and affects the entire Meadow Vista community of property owners. As
10 such, these activities constitute a public nuisance. The public nuisance nevertheless is uniquely
11 injurious to each individual member of MVP.

12 WHEREFORE, petitioner and plaintiff prays for judgment against defendant Chevreaux
13 as hereinafter set forth.

14 SIXTH CAUSE OF ACTION

15 (Private Nuisance)

16 57. Petitioner and plaintiff hereby incorporates by reference the allegations of
17 paragraphs 1 through 56 and paragraphs 60 through 63 as though fully set forth herein.

18 58. Defendant Chevreaux's blasting activities at the Quarry cause excessive noise and
19 ground vibrations on and near the property of nearby residents, including members of MVP.
20 Chevreaux's failure to mitigate dust from its Quarry and Concrete Plant excessively
21 compromises the air quality in and around Meadow Vista. The combined operations cause
22 hundreds of truckloads to leave and enter the site every day at all hours, resulting in traffic
23 congestion and speeding in this rural community, excessive wear and tear on local taxpayer-
24 maintained roads, air brake and engine noise, dust pollution, significant air pollution from diesel
25 fuel, and littering of garbage on private property by Chevreaux's truck drivers. In so doing,
26 defendant Chevreaux has interfered with the comfortable enjoyment and use of MVP members'
27 property.

28

WHEREFORE, petitioner and plaintiff prays for judgment against defendant Chevreux as hereinafter set forth.

(Trespass)

60. Petitioner and plaintiff hereby incorporates by reference the allegations of Paragraphs 1 through 59 as though fully set forth herein.

61. Defendant Chevreaux owes a duty to plaintiff and petitioner MVP's members to refrain from unlawfully interfering with their rights of possession, access and use of their property.

62. Chevreaux's failure to mitigate dust from its Quarry and Concrete Plant has caused dust and silt to encroach and settle on MVP members' property. Furthermore, the littering of garbage on private property by Chevreaux's truck drivers is also an encroachment onto the private property of MVP members.

63. This conduct by defendant Chevreux constitutes trespass and an unlawful interference with MVP members' possession, access and use of their property and has proximately caused injury to said property as alleged herein, including but not limited to diminution in value.

WHEREFORE, petitioner and plaintiff prays for judgment against defendant Chevreux as hereinafter set forth.

PRAYER

WHEREFORE, petitioner and plaintiff prays for judgment against respondents and defendants as follows:

1. as to the First Cause of Action (Mandate – Quarry Operation),
 - a. that a peremptory writ of mandate issue, under Code of Civil Procedure sections 1085 and 1087, directed to respondents and defendants County of Placer and the County of Placer Planning Department, and compelling respondents and defendants to perform the duties required by their offices, including holding a public hearing to:
 - i. evaluate Chevreaux's entitlements under its existing conditional use permit LD-1030,
 - ii. determine whether Chevreaux is operating within the boundaries of LD-1030,
 - iii. determine whether the current volume of truck traffic from the Quarry is permitted under LD-1030,
 - iv. determine whether Chevreaux is in compliance with the blasting, water quality control and dust mitigation conditions of its conditional use permit,
 - v. sanction Chevreaux for violations of Placer County Code provisions and conditions of its permit,
 - vi. modify or revoke said use permit in accordance with the provisions of Placer County Code 17.62.170, and
 - vii. enjoin Chevreaux from further violating provisions of its use permit and/or the Placer County Code; and
 - b. that petitioner and plaintiff recover its costs in this action, including attorneys' fees;
2. as to the Second Cause of Action (Declaratory Relief – Quarry Operation), in the alternative to issuance of a writ of mandate, for declaratory judgment that:
 - a. LD-1030 restricts surface mining to the area(s) and parcel(s) delineated in the CUP application and Chevreaux is, and has been, mining outside of those boundaries,

- b. LD-1030 limits the Quarry to generating no more than 20 truckloads per day and Chevreux consistently generates significantly more volume and traffic than 20 truckloads per day, and
 - c. LD-1030 imposes conditions on blasting, water quality control and dust mitigation and Chevreux is not in compliance with these conditions;
 3. as to the Third Cause of Action (Declaratory Relief – Asphalt Operation), for declaratory judgment that:
 - a. LDA -786 was never implemented after issuance as required by the Placer County Code and is therefore void or, in the alternative,
 - b. LDA-786 has lapsed due to nonuse and pursuant to the provisions of Placer County Code,
 - c. Chevreux does not have any right under LDA-786 to operate an asphalt plant at the site, and
 - d. No asphalt plant shall be permitted to operate at the site at any time in the future unless a new CUP application is filed and a new hearing held;
 4. as to the Fourth Cause of Action (Injunction), for temporary, preliminary and permanent injunctive relief enjoining defendant Chevreux from:
 - a. surface mining outside the boundaries of LD-1030 and violating conditions attendant to that permit, and
 - b. constructing, maintaining or otherwise operating an asphalt plant at any site on the property;
 5. as to the Fifth Cause of Action (Public Nuisance) and the Sixth Cause of Action (Private Nuisance), for an award of damages to be proven at trial against defendant Chevreux Aggregates, Inc., according to proof; additionally, petitioner and plaintiff seeks abatement of any continued nuisance;
 6. as to the Seventh Cause of Action (Trespass), for injunctive relief and damages against defendant Chevreux;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Jeff Evans, declare that I am the President of Meadow Vista Protection, plaintiff and petitioner in the above-entitled action. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, Public Nuisance, Private Nuisance and Trespass and know its contents. The matters stated therein in support of the First Cause of Action (Writ of Mandate) are true of my own knowledge and belief except as to those matters stated on information and belief, and as to those matters, I believe them to be true. If called upon to do so, I could competently testify to all matters stated herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 10th day of July, 2006, at Sacramento, California.



JEFF EVANS

THE ZUMBRUN LAW FIRM
A Professional Corporation
3800 Watt Avenue, Suite 101
Sacramento, CA 95821

EXHIBIT 10

BRIGIT S. BARNES & ASSOCIATES, INC.
BRIGIT S. BARNES, ESQ. CSB #122673
KARIN E. SCHWAB, ESQ. CSB #157779
SUSAN M. VERGNE, ESQ. CSB #236308
3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Attorneys for CHEVREAU AGGREGATES, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF PLACER

MEADOW VISTA PROTECTION,

Case No. SCV 19614

Petitioners and Plaintiffs,

v.

**CHEVREAU AGGREGATES, INC.'S
VERIFIED ANSWER TO MEADOW
VISTA PROTECTION'S VERIFIED
COMPLAINT**

CHEVREAU AGGREGATES, INC.;
COUNTY OF PLACER; COUNTY OF
PLACER PLANNING DEPARTMENT; and
DOES 1- 50, inclusive,

Verification By Facsimile

Respondents and Defendants.

Defendant CHEVREAU AGGREGATES, INC. ("CHEVREAU") hereby answers
Plaintiff MEADOW VISTA PROTECTION's ("MVP") Verified Complaint as follows:

INTRODUCTION

1. This allegation refers to the First Cause of Action which has been eliminated by MVP's failure to file an amended complaint after the COUNTY OF PLACER's ("COUNTY") demurrer was sustained with leave to amend. As a result, no answer by CHEVREAU is required.

2. CHEVREAU admits that MVP has brought an action against CHEVREAU. CHEVREAU denies that it is conducting its operations in violation of its use permits or County ordinances. CHEVREAU admits that MVP is seeking damages for public nuisance, denies that MVP has a valid right to bring a public nuisance action, and denies that CHEVREAU has any liability for the damages allegedly claimed.

1 3. CHEVREAUX is without sufficient knowledge or information to either admit or
2 deny the allegation contained in paragraph 3, and therefore denies the same.

3 4. CHEVREAUX admits that it currently operates a quarry at its site in Meadow
4 Vista, California pursuant to Conditional Use Permit LD-1030, which was granted to it by the
5 COUNTY in 1965. CHEVREAUX denies that it is "currently conducting surface mining outside
6 the boundaries authorized by that permit" because its surface mining is not regulated by LD-
7 1030. CHEVREAUX denies that the output of the quarry "currently exceeds that anticipated at
8 the permit's issuance" because there is no condition of approval in LD-1030 that regulates the
9 output, and because CHEVREAUX's rights to the quarry predate the permit. CHEVREAUX
10 denies that it is in violation of any conditions of LD-1030.

11 5. CHEVREAUX admits that it also currently operates a concrete batch plant at its
12 quarry site pursuant to the grant of CUP-1772. CHEVREAUX denies the remaining allegations
13 in paragraph 5.

14 6. CHEVREAUX admits it obtained an air quality permit, and denies all remaining
15 allegations in paragraph 6.

16 7. CHEVREAUX is without sufficient knowledge or information to either admit or
17 deny the allegations contained in paragraph 7, and therefore denies the same.

18 8. CHEVREAUX denies the allegations contained in paragraph 8.

19 9. CHEVREAUX admits that MVP is seeking the relief alleged in paragraph 9, but
20 denies that CHEVREAUX has any liability for the relief sought.

21 **PARTIES**

22 10. CHEVREAUX is without sufficient knowledge or information to either admit or
23 deny the allegations contained in paragraph 10, and therefore denies the same.

24 11. CHEVREAUX admits the allegations contained in paragraph 11.

25 12. The COUNTY is no longer a party to this lawsuit. No response to the allegations
26 contained in paragraph 12 is required.

27 ///

28 ///

1 13. The COUNTY PLANNING DEPARTMENT ("PLANNING DEPT.") is no
2 longer a party to this lawsuit. No response to the allegations contained in paragraph 13 is
3 required.

4 14. CHEVREAU is without sufficient knowledge or information to either admit or
5 deny the allegations contained in paragraph 14, and therefore denies the same.

6 15. CHEVREAU is without sufficient knowledge or information to either admit or
7 deny the allegations contained in paragraph 15, and therefore denies the same.

8 **JURISDICTION AND VENUE**

9 16. CHEVREAU is without sufficient knowledge or information to either admit or
10 deny the allegations contained in paragraph 16, and therefore denies the same.

11 17. CHEVREAU denies the allegations contained in paragraph 17. CHEVREAU
12 admits that it began surface mining, which included an in-stream sand and gravel dredging and
13 processing operation, in or about 1946.

14 18. CHEVREAU denies that Pruss applied for and obtained LD-1030 to
15 "commence a surface mining and processing operation on APNs 72-020-01 and 72-030-01".
16 CHEVREAU admits, on the basis of information and belief, that Pruss applied for and obtained
17 Conditional Use Permit LD-1030 to operate a quarry for shot rock. CHEVREAU admits that
18 Pruss's application did not include a request to conduct surface mining. CHEVREAU denies
19 that its surface mining operations are subject to LD-1030, because said operations were already
20 in operation on land owned and operated by CHEVREAU prior to the Pruss application.
21 CHEVREAU is without sufficient knowledge or information as to County records, and on that
22 basis denies the allegations of this paragraph.

23 19. CHEVREAU admits that LD-1030 was subject to and is still subject to six
24 conditions of approval. CHEVREAU admits that the conditions include general restrictions on
25 blasting, water quality, and dust mitigation. CHEVREAU denies the remaining allegations
26 contained in paragraph 19.

27 20. CHEVREAU admits the allegations contained in paragraph 20, based on
28 information and belief.

1 21. CHEVREAU denies all the allegations in paragraph 21.

2 22. CHEVREAU admits that it applied for LDA-691, and further admits that prior
3 to said application, it operated an asphalt plant and sold asphalt from its Combie operations.
4 CHEVREAU denies all other allegations contained in paragraph 22.

5 23. CHEVREAU admits that Exhibit 3 is a copy of LDA-786. CHEVREAU
6 denies the remaining allegations and inferences of paragraph 23 on the basis of information and
7 belief.

8 24. CHEVREAU denies all the allegations in paragraph 24.

9 25. CHEVREAU admits that it reapplied for a use permit to operate a portable
10 concrete batch plant in 1993. CHEVREAU denies that there was significant opposition from
11 Meadow Vista residents. CHEVREAU admits the remaining allegations in paragraph 25.

12 26. CHEVREAU denies that the PLANNING DEPT. held a hearing on April 28,
13 1994. CHEVREAU admits that the Planning Commission held a hearing on April 28, 1994
14 and granted CHEVREAU's appeal. CHEVREAU denies that the PLANNING DEPT.
15 directed planning staff to prepare a negative declaration for the project. CHEVREAU admits
16 that the Planning Commission directed planning staff to prepare a negative declaration for the
17 project. CHEVREAU denies that it "then applied" for CUP-1772 for the Concrete Plant.
18 CHEVREAU admits that after the April 28, 1994 hearing, the COUNTY processed its
19 application for a conditional use permit. CHEVREAU is without sufficient knowledge or
20 information to either admit or deny what the PLANNING DEPT. files contain regarding the
21 public hearing held on June 23, 1994, and therefore denies the same. CHEVREAU denies that
22 "the application" was ultimately granted. CHEVREAU admits that the COUNTY granted it a
23 conditional use permit, and that CUP-1772 went into effect on June 24, 1994.

24 27. CHEVREAU denies that it "never properly implemented LDA-786" within the
25 first two years of its issuance. CHEVREAU is without sufficient knowledge or information to
26 either admit or deny the remaining allegations contained in paragraph 27, and therefore denies
27 the same.

28 ///

1 28. CHEVREAU is without sufficient knowledge or information to either admit or
2 deny the allegations contained in paragraph 28, and therefore denies the same.

3 29. CHEVREAU denies the allegations in paragraph 29.

4 30. CHEVREAU admits the allegations in paragraph 30, except that the requested
5 permit authorizes 32,000 tons per quarter.

6 31. CHEVREAU is without sufficient knowledge or information to either admit or
7 deny the allegations contained in paragraph 31, and therefore denies the same.

8 32. CHEVREAU is without sufficient knowledge or information to either admit or
9 deny the allegations contained in paragraph 32, and therefore denies the same.

10 33. CHEVREAU admits that the 2004 APCD permit was scheduled to expire in
11 June 2005. CHEVREAU denies the remaining allegations contained in paragraph 33.
12 CHEVREAU admits that it applied for a renewal of the 2004 APCD permit in June 2005, and
13 that this renewal was granted.

14 34. CHEVREAU admits that it applied in April 2006 for another APCD permit to
15 operate a portable asphalt plant. CHEVREAU admits that it has purchased a portable asphalt
16 plant, but denies that it "could begin producing asphalt in a matter of days".

17 35. CHEVREAU denies the allegations contained in paragraph 35.

18 36. CHEVREAU admits that the Board of Supervisors of Placer County has issued
19 no directive to initiate public hearings regarding LDA-786. CHEVREAU is without sufficient
20 knowledge or information to either admit or deny the remaining allegations contained in
21 paragraph 36, and therefore denies the same.

22 37. CHEVREAU admits that the COUNTY has taken no action to investigate
23 CHEVREAU's use permits or enforce the conditions of those permits. CHEVREAU admits
24 that Michael Johnson, the current Placer County Planning Director stated "unequivocally,
25 '[LDA-786] will never lapse.'" CHEVREAU is without sufficient knowledge or information
26 to either admit or deny the allegations contained in paragraph 37, and therefore denies the same.

27 ///

28 ///

1 CHEVREAUX admits that MVP contends that CHEVREAUX's permit LDA-786 has lapsed due
2 to long periods of non-use, but denies that any such lapse has occurred. CHEVREAUX admits
3 that MVP alternatively contends that the relocation of the plant 1,000 feet from the originally
4 permitted site is a material deviation requiring CHEVREAUX to apply for a new CUP, but
5 denies this allegation. CHEVREAUX admits that its rights to the Asphalt Plant are vested, and
6 that the location of the plant site is within the parameters of LDA-786. CHEVREAUX denies
7 that the site is "the new plant site".

8 48. CHEVREAUX admits that MVP seeks the relief alleged in paragraph 48, but
9 CHEVREAUX denies that it has any liability for the relief requested.

10 49. CHEVREAUX admits that MVP seeks the relief alleged in paragraph 49, but
11 CHEVREAUX denies that it has any liability for the relief requested.

12 **FOURTH CAUSE OF ACTION**

13 50. CHEVREAUX incorporates by reference its responses to paragraphs 1 through 49
14 above.

15 51. CHEVREAUX denies that it is mining outside the boundaries permitted by LD-
16 1030, because LD-1030 does not regulate its surface mining. CHEVREAUX denies that it is
17 failing to abide by the conditions imposed by LD-1030. CHEVREAUX denies that it is
18 operating an asphalt plant in violation of LDA-786. CHEVREAUX denies that it will or has
19 caused irreparable injury or injury or harm of any sort to MVP members or other Meadow Vista
20 residents. CHEVREAUX admits that MVP seeks temporary, preliminary and permanent
21 injunction, but denies any liability for the relief requested. CHEVREAUX denies the remaining
22 allegations contained in paragraph 51.

23 52. CHEVREAUX admits that MVP seeks the relief alleged in paragraph 52, but
24 denies any liability for the relief requested.

25 **FIFTH CAUSE OF ACTION**

26 53. CHEVREAUX incorporates by reference its responses to paragraphs 1 through 52
27 above.

28 54. CHEVREAUX denies all the allegations in paragraph 54.

1 55. CHEVREAU denies all the allegations in paragraph 55.

2 56. CHEVREAU denies all the allegations in paragraph 56.

3 **SIXTH CAUSE OF ACTION**

4 57. – 59. The Sixth Cause of Action was eliminated by CHEVREAU's demurrer
5 and MVP's failure to file an amended complaint. No further response is required.

6 **SEVENTH CAUSE OF ACTION**

7 60. – 63. The Seventh Cause of Action was eliminated by CHEVREAU's
8 demurrer and MVP's failure to file an amended complaint. No further response is required

9 **AFFIRMATIVE DEFENSES**

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Failure to State a Cause of Action)**

12 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
13 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAU alleges that MVP has failed to
14 state facts sufficient to constitute any cause of action.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Laches and Unclean Hands)**

17 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
18 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAU alleges that the causes of action
19 alleged in the Complaint are barred by the doctrines of laches and/or unclean hands.

20 **THIRD AFFIRMATIVE DEFENSE**

21 **(Ratification/Waiver)**

22 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
23 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAU alleges that MVP affirmed and
24 ratified CHEVREAU's alleged conduct, and therefore is precluded from any recovery herein by
25 virtue of the doctrines of waiver and estoppel.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 **(Failure to Do Equity)**

28 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,

1 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that MVP has failed to
2 do equity in respect to the matters raised in its Complaint, and therefore MVP is barred from
3 recovery against CHEVREAUX.

4 **FIFTH AFFIRMATIVE DEFENSE**

5 **(Failure to Mitigate)**

6 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
7 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that following the
8 events described in the Complaint, MVP failed and neglected to mitigate damages, if any there
9 were, and that said conduct or failure of conduct on MVP's part proximately caused and
10 contributed to the damages sustained by MVP, if any.

11 **SIXTH AFFIRMATIVE DEFENSE**

12 **(Excuse from Performance)**

13 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
14 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that if it should be
15 determined that CHEVREAUX failed to perform any duty or obligation required under any
16 agreement with or obligation to MVP, which CHEVREAUX expressly denies, then
17 CHEVREAUX is excused from such performance by reason of the interference and/or waiver by
18 MVP and/or its successors, agents, partners, officers, directors, and employees, and/or other
19 persons, firms, corporations, entities or parties.

20 **SEVENTH AFFIRMATIVE DEFENSE**

21 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
22 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX's surface mining, asphalt, and
23 dredging operations are vested pursuant to the provisions of the Surface Mining and Reclamation
24 Act, and the Placer County Zoning Ordinance.

25 **EIGHTH AFFIRMATIVE DEFENSE**

26 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
27 FOURTH, AND FIFTH CAUSES OF ACTION, LD-1030 and LDA-786 are vested pursuant to
28 the provisions of the Placer County Zoning Ordinance.

1 **NINTH AFFIRMATIVE DEFENSE**

2 **(Failure to Establish Damages)**

3 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
4 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that MVP has failed to
5 establish that it has suffered any actual damages and/or irreparable harm in order to support a
6 cause of action for public nuisance, or injunctive relief.

7 **TENTH AFFIRMATIVE DEFENSE**

8 **(Res Judicata/Collateral Estoppel)**

9 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
10 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that the Complaint is
11 barred by the doctrines of res judicata and/or collateral estoppel.

12 **ELEVENTH AFFIRMATIVE DEFENSE**

13 **(Code of Civil Procedure Sections 335-363)**

14 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
15 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that the causes of action
16 alleged in the Complaint are barred by the provisions of Sections 335 through 363 of the
17 California Code of Civil Procedure.

18 **TWELFTH AFFIRMATIVE DEFENSE**

19 **(Civil Code Sections 1572-1573)**

20 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
21 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that MVP's actions
22 against CHEVREAUX are barred by operation of Civil Code Sections 1572 and/or 1573.

23 **THIRTEENTH AFFIRMATIVE DEFENSE**

24 **(Proximate Cause)**

25 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
26 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that the damages, if any,
27 suffered by MVP were the proximate result of MVP's negligence and/or intentional conduct, and
28 such conduct either bars or proportionately reduces any potential recovery.

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 **(Assumption of Risk)**

3 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
4 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that MVP is comprised
5 of persons who purchased their properties with actual and/or constructive notice of quarry
6 operations, and therefore assumed the risk of any injury actually suffered.

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
9 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that MVP and its
10 individual members had actual notice of CHEVREAUX's operations, and as a result have
11 waived objections to the same.

12 **SIXTEENTH AFFIRMATIVE DEFENSE**

13 **(Failure to Join Indispensable Parties (CCP Section 389(a))**

14 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AND THIRD
15 CAUSES OF ACTION, CHEVREAUX alleges that MVP has failed to join indispensable third
16 parties.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 **(Statute of Limitations – Govt. Code Sections 1094.5, 1094.6, 65009(c)(1)(e))**

19 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AND THIRD
20 CAUSES OF ACTION, CHEVREAUX alleges that these are barred by the statute of limitations.

21 **EIGHTEENTH AFFIRMATIVE DEFENSE**

22 **(To Injunction – Doctrine of Balancing of Conveniences)**

23 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE FOURTH CAUSE OF
24 ACTION, CHEVREAUX alleges that MVP will not suffer irreparable injury as a result of any of
25 CHEVREAUX's on-going operations.

26 **NINETEENTH AFFIRMATIVE DEFENSE**

27 **(To Public Nuisance – Failure of Special Injury)**

28 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE FIFTH CAUSE OF

1 ACTION, CHEVREAUX alleges that MVP has failed to and cannot establish that it has suffered
2 unique injuries in order to support this cause of action.

3 **TWENTIETH AFFIRMATIVE DEFENSE**

4 AS A SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND, THIRD,
5 FOURTH, AND FIFTH CAUSES OF ACTION, CHEVREAUX alleges that all MVP claims of
6 permit invalidity are barred under the doctrine of vested rights.

7 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

8 **(Allege Further Affirmative Defenses)**

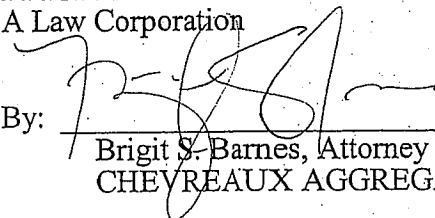
9 CHEVREAUX reserves the right to allege other affirmative defenses as they may arise
10 through the course of discovery.

11 **WHEREFORE**, CHEVREAUX prays as to the Second, Third, Fourth, and Fifth Causes
12 of Action that:

- 13 1. MVP take nothing by reason of its Complaint;
14 2. The Complaint be dismissed with prejudice in its entirety as against
15 CHEVREAUX;
16 3. For costs of suit incurred herein;
17 4. For attorney's fees as provided for by law; and
18 5. For such other and further relief as this Court may deem just and proper.

19
20 Dated: November 13, 2006

BRIGIT S. BARNES & ASSOCIATES, INC.,
A Law Corporation

21
22 By: 

23 Brigit S. Barnes, Attorney for
24 CHEVREAUX AGGREGATES, INC.
25
26
27
28

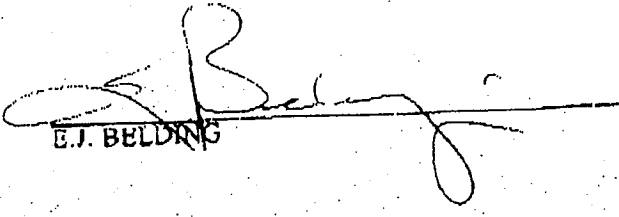
VERIFICATION

I, E.J. BELDING, declare:

I am the President of Chevreaux Aggregates, Inc., a Defendant in the above-entitled action, and am a resident of Placer County. I have read the foregoing Verified Answer and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Dated: November 09, 2006


E.J. BELDING

1 Matter: MEADOW VISTA PROTECTION v. CHEVREAU AGGREGATES, INC.
2 Placer County Superior Court Case No. SCV 19614

3 PROOF OF SERVICE

4 I am a citizen of the United States, over the age of eighteen years, and not a party to or
5 interested in the within entitled cause. I am an employee of Brigit S. Barnes & Associates, Inc.,
A Law Corporation, located at 3262 Penryn Road, Suite 200, Loomis, California, 95650. On this
6 date, I served the following document:

7 **CHEVREAU AGGREGATES, INC.'S VERIFIED ANSWER TO
MEADOW VISTA PROTECTION'S VERIFIED COMPLAINT**

8 X

9 **BY U.S. MAIL [C.C.P. §1013(a)]** by enclosing one copy thereof in a sealed
10 envelope, with postage thereon fully prepaid. I am readily familiar with this firm's
11 practice for the collection and processing of correspondence for mailing with the
United States Postal Service, and that said correspondence is deposited with the
United States Postal Service at Sacramento, California, on the same day in the
ordinary course of business. Said correspondence was addressed as set forth
below.

12 **PARTY(S) SERVED:**

13 Ronald A. Zumbrun, Esq.
14 Angela C. Thompson, Esq.
15 The Zumbrun Law Firm
3800 Watt Avenue, Suite 101
16 Sacramento, CA 95821
Facsimile: (916) 486-5959
[Attorney for MEADOW VISTA PROTECTION]

17 Richard L. Crabtree, Esq.
18 Law Office of Richard L. Crabtree
1395 Ridgewood Drive, Suite 300
19 Chico, CA 95973
Facsimile: 530-566-9203
20 [Attorney for COUNTY OF PLACER and COUNTY OF PLACER PLANNING
DEPARTMENT]

21 Courtesy Copy to:
22 Scott Finley, Esq.
Placer County Counsel's Office
23 175 Fulweiler Avenue
Auburn, CA 95603
24 Facsimile: (530)889-4069

25 I declare, under penalty of perjury under the laws of the State of California, that the
26 foregoing is true and correct. Executed on November 13, 2006, at Loomis, California.

27 Noreen Patrignani
Noreen Patrignani

EXHIBIT 11

PLACER COUNTY PLANNING DEPARTMENT
219 Maple St., Auburn - Tel. 285-5149

NOTICE - ALL APPLICANTS
Land Development Permit is:
- Subject to designated conditions
- Granted for specific purpose

Permit No. 1224 (11)
Date Filed April 8, 1965
Hearing Date April 22, 1965

SPECIAL PERMIT FOR LAND DEVELOPMENT

Full Name of Applicant Edward P. Puss Telephone 878-1159
Address of Applicant P.O. Box 117 Town Meadow Vista
Name of Property Owner Edward & Beatrice G. Puss
Address of Property Owner P.O. Box 117 Town Meadow Vista
Property Zoned FLB-43 Acreage 140
Proposed Development (Describe fully) Quarry for spot
rock depositing, screening & washing plant
for grading materials, etc.

Method of Sewage Disposal Dry Hole
Assessor's Parcel No. 72-030019-00-00-00 General Location of Property: 80
West Half of the N.W. Quarter of Section 31 T.14N-R9E-MDBM
West Half of the S.W. Quarter of Section 30 T.14N-R9E-MDBM
Located north of County Pump in Meadow Vista
PLEASE SUBMIT WELL-DETAILED PLOT PLAN

\$25.00 Filing Fee

7316
Received by Edm. Puss
Placer County Planning Department

Signature of Applicant Edward Puss
Drivers License No. B651999

Date of Meeting April 22, 1965

☒ Approved ☐ Denied

Summary: Conditions of approval: 1) Meet requirements of Public Works
Department. 2) Driveway be cleared for visibility. 3) All blasting be
done in such a manner as not to be injurious to neighboring property.
4) Adequate control of dust. 5) All screening and washing operations
subject to State Agencies having jurisdiction. 6) Provision be made for
return of soil cover to allow re-growth of vegetation or show some future
design solution.

Date: April 23, 1965

PLACER COUNTY PLANNING COMMISSION
JUSTIN F. BARBER, JR., Planning Director

Richard M. Heikka
RICHARD M. HEIKKA, Zoning Administrator

I have read the above conditions and will comply.

(Please return 1 signed copy)

Edward Puss
Signature of Applicant

cc: Applicant

4-6-1965

Meadow Vista

Placer Co. Planning Dept.
Regrard Land Development Permit

I Edward Pruss desire to open
a shot rock quarry for the purpose of
grading & selling materials from same
located in sections 31 & 30 T14N-R9E

The operation will consist of crushing
and screening plant for grading etc.
Blasting will be required to loosen
material. The blasting will be controlled
thru the use of delay type electric
caps so as to cause the least noise
and ground shock. It is est. there will
be less than six shots a year.

An estimated 40 million⁴⁰⁰⁰ of rock
will be involved. This operation will
be year round.

There is no home within a 1/4 mile
of this property at the present time. None
are intended that I know of at this
time.

Materials to be produced will be
road base and sized rock all material
will be crushed.

Edward Pruss
P.O. Box 117
Meadow Vista, Calif. K

Mr. Heikka advised, for the record, that this action can be appealed within five (5) working days from this date. An appeal should be filed with the Clerk of the Planning Commission whose office is located in the Placer County Planning Department, 219 Maple Street, Auburn, Calif. Mr. Melee requested a written statement of Mr. Heikka's opinion and was advised that a written copy would be forwarded to him.

LAND DEVELOPMENT PERMIT - Edward Pruss - Meadow Vista area - Quarry for shot rock. A crushing, screening, and washing plant for grading materials, etc. 140 acres, located north of County Dump in Meadow Vista, AR# 72-020-01 and 72-030-01.

Mr. Edward Pruss was present.

Mr. Heikka reviewed the file and noted that written notice was sent to the County Departments, the Meadow Vista Property Owners Assn., Meadow Vista Planning Committee, State Division of Fish and Game, Meadow Vista Fire Department, State Division of Industrial Safety, and 8 surrounding property owners. Affidavit of Posting filed.

Mr. Heikka stated that Mr. Pruss was the present owner of part of the property and has use or control of use of property to the north. Recommendations of the Department of Public Works are as follows: 1) Commercial type access, drainage and adequate off street parking; 2) Post \$5000 maintenance bond for the Dump Road in favor of the Department of Public Works.

Mr. Hodel, of the Public Works Department, asked Mr. Pruss if intended to use the County Road for access to his property? Mr. Pruss replied yes he did and asked why the Public Works Department required the posting of a bond.

Mr. Hodel advised that a commercial type access was needed because this was a commercial development as proposed. The road was originally constructed as a single layer on native material and the Department did not feel that it would withstand the heavy loads of a quarry operation.

Mr. Pruss requested a copy of this requirement and was advised that if his application was granted the requirements would be shown.

Mr. Heikka asked for a brief description, for the record, of the proposed development.

Mr. Pruss stated that the entire rock crusher set up would be a stationary one. He would be using the particular road to the County Dump known as Combie Road. He said that there will be a shooting process. For the first year about three (3) to six (6) shots put off and in the future there will normally be one (1) shot a year put off. Everything will be electrically operated except the loader and power equipment. As far as he knows there is nobody living in the area and he could not see that it would be detrimental in regard to dust or noise or anything else caused by this operation.

Mr. Heikka asked for any opposition to this application and noted that there was none.

Mr. Heikka then asked about the over-burden on the site, and if there would be a peeling off to get to the rock.

Mr. Pruss replied that there is no over-burden confronting the operation for the next 12 to 14 years.

Mr. Heikka asked if there would be any problems in regard to denuding of vegetation. Mr. Pruss replied that there is only a grove of trees on the site and that will be removed as the operation goes along.

Mr. Heikka said that what he was trying to arrive at was the extent of excavation.

Mr. Pruss answered that the extent of excavation contemplated for the next 20 years or so would be on the southern 100 feet and that is higher than that. He said that they will be taking all of that down and leaving one area on the eastern slope, a 100 foot cut. All the rest for the present time will be an open day-light situation.

Mr. Heikka commented that he would have a situation where he would be working right into the hill, so to speak. Mr. Pruss replied that this is correct.

Mr. Heikka asked what would be the estimated number of trips per day for trucking into and out of the facility.

Mr. Pruss stated that this was pretty hard to answer. The operation would be starting out slow. Actually, this business never really stabilizes. They take the material out as it is used and there will be times when this will be accelerated for a few days then drop back to normal. He added that he did not expect more than 20 truck loads per day.

Mr. Heikka asked if this would be an operation on the basis of sales from the site or would it be a situation where the operator of the quarry would control hauling.

Mr. Pruss replied that this would be sales from the premises basis.

In reply to Mr. Heikka's query of anticipated time to begin operations Mr. Pruss stated it would be 60 days.

Mr. Heikka advised that a land development permit must be exercised within one (1) year from the date granted. Regarding stream pollution from the washing and screening operation will this meet the requirements of the Department of Fish and Game?

Mr. Pruss replied that he had contacted the Department of Fish and Game and he planned to use settling ponds. Possibly two (2) or three (3) will be needed.

Mr. Heikka asked Mr. Pruss if he anticipated any problems from the blasting and Mr. Pruss said that he did not expect any but that he will be insured for this.

Mr. Heikka asked if there would possibly be a limited number of shots per year. Mr. Pruss said that that is correct. He added that further back the shots will be larger. The first shots will be smaller, just enough to produce a workable area. The back shots will be large enough to produce the most haulage. The effects are the same but the shots bring more haulage.

Mr. Heikka commented that the development shows only one point of access and asked if it were anticipated a need for any others in the future? Mr. Pruss felt that there would be no need for more in the future, that the access was quite sufficient to serve the use.

Mr. Heikka asked about the placement of the equipment on the property and the placement of the crushing plant. Mr. Pruss indicated that it would be towards the north end of the south parcel of the property involved. As far as taking the material out at the time the operation starts at one end it will move on around the hill with the stationary washing operation approximately in the middle of the southern 52 acres.

Mr. Joe Chevreux stated that he had no objections to this proposed land development permit but that he was concerned about establishing this use in RT zoning. As he understood it this particular zoning permitted recreation, farming and single family dwellings and he did not think that a quarrying operation is compatible with single family dwellings. He said that he did not question the quarry as being the highest and best use of this property but he felt that there had been an oversight in allowing single family dwellings in an area where quarrying operations can be conducted. He said that he felt that the single family requirement in this zone should be eliminated or else this particular parcel should be rezoned.

Mr. Chevreux didn't think that there were any objections to zoning in this area but as growth continues in the Meadow Vista area there will be people building in and around this quarrying operation and then

there will be trouble. As there is nobody out in that area now to speak of there are no objections but some thought ought to be given to the possible rezoning of this area.

Mr. Heikka stated that Mr. Chevreux's comments were well taken and advised that the County anticipates, in the near future, working with the Meadow Vista Group for a Master Plan in that area. It would be well to relate to any study that there could be a real potential conflict under what the ordinance now established as the RF District. It is something the County should well take under consideration.

Mr. Chevreux asked if this proposed development might ask for a reclassification of zoning and Mr. Heikka replied that the opportunity does exist for rezoning but that it would have been a longer procedure for Mr. Pruss.

Mr. Chevreux asked what if a single family residential house was built within 100 feet of the property developed as a quarry? A quarrying operation would run these people right out of their house. People are going to be very concerned about that because in the old days the ordinance protected the residences. Now residential developments are encroaching around the gentlemen in the industrial business. You could have home owners come in and ask for a different use of the land.

Mr. Chevreux queried what would happen with the sale of the land and Mr. Heikka replied that the use would continue as the permit runs with the land not the individual.

Mr. Chevreux asked if the use permit is a permanent thing?

Mr. Heikka advised that it can be or it can be temporary.

Mr. Chevreux asked when the new zoning comes up and Mr. Heikka advised that it is anticipated that a Master Plan will probably be starting this summer at the staff level.

Mr. Mike Mapa stated that his immediate concern would be how the blasting and noise from the work would affect the future development of his 20 acre parcel.

Mr. Heikka asked where Mr. Mapa's property was in relation to the applicant's and was advised that it was approximately 1/2 mile south east.

Mr. Pruss stated that the blasting will be with electric caps and will have a minimum affect. The '600' type shot gives the least amount of noise and ground vibration.

Mr. Heikka closed the hearing and took action to grant the application subject to the following conditions:

- 1) Meet requirements of Public Works Department for the development.
- 2) Driveway be cleared for visibility.
- 3) All blasting be done in such a manner as not to be injurious to neighboring property.
- 4) Adequate control of dust.
- 5) All screening and washing operations subject to State Agencies.
- 6) Provision be made for return of soil cover to all re-growth of vegetation or show some future plan whereby area be utilized for recreation use of some nature.

There being no further business the hearing was adjourned to the next regular hearing, on May 13, 1965.

RICHARD M. HEIKKA, Zoning Administrator
PLACER COUNTY ZONING ADMINISTRATOR

EXHIBIT 12

OFFICE:
ON GRASS VALLEY HIGHWAY
AT TRANSIT MIX PLANT



890 GRASS VALLEY HIGHWAY
AUBURN, CALIFORNIA 95603
TELEPHONE (916) 885-3716

BUILDING MATERIALS
SAND AND GRAVEL
LANDSCAPE AGGREGATE

TRANSIT MIX CONCRETE
CRUSHED QUARRY ROCK
INDUSTRIAL MINERALS

August 13, 1985

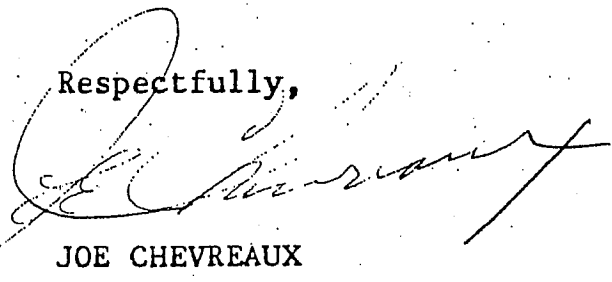
Placer County Board of Supervisors
175 Fulweiler Ave.
Auburn, Ca. 95603

Dear Board Members:

I bought the Pruss property in 1970 subject to the 1965 permit No. 1224 for Quarrying. This permit includes the Arp Ranch property which I have leased. I have operated the quarry since then under the 1965 permit, and have always accepted responsibility for the conditions of the permit, including the reclamation requirements.

This letter confirms that I still do accept responsibility for the reclamation provisions of the permit - as required by State law and the County Zoning Ordinance.

Respectfully,



JOE CHEVREUX

cc: Fred Yeager, Zoning Admin.
Placer County Planning Dept.

EXHIBIT 13

April 21, 1971

Mr. Richard Heika
Placer County Planning Director
Courthouse
Auburn, California

Dear Mr. Heika:

Regarding your letter dated April 14, 1971 as to dates of previous Asphalt Concrete plant operations at my gravel plant on Bear River, Meadow Vista. Listed below are the dates as well as names of jobs and contractors of major construction jobs served from my plant;

- 1947 - 1948 Placer Hills Road, Clipper Gap to Colfax, Placer County project, also other county and private jobs. Syar Construction Co., Vallejo California
- 1949 - 1952 Highway 40 (Interstate 80) Auburn to Clipper Gap State of California project also several other County and private jobs. Westbrook & Pope, Sacramento, California and Federickson and Watson, Oakland, California
- 1956 - 1960 Auburn to Newcastle, Interstate 80, Colfax to Grass Valley Highway, Placer Hills Road, Clipper Gap to Meadow Vista, Combie Road, Meadow Vista to Lake Van Giesen, Highway 49, Bear River to Lime Kilm Road (7 miles), State Stockpiles and several other County and private jobs. Baldwin Contracting Co., Marysville, California and Isabell Construction Co., Reno, Nevada.

I hope the above information is sufficient, however if you should need further details, please let me know.

Sincerely

JOE CHEVREAU

EXHIBIT 14



COUNTY OF PLACER

OFFICE OF THE PLANNING COMMISSION
RICHARD M. HEIKKA Planning Director

COUNTY ADMINISTRATIVE CENTER AUBURN, CALIFORNIA 9
TELEPHONE (916) 885-7711-EXT. 221

30 April 1971

Mr. Joe Chevereaux
890 Grass Valley Highway
Auburn, California 95603

Dear Joe:

In following up my previous letter, I have discussed as I indicated to you, the question of an asphaltic concrete batch plant on the Bear River. The County Counsels office has reviewed this at length and are of the opinion that the matter should go to public hearing.

In view of the recent action of Gibbons and Reed on the Miles property at Colfax, they further feel that the ordinance is unclear in the matter of rights under a non-conforming status which further supports their contention that to remove any question of legal difficulty in the future, a public hearing should be held.

Sincerely,


RICHARD M. HEIKKA
Planning Director

RMH/jv

EXHIBIT 15

LD-1030

THOMAS D. McMAHAN, PLANNING DIRECTOR

April 26, 1972

Mr. Joe Chevreaux
890 Grass Valley Highway
Auburn, California 95603

Dear Joe,

This letter is in response to your request concerning the relocation of your asphalt plant on Assessor's Parcel Nos. 74-250-01 and 74-250-02.

Tom McMahan and I reviewed in the field this new location with you. It is our opinion that the location, which you propose for the asphalt plant, as well as the overall operation of the plant, was in order and, to the best of our knowledge, all conditions of the Use Permit for this operation are being carried out.

County Counsel has informed us that as long as the relocation site for the asphalt plant is within the confines of the two parcels mentioned above, there will be no need for a new hearing. It is our opinion, after the field review with you, that the new relocation site is within Parcel No. 74-250-02 and, therefore, conforms with the approval granted under Permit LDA-691.

If you do locate the asphalt plant on the neighboring property (No. 72-030-01), a new public hearing would be required to extend the asphalt plant privileges to the permit for the quarry operation which you purchased from Mr. Pruss.

If you have any other questions, please feel free to contact this office.

Sincerely,

WILLIAM E. CRAMER
Assistant Planning Director

WEC:lc

cc: Files LDA-691 and LD-1030

EXHIBIT 16

PLACER COUNTY PLANNING DEPARTMENT
County Administrative Center
Auburn, California 95603

(916) 885-7711, Ext. 221

NOTICE OF PUBLIC HEARING

LDA-786, CONDITIONAL USE PERMIT, JOE CHEVREAU

NOTICE IS HEREBY GIVEN that the Placer County Zoning Administrator has received an application for a Conditional Use Permit to relocate the asphalt plant presently located on Assessor's Parcel Nos. 74-250-01 and 74-250-02 to "a more suitable location approximately 600 feet northeast;" on Assessor's Parcel Nos. 72-030-01 and 72-020-03; approximately 140 acres located northwest of Combie Road near the Bear River and the Placer-Nevada County Line; the area is zoned Recreation and Forestry; portion of the S1/2 of Sec. 30 T14N R9E, Meadow Vista area. Method of sewage disposal is proposed as portable toilets.

Further information may be obtained by contacting the Placer County Planning Department, Auburn, during normal business hours.

NOTICE IS FURTHER GIVEN that this Conditional Use Permit application will be considered at a public hearing on Thursday, May 25, 1972, at 2:00 p.m., in Conference Room A, County Administrative Center, 175 Fulweiler Avenue, Auburn, California. All parties interested in this matter or their authorized representative should appear to be heard.

THOMAS D. McMAHAN
ZONING ADMINISTRATOR
COUNTY OF PLACER

Distribution:

~~Supervisor Thompson~~
~~Commissioner Kee~~
~~State Division of Forestry~~
~~Placer Chamber of Commerce~~
~~Meadow Vista Fire District~~
~~Meadow Vista Improvement Association~~
~~Placer Hills School District~~
~~Nevada County Planning Department~~
~~County Departments of Health, Public Works & County Counsel~~
Property Owners (8)

Mailed 5-11-72
Plot plans

EXHIBIT 17

OFFICE:
ON GRASS VALLEY HIGHWAY
AT TRANSIT MIX PLANT



890 GRASS VALLEY HIGHWAY
AUBURN, CALIFORNIA 95603
TELEPHONE (916) 885-3716

BUILDING MATERIALS
SAND AND GRAVEL
LANDSCAPE AGGREGATE

TRANSIT MIX CONCRETE
CRUSHED QUARRY ROCK
INDUSTRIAL MINERALS

July 28, 1987

PLACER COUNTY
DATE
RECEIVED

JUL 29 1987

PLANNING DEPARTMENT

Mr. Tom McMahan
Placer County Planning Director
11414 "B" Avenue
Auburn, Ca. 95603

Dear Sir:

I have operated or joint venture operated portable asphalt plants at my Gravel Plant-Quarry location near Meadow Vista on an intermitent, as needed basis since 1947 (see attached letter to Planning Director Richard Heika dated 4/21/71).

However in 1971 County Council and Planning Director recommended that I apply for a permit for a permanent location for a asphalt plant as this would insure our right to move portable asphalt plants in and out as needed, even though there was legitimate questions whether it was needed.

I applied for and received permit No. LDA-691-5-27-71 and operated at that location approximately 1 year.

We then decided to move the asphalt plant approximately 600' N.E. of the Lake into a canyon where it would not be seen and more efficient. (Permit No. LDA-789-5-25-72)

From this new location we supplied asphalt material to Cal Trans I-80 project from Auburn to Applegate and various other State and County jobs to about 1976.

Since 1976 I have not needed a portable asphalt plant as most Highway work has been slow but now Cal Trans is bidding a major project in our area (I-80 Auburn) and Highway 49 is to be bid in 1988, both will need asphalt concrete.

I believe that my existing permits are still in effect, however, I would appreciate verification from your dept. as soon as possible.

Respectfully,

A handwritten signature in ink, appearing to read "Joe Chevreux".

JOE CHEVREUX

EXHIBIT 18

1030
Current
5-1
PURSUANT TO POLICY OF BOARD OF SUPERVISORS, PLANNING DEPARTMENT
CANNOT ACCEPT APPLICATIONS ON TAX DELINQUENT PROPERTY

PLACER COUNTY PLANNING DEPARTMENT
County Administrative Center, Auburn
Telephone: 885-7711, Ext. 221

NOTICE - ALL APPLICANTS

Conditional Use Permit is:

- Subject to designated conditions
- Granted for specific purpose
- Granted for limited time (see reverse)

Permit No. LDA-786
Date Filed May 1, 1972
Hearing Date 5-25-72
Hearing Jurisdiction 27

CONDITIONAL USE PERMIT

Full Name of Applicant Joe Chevreux Telephone 885-3716
Address of Applicant 890 Grass Valley Highway Town Auburn, Cal.
Name of Property Owner Joe Chevreux Zip Code 95603
Address of Property Owner 890 Grass Valley Highway Telephone 885-3716
Property Zoned RF Town Auburn, Cal.
Proposed Development (Describe fully) Asphalt Concrete Plant Zip Code 95603
Acreage Approx. 140

Method of Sewage Disposal Portable toilets
Assessor's Parcel No. 72-030-01 & 72-020-03 (83-12)
General Location of Property present Chevreux Gravel Plant & Quarry Plant and Placer County Dump, Meadow Vista, Cal.

PLEASE SUBMIT WELL-DETAILED PLOT PLAN
(See Reverse)

\$25.00 Filing Fee

Receipt No. 35667

Received by: thatt

Placer County Planning Department

Signature of Applicant

Date of Action 5-25-72

XXXXX Approved Denied

Summary:

SUBJECT TO ATTACHED CONDITIONS.

Thomas D. McMahon
JUNE 5, 1972 THOMAS D. MCMAHAN, ZONING ADMINISTRATOR, PLACER CO.
(FOR USE AFTER PUBLIC HEARING)

I have read the above conditions and will comply.

(Please return 1 signed copy)

Signature of Applicant

Permits granted for an indefinite period automatically expire one (1) year after the date of issuance if not exercised by that time.
See Subchapter 30, Section 1208(2) Placer County Code, 1967.

Department Staff which stated that there does appear to be a hardship. The recommended conditions, if approved, were:

1. Obtain mobilehome permit from Planning Department.
2. Permit issued to Mr. Baldwin's mother and is valid for her occupancy only.
3. Yearly review by Planning Department to see if hardship still exists.
4. Register mobilehome in Placer County.

Mrs. Baldwin, wife of the applicant, stated that the mobilehome had been on the property for two months and that they had just purchased said property. She explained that the Board of Supervisors had not heard the matter until they had purchased the property.

Mrs. Natalie Arnold, a nearby property owner, stated that a conventional dwelling would be acceptable in the neighborhood and felt that property taxes should be paid on the dwelling. She said a mobilehome was not an asset to the neighborhood.

Mrs. Michael Friedlander also opposed the issuance of the permit and felt it would be discriminatory to allow the Baldwins a mobilehome when no one else can have one. She feels a conventional dwelling would be better.

Mrs. Baldwin, the applicant's mother, stated that she had lived on the property for four years pending her son's buying it. She stated that she must be near her relatives at all times due to her nervous condition.

The Zoning Administrator explained the zoning ordinance which provides for a mobilehome on less than ten acres in the case of a medical hardship. He stated that circumstances must preclude the applicant from living in a conventional dwelling. The Zoning Administrator asked either the applicant's wife or mother to present testimony showing why it was not possible for Mrs. Baldwin to live in either a guest house or a possible addition to the present home. Mrs. Baldwin stated that they already own the mobilehome and that their present dwelling could not accommodate Mr. Baldwin's mother as it is already crowded. Mrs. Baldwin requested that the hearing be continued so that her husband could be present to testify. She stated that he might be able to present testimony which would support the application on a hardship basis.

The Zoning Administrator explained the duties and procedures of the office of Zoning Administrator and stated that he could, under certain circumstances, continue the matter if new testimony could be presented. The action, therefore, of the Zoning Administrator was to continue the application to the hearing of Thursday, June 22, at 1:30 p.m., to provide more information on which to base any final decision. He stated that notices would be resent to those property owners who previously received them.

LDA-786, CONDITIONAL USE PERMIT, JOE CHEVREUX

Application to relocate the asphalt plant presently located on Assessor's Parcel Nos. 74-250-01 and 74-250-02 to "a more suitable location approx. 600 ft. northeast;" on Assessor's Parcel Nos. 72-030-01 and 72-020-03; approx. 140 acres located northwest of Combie Road near the Bear River and the Placer-Nevada County Line; the area is zoned Recreation and Forestry; por. S1/2 Sec. 30 T14N R9E, Meadow Vista area. Method of sewage disposal is proposed as portable toilets.

The Zoning Administrator reviewed the file, noting that 8 property owners had been notified. There was no correspondence in the file.

Health Department: No objections.

Department of Public Works: Mr. Remington had nothing further to add to previous conditions approved with LDA-691.

Planning Department: Mr. Riolo read the 12 conditions of the Development Review Committee, which were the same as those previously approved with LDA-691. His recommendation was that condition No. 5 be eliminated in its entirety.

The Zoning Administrator suggested that another condition be added which would state that if this application were approved, should the plant granted under LDA-691 be reopened, this plant would be closed. In other words, there would be only one plant.

Mr. Chevreaux stated that the conditions of the DRC were agreeable to him, including the last condition as suggested by the Zoning Administrator. He stated that one of the main reasons for moving the plant would be to move it farther from Lake Combie so that if there were any oil spillage, it would not pollute the lake. He also wanted to move it so that it would not be seen by residents of Meadow Vista. He also stated that it would be economically unfeasible to operate two separate plants and that while they had the opportunity, they wanted to move the plant to the location 600' away.

There was discussion regarding revoking the previous permit (LDA-691). The Zoning Administrator explained that he wanted the additional condition added in order to show his intent to any subsequent hearing officials.

Mrs. Susan Smith, representing the Meadow Vista Improvement Association, and the Hillsdale Road homeowners, questioned whether all the waste went into settling ponds; they did not want it spilling onto their land. Mr. Remington explained that they were in a different watershed and would not have to worry about spillage from Mr. Chevreaux's plant. She stated that their real concern, however, are the hours of hauling and feels they should be limited.

The Zoning Administrator explained that this was not going to cause any additional traffic, if granted. He explained that it was actually moving the previously operating plant 600' from its present place.

John Noble, also of the Meadow Vista Improvement Association, said the association would like to have the decision in this application delayed until the Board of Supervisors can hold a hearing on the matter overall. The Zoning Administrator explained that he must judge the application on its own merits and that he could not delay his decision pending matters not relating to the application. Mr. Noble stated that they were not objecting to the application, per se; however, they wanted the final decision delayed, if possible.

The Zoning Administrator explained that the hearing could not be used as an abatement proceedings or to reduce the truck traffic in the area. He stated that the three county departments had met and were of the opinion that granting of this permit would not necessarily increase the traffic.

Mr. Chevreaux stated that he has made every effort to comply with the county ordinances and that he is also trying to cooperate with the Meadow Vista residents as much as possible regarding the truck traffic. As to an actual condition limiting the hours of operation, he feels he could not operate with limits on his hours of hauling. He is willing to limit the hours as a matter of policy, but he wants leeway in case of emergency.

Findings: Since there was no further new testimony to be presented, the Zoning Administrator closed the hearing. He found that the use permit was originally granted as being approximately 600' southwest of the applied-for site on May 27, 1971, subject to 11 conditions for the operation of a plant. It has been in operation for approx. one year. The property is zoned R-F and this does permit the operation of this use subject to a use permit. He stated that condition No. 5 of the previous permit limiting hours of operation has no force and effect because there are no specific hours of hauling; and the enforceability was questionable as trucks serving both operations use Combie Road. The action of the Zoning Administrator was to grant the application subject to conditions 1-12, as amended at the hearing, and the advisory comments as incorporated in the recommendations of the DRC. (see attached) The basis of the action is that the zoning does permit the use and the operation will be subject to conditions of approval and, further, that it would not be detrimental to the health, safety and general welfare of the surrounding area. He also found that this location would be an improvement from the existing location for environmental and aesthetic reasons.

The Zoning Administrator explained the appeal procedures and that the permit would be effective, unless appealed, on Friday, June 2, at 5:00 p.m.

LDA-786, CONDITIONAL USE PERMIT, JOE CHEVREAU

Conditions of approval as recommended by the Development Review Committee and as amended at the Zoning Administrator hearing on May 25, 1972.

1. This is to be a permanent location for an asphalt batch plant.
 2. Provide adequate emission control to meet requirements of the Air Pollution Control District (APCD).
 - A) Emissions not to exceed 0.3 GM/FT^3 or Ringelmann smoke density laws of county APCD and State Health and Safety Codes.
 3. All equipment that sends emissions into the atmosphere must register with the APCD.
 4. Submit plans of proposed plant, showing in detail all emission control equipment and its expected efficiency. Plans to be approved by APCD prior to operation.
 5. There shall be no direct discharge of wash water, scrubber water or other water from the proposed operation to the Bear River or its tributaries.
 6. Excavation for aggregate shall not cause an increase in the turbidity of the Bear River.
 7. Apply to the State Water Quality Control Board, Central Valley Region, for discharge requirements, should there be any.
 8. Confine all hauling operations to the following roads:
 - A) Combie Road
 - B) Placer Hills Road
 9. Applicant to cooperate in maintaining the surface of the hauling route during the period of hauling on Combie Road only and shall periodically repair damage caused to roads by hauling.
- NOTE: Placer Hills Road is designed and constructed for the appropriate traffic index to accommodate this type of hauling operation; however, Combie Road is not.
10. Dike shall be constructed around the liquid asphalt storage tank to the satisfaction of the Department of Public Works.
 11. Water and sewerage to comply with County Health Department requirements.
 12. There will be only one plant in operation. If the plant granted under LDA-691 is reopened, the second plant will be closed.

ADVISORY COMMENT:

The Department of Public Works recognizes that it would be desirable to widen the shoulder on Combie Road at certain locations because of the pedestrian and equestrian traffic, with the increased hauling, and especially the intensive hauling of asphalt material which will occur during the next two or three years because of construction on Interstate 80. Request concurrence in writing by the applicant and the county and the applicant work together in an attempt to resolve this condition, thus making it safer for the pedestrian and equestrian traffic.

EXHIBIT 19



COUNTY OF PLACER

Asphalt

OFFICE OF THE PLANNING COMMISSION

11414 B AVENUE

TELEPHONE (916) 823-4721

AUBURN, CA 95603

THOMAS D. MCMAHAN, PLANNING DIRECTOR

July 31, 1987

Mr. Joe Chevreaux
890 Grass Valley Highway
Auburn, California 95603

Dear Joe:

This is in response to your letter of July 28th wherein you requested an opinion as to the validity of your Conditional Use Permit for asphalt plants on the Bear River. By way of our telephone conversation and your letter, it is my understanding you are most specifically interested in the validity of LDA-786 issued on May 25, 1972.

I have reviewed this matter personally and also discussed the issue with County Counsel. Based on the information I have, you have complied with all of the conditions and exercised LDA-786. In the mean time, this Use Permit has not been revoked, nor has the basic zone district changed (the property was zoned R-F in 1972 and is now zoned R-F-MR-BX-SP). The basic zone district still permits paving and concrete batch plants subject to a Conditional Use Permit.

In conclusion, based on the information received to date, it is my opinion that LDA-786 remains valid, subject to your continuing to meet all twelve (12) conditions attached to its issuance. I would recommend, however, that you confer with Noel Bonderson, Air Pollution Control Officer, to determine if more specific air pollution requirements, particularly those mandated by the State, need to be met.

If you should have further questions or comments, please feel free to contact me. Attached is a copy of LDA-786 and its conditions.

Sincerely,

Thomas D. McMahan
Planning Director

TDM/lo'b
Enclosure

cc: Noel Bonderson, Air Pollution Control Dist.
LDA-786 File

EXHIBIT 20

BRIGIT S. BARNES & ASSOCIATES, INC.
BRIGIT S. BARNES, ESQ. CSB #122673
KARIN E. SCHWAB, ESQ. CSB #157779
SUSAN M. VERGNE, ESQ. CSB #236308
3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Attorneys for CHEVREAUX AGGREGATES, INC.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

MEADOW VISTA PROTECTION,

Case No. SCV 19614

Petitioners and Plaintiffs,

**CHEVREAUX AGGREGATES, INC.'S
AMENDED RESPONSES TO MEADOW
VISTA PROTECTION'S FORM
INTERROGATORIES, SET NO. ONE**

v.

CHEVREAUX AGGREGATES, INC.;
COUNTY OF PLACER; COUNTY OF
PLACER PLANNING DEPARTMENT; and
DOES 1- 50, inclusive,

Respondents and Defendants.

PROPOUNDING PARTY: MEADOW VISTA PROTECTION

RESPONDING PARTY: CHEVREAUX AGGREGATES, INC.

SET NO: ONE

COMES NOW CHEVREAUX AGGREGATES, INC. and pursuant to Code of Civil
Procedure §2030(f) amends its responses to the following Form Interrogatories, Set One, served
by overnight delivery on December 19, 2006 upon its attorneys of record, Brigit S. Barnes &
Associates, Inc., by MEADOW VISTA PROTECTION, by its attorneys of record, The Zumbrun
Law Firm.

Responding Party has not completed its investigation into the facts relating to this case,
has not completed discovery in this case, and has not completed preparation for trial. All
amended responses contained herein are based only upon such information and documents,
which are presently and specifically known to it. The following amended responses are given

1 without prejudice to Responding Party's rights to provide information subsequently discovered
2 or information omitted from these responses as a result of good faith oversight. Responding
3 Party reserves its rights to modify its amended responses herein if additional information is
4 obtained. Amended responses contained herein are made in a good faith effort to supply all
5 information presently known to and in Responding Party's possession and/or control.

6 GENERAL OBJECTIONS

7 1. Attorney-Client Privilege/Work Product. Responding Party objects to each and
8 every one of the Form Interrogatories contained herein to the extent that the Interrogatories seek
9 disclosure of privileged attorney-client communications or information protected as attorney
10 work-product.

11 2. Expert Opinions. Responding Party objects to each and every one of the Form
12 Interrogatories contained herein to the extent that the information sought relates to expert witness
13 opinion or testimony, which is not presently discoverable.

14 3. Propounding Party Has Equal Knowledge. Responding Party objects to each and
15 every one of the Form Interrogatories contained herein to the extent that the information sought
16 is equally available to Propounding Party, is within Propounding Party's own knowledge, is
17 already in its possession or control, or is as easily obtainable by Propounding Party as it is
18 provided by Responding Party.

19 4. Hearsay. Responding Party objects to each and every one of the Form
20 Interrogatories contained herein to the extent that the information sought falls within the
21 definition of hearsay.

22 RESPONSES TO FORM INTERROGATORIES

23 FORM INTERROGATORY NO. 3.7:

24 Within the past five years has any public entity registered or licensed your business? If
25 so, for each license or registration:

- 26 (a) identify the license or registration;
27 (b) state the name of the public entity; and
28 (c) state the dates of issuance and expiration.

1 **RESPONSE TO FORM INTERROGATORY NO. 3.7:**

2 Yes

3 (a) Business License

4 Seller's Permit (Resale License)

5 Weights and Measures – Vehicle Scales

6 (b) Placer County

7 California State Board of Equalization

8 State of California

9 (c) June 1, 2006 – June 1, 2007

10 Issued: 1995, no expiration

11 March 1, 2006 – March 1, 2007

12 **FORM INTERROGATORY NO. 15.1:**

13 Identify each denial of a material allegation and each special or affirmative defense in
14 your pleadings and for each:

15 (a) state all facts upon which you base the denial or special or affirmative defense;

16 (b) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who
17 have knowledge of those facts; and

18 (c) identify all **DOCUMENTS** and other tangible things that support your denial or
19 special or affirmative defense; and state the name, **ADDRESS**, and telephone
20 number of the **PERSON** who has each **DOCUMENT**.

21 **RESPONSE TO FORM INTERROGATORY NO. 15.1:**

22 (a) state all facts upon which you base the denial or special or affirmative defense:

23 *Denial of allegations that Chevreux "never properly implemented LDA-786 within the*
24 *first two years of its issuance" and/or denial of allegations that "no asphalt plant operated from*
25 *1976 through 2001 or from 2002 through the present":*

26 Fresno Paving operated its hot asphalt batch plant within the boundaries of LDA-786 in
27 1972; the year the permit was issued, and continued until through 1976. Kiewitt Pacific

1 Company obtained its APCD permit in May 2001 and operated at the Chevreux site into 2002.
2 The County has also concluded that LDA-786 is fully vested.

3 FORM INTERROGATORY NO. 17.1:

4 Is your response to each request for admission served with these interrogatories an
5 unqualified admission? If not, for each response that is not an unqualified admission:

- 6 (a) state the number of the request;
7 (b) state all facts upon which you base your response;
8 (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who
9 have knowledge of those facts; and
10 (d) identify all **DOCUMENTS** and other tangible things that support your response
11 and state the name, **ADDRESS**, and telephone number of the **PERSON** who has
12 each **DOCUMENT** or thing.

13 RESPONSE TO FORM INTERROGATORY NO. 17.1:

- 14 (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who
15 have knowledge of those facts.

16 Judy Simpson, Chevreux Aggregates, Inc., 890 Grass Valley Hwy., Auburn, CA 95603,
17 530-885-3716.

18 Martin Hedge, Chevreux Aggregates, Inc., 890 Grass Valley Hwy., Auburn, CA 95603,
19 530-885-3716.

20 Ernest J. Belding, Chevreux Aggregates, Inc., 890 Grass Valley Hwy., Auburn, CA
21 95603, 530-885-3716.

22 Mike Fleming, Western Planning and Engineering, 11860 Kemper Rd., Suite 3 Auburn,
23 CA 95603; 530-823-6917.

24 Fred Barber, Western Planning and Engineering, 11860 Kemper Rd., Suite 3 Auburn, CA
25 95603; 530-823-6917.

26 County of Placer, Planning Director (former: Fred Yeager and current: Michael Johnson),
27 3091 County Center Drive, Auburn, CA 95603; 530-745-3000.

1 County of Placer, County Counsel (former: Lyle Rose and current: Anthony LaBouff) and
2 Deputy County Counsel Scott Finley, 175 Fulweiler Avenue, Auburn, CA 95603; 530-889-4044.

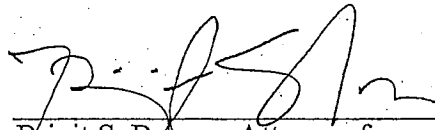
3 Don L. Dupras, California Department of Conservation, Division of Mines and Geology,
4 1416 Ninth Street, Room 1341, Sacramento, CA 95814; phone number unknown.

5 Douglas W. Sprague, California Department of Conservation, Division of Mines and
6 Geology, 1416 Ninth Street, Room 1341, Sacramento, CA 95814; phone number unknown.

7
8 Date: January 22, 2007

SIGNED AS TO OBJECTIONS ONLY

9 BRIGIT S. BARNES & ASSOCIATES, INC.,
A Law Corporation

10
11 By: 

12 Brigit S. Barnes, Attorney for
13 CHEVREUX AGGREGATES, INC.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

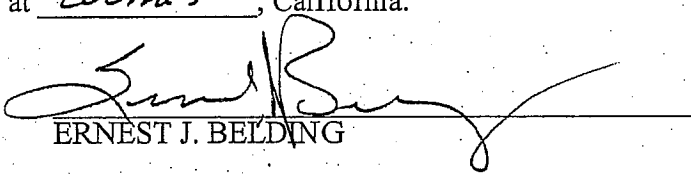
I, Ernest J. Belding, declare:

I am the President of CHEVREAU AGGREGATES, INC., corporations organized and existing under the laws of the State of California; and Responding Party herein, and I have been authorized to make this verification on its behalf.

I have read the foregoing Amended Responses to Form Interrogatories, Set One, and know the contents thereof. I am informed and believe that the matters stated therein are true, and on that ground I allege that the matters stated therein are true.

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge.

Executed on January 22, 2006, at Loomis, California.


ERNEST J. BELDING

1 Matter: MEADOW VISTA PROTECTION v. CHEVREAUX AGGREGATES, INC.
2 Placer County Superior Court Case No. SCV 19614

3 PROOF OF SERVICE

4 I am a citizen of the United States, over the age of eighteen years, and not a party to or
5 interested in the within entitled cause. I am an employee of Brigit S. Barnes & Associates, Inc.,
6 A Law Corporation, located at 3262 Penryn Road, Suite 200, Loomis, California, 95650. On this
7 date, I served the following document(s):

8 **AMENDED RESPONSES TO FORM INTERROGATORIES**

9 X **BY U.S. MAIL [C.C.P. §1013(a)]** by enclosing one copy thereof in a sealed
10 envelope, with postage thereon fully prepaid. I am readily familiar with this
11 firm's practice for the collection and processing of correspondence for mailing
12 with the United States Postal Service, and that said correspondence is deposited
13 with the United States Postal Service at Sacramento, California, on the same day
14 in the ordinary course of business. Said correspondence was addressed as set
15 forth below.

16 **PARTY(S) SERVED:**

17 Ronald A. Zumbrun, Esq.
18 Timothy V. Kassouni, Esq.
19 Angela C. Thompson, Esq.
20 The Zumbrun Law Firm
21 3800 Watt Avenue, Suite 101
22 Sacramento, CA 95821
23 Telephone: 916-486-5900
24 Facsimile: (916) 486-5959
25 [Attorney for MEADOW VISTA PROTECTION]

26 I declare, under penalty of perjury under the laws of the State of California, that the
27 foregoing is true and correct.

28 Executed on January 26, at Loomis, California.

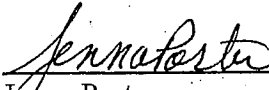
29 
30 Jenna Porter

TABLE OF CONTENTS

2007

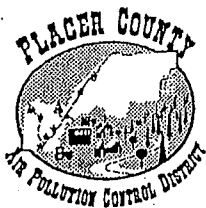
January 2007	NO VIEWPOINT FOR JANUARY
February	Belvedere Bolsters Resources By Imposing Excessive Fines
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

TABLE OF CONTENTS

2007

January 2007	NO VIEWPOINT FOR JANUARY
February	Belvedere Bolsters Resources By Imposing Excessive Fines
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

EXHIBIT 21



AIR POLLUTION CONTROL DISTRICT
11464 B Avenue, Auburn, CA 95603
(530) 889-7130 • Fax (530) 889-7107

**AUTHORITY TO CONSTRUCT/
TEMPORARY PERMIT TO OPERATE**

ISSUED TO:
Kiewit Pacific Co.
P. O. Box 1769
Vancouver, WA 98668

PERMIT NUMBER:
AC-01-51

FACILITY LOCATION:
2701 Combie Road
Meadow Vista, CA 95722

EXPIRATION DATE:
May 16, 2002

A handwritten signature in black ink, appearing to read "Todd K. Nishikawa".

Todd K. Nishikawa
Acting Air Pollution Control Officer

May 29, 2001

Issue Date
(Originally Issued May 16, 2001)

PROCESS DESCRIPTION: Hot Mix Asphalt Plant

Equipment	HP RATING
Aggregate Cold Feed System	
Four Bins, 30 Tons Capacity Each, with Belt Feeder, 3 HP Each	12
Collecting Conveyor, 4' x 10'	10
Scalping Screen	7.5
Drum Feed Conveyor, Weight Belt	15
Reject Conveyor	5
Drum Mixer and Burner (Diesel-Fired)	
Drum Mixer, Astec Model 368, 8' Dia x 36' L	150
Burner, Genco, Model FP162, 162 MMBtu/hr Heat Input	110
Asphalt Cement Storage System	
30,000 Gallon Storage Tank with 1.41 MMBtu/hr Heat Input Rating	52
20,000 Gallon Storage Tank	50
Hot Mix Asphalt Storage System	
Two Silos, 65 Tons Capacity Each	
Drag Slot Conveyor	125
Cross Slat Conveyor	60
Silo Hydraulic Pump	10
Silo Air Compressor	30

APC Baghouse	
Baghouse, Manufacturer: CMI, 80,000 CFM	
Exhaust Fan	300
Baghouse Clean Air Fan	60
Dust Auger	15
Discharge Dust Auger	5
Vane Feeder	1.5
Blower	30
Fuel Burning Station	
16,000 Gallon Storage Tank, Main Fuel and Service Fuel Pumps	7
Total rating	1,055 hp 163.4 MMBtu/hr

OPERATING LIMITATIONS

1. The plant shall not be operated more than 12 hours per calendar day.
2. The quantity of material processed shall not exceed 4,800 tons per day.
3. The quantity of material processed shall not exceed 110,000 tons per quarter.
4. The asphalt facility shall not process rubberized asphalt.
5. The sulfur content of the fuel oil is not to exceed 0.05 % by weight.
6. All unpaved roads utilized by trucks or other vehicles operated by Kiewit Pacific shall be watered at least twice a day. Alternatively, a chemical dust suppressant may be used as specified by the manufacturer of the product.
7. A fugitive dust plan is to be submitted to the District for approval no later than July 16, 2001.
8. The baghouse shall be maintained in good working condition and operated whenever the asphalt plant is in operation. A spare bag shall be kept on location.
9. If an IC engine/generator is utilized to provide power to the portable hot mix asphalt plant one of the following must be met:
 - A. The applicant shall provide evidence that the engine is registered with the CARB Statewide Portable Equipment Registration Program. The IC engine shall be operated and maintained in accordance with the requirements of the Statewide registration, or
 - B. Application and approval of an Authority to Construct from the District.

PERFORMANCE TESTING

10. Test and Sampling Platforms and Ports: Access to the exhaust stacks shall be provided by a test platform or other means, and sampling ports shall be installed in accordance with 40 CFR 60.8(e), District Rule 514, Standards For Granting Applications and the Platform and Port Specification Sheet, page 12 of 13.
11. Performance Test Requirements: The District requires the conduct of performance testing no later than July 16, 2001.
 - A. At least thirty (30) days prior to the actual testing, a written test plan shall be submitted to the District detailing the sampling methods, analytical methods or detection principles to be used. The prior written approval of the Air Pollution Control Officer is required for the use of alternate test methods.
 - B. The performance test evaluation results shall be reported to the District within sixty (60) days after testing.
 - C. Particulate matter (TSP) emission rates and concentration, the particulate matter distribution of 10 microns in size or smaller (PM-10), and the mass emission rates for carbon monoxide (CO), oxides of nitrogen (NOx), and volatile organic compounds shall be determined.
 - D. Testing shall be conducted in accordance with EPA or ARB Methods 1 through 4 and the following: TSP, Method 5 modified to include the impinger catch (BACT half); NOx, Method 7; CO, Method 10; and PM-10, Method 501 (ARB). In lieu of these methods, alternate EPA or ARB approved test methods may be proposed. Testing to demonstrate compliance with Subpart I, Part 60, Title 40 of the Code of Federal Regulations, Standards of Performance for Hot Mix Asphalt Facilities, would require the reference methods specified by Subpart I.
 - E. Emissions of all pollutants shall be reported in terms of pounds per hour and pounds per million BTU fuel input. Exhaust stack volumetric air velocity shall be reported at actual conditions (acfm), and District dry standard conditions (dscfm: 60 oF and 14.7 psia). TSP emissions shall be reported in terms of grains per dry standard (60 oF and 14.7 psia) cubic foot corrected to 12%, CO and NOx emissions in terms of parts per million corrected to 3% O₂. Measurement of the actual carbon dioxide (CO₂) percent by volume of dry effluent gases shall be performed and reported. For the purpose of determining compliance with Subpart I, Part 60, Title 40 of the Code of Federal Regulations, Standards of Performance for Hot Mix Asphalt Facilities, both filterable and total particulate matter concentrations shall be reported.
 - F. The process rate during testing shall be as close to maximum as possible and at least 360 tons per hour of product. This information is to be reported with testing data.

REPORTING AND RECORDKEEPING

12. Quarterly records shall be kept by the Owner or Operator on site for a period of two (2) years or until plant is shutdown, and shall be made available to the District upon request. The information required includes, but is not limited to:
 - A. Quarterly hours of operation the asphalt plant was operated.
 - B. Quarterly production of asphalt.
13. A log of maintenance performed on the baghouse shall be kept.
14. A log of watering or chemical suppressant use on the unpaved roads shall be kept.

EMISSION LIMITATIONS

15. Emission Limitations
 - A. No emissions are permitted, from any source, which are a nuisance per District Rule 205, Nuisance.
 - B. Within 60 days of achieving the maximum production rate and no later than 180 days after initial startup, the emissions from any transfer point or conveyor belt shall not exceed 10 percent opacity.
 - C. For emissions from points other than transfer points or conveyors. Emission opacity as dark or darker than Ringelmann No. 1 (20% opacity) for a period or periods aggregating more than three (3) minutes in any one hour is prohibited and is in violation of District Rule 202, Visible Emissions.
 - D. The particulate emissions concentration of the engine exhaust shall not exceed 0.1 grains per dry standard cubic foot of gas, at 60 °F per Rule 210, Specific Contaminants.
 - E. Nitrogen oxide (NOx) emissions are not to exceed 185 ppmv @ 3% O₂.
 - F. Carbon monoxide (CO) emissions are not to exceed 300 ppmv @ 3% O₂.
 - G. The emissions from the portable hot mix asphalt plant shall not exceed the following limit:

EMISSION LIMITATION	
Pollutant	lb/quarter
VOC	3,520
NOx	7,416
SOx	1,540
PM10	1,925
CO	7,315

PLACER COUNTY AIR POLLUTION CONTROL DISTRICT
AUTHORITY TO CONSTRUCT
GENERAL CONDITIONS (effective 6/1/00)

1. Authorization to construct the equipment listed and as prescribed in the approved plans and specifications is hereby granted, subject to the specified permit conditions. The construction and operation of listed equipment shall be conducted in compliance with all data and specifications submitted with the application under which this permit is issued unless otherwise noted in the conditions. Deviation from the approved plans is not permissible without first securing approval for the changes from the Air Pollution Control Officer. (Rule 501)
2. Written notification shall be submitted to the District no later than seven (7) days after completion of construction. (Rule 501)
3. This permit shall be maintained on the premises of the subject equipment. (Rule 501)
4. The authorized District agents shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained therewith by the District. (Rule 402)
5. In the event of any violation of the District Rules and Regulations, the company shall take action to end such violation. (Rule 502)
6. The company shall notify the District within two hours of any upset conditions, breakdown or scheduled maintenance which cause emissions in excess of limits established by District Rules and Regulations. (Rule 404)
7. Any alteration of the subject equipment, including a change in the method of operation, shall be reported to the District. Such alternations may require an Authority to Construct Permit. (Rule 501)
8. Exceeding any of the limiting condition is prohibited without prior application for, and the subsequent granting of a permit modification pursuant to District Rule 501, General Permit Requirements, Section 400.
9. In the event of a change of ownership, an application must be submitted to the District. Upon any change in control or ownership of facilities constructed, operated, or modified under authority of this permit, the requirements contained in this Authority to Construct shall be binding on all subsequent owners and operators. (Rule 501)
10. Compliance of the permitted facility is required with the provisions of the "Air Toxics 'Hot Spots' Information and Assessment Act" of 1987 (Health and Safety Code Sections 44300 et seq.).

11. Title V Recordkeeping Requirements: Recordkeeping and reporting pursuant District Rule 511, Potential To Emit, shall be performed if the facility emissions exceed any of the following in any 12 month period:
- A. 5 tons per year of a regulated air pollutant (excluding HAPs);
 - B. 2 tons per year of a single HAP;
 - C. 5 tons per year of any combination of HAPs;
 - D. 20 percent of any lesser threshold for a single HAP that the United States Environmental Protection Agency (U.S. EPA) may establish by rule.
12. Title V Operating Limitations: The Owner/Operator shall file an application pursuant to Rule 512, Request for Synthetic Minor Source Status or Rule 507, Federal Operating Permit Program if the facility emissions exceed any of the following in any 12 month period:
- A. 12.5 tons of nitrogen oxides, 12.5 tons of volatile organic compounds, 50 tons of sulfur oxides, 50 tons of PM-10 or 50 tons of carbon monoxide;
 - B. 5 tons of a single hazardous air pollutant (HAP);
 - C. 12.5 tons of any combination of HAPs;
 - D. 50 percent of any lesser threshold for a single HAP as the U.S. EPA may establish rule.
13. Performance Test Requirements: If the District finds that performance tests are required to determine compliance with District Rules and Regulations and Conditions of this Authority to Construct, reasonable written notice shall be provided to the Company. The performance tests shall be subject to the following restrictions (Rule 501):
- A. At least thirty (30) days prior to the actual testing, a written test plan shall be submitted to the Air Pollution Control Officer detailing the sampling methods, analytical methods or detection principles to be used. The prior written approval of the Air Pollution Control Officer is required for the use of alternate test methods.
 - B. The District may require, upon reasonable written notice, the conduct by the company of such emissions testing or analysis as may be deemed necessary by the District to demonstrate compliance with District Rules and Regulations and the limiting conditions of this permit.
 - C. Testing shall be conducted in accordance with 40 CFR 60, Appendix A, Methods, or equivalent methods approved by the State of California Air Resources Board (ARB) by reference in Title 17 of the California Administrative Code, or other methods specified by the company and approved in writing by the Air Pollution Control Officer. Independent testing contractors and analytical laboratories shall be Air Resources Board certified for the test or analysis conducted. Particulate matter testing, if requested, shall include both filterable and condensed particulate matter (e.g. Method 5 modified to include impinger catch).
 - D. A report of the testing shall be submitted to the District no later than sixty (60) days after the source test is performed.

EXHIBIT 22



KIEWIT PACIFIC CO.

NORTHWEST DISTRICT OFFICE • 215 "V" STREET • VANCOUVER, WA 98661
P.O. BOX 1769 • VANCOUVER, WA 98668-1769
(360) 693-1478 • (360) 693-5582 FAX

PLACER COUNTY AIR POLLUTION
CONTROL DISTRICT

NOV 05 2001
RECEIVED

November 1, 2001

John Finnell
Placer County Air Pollution Control District
11464 B Avenue
Auburn, CA 95603

Re: Permit No. AC-01-45
Hot Mix Asphalt Plant
Meadow Vista, CA

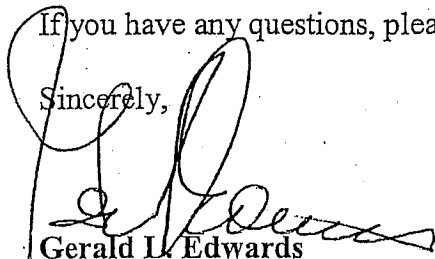
Dear Mr. Finnell:

This is to advise the PCAPCD that Kiewit Pacific Co. ceased production of hot mix asphalt at the Meadow Vista Site on September 21, 2001.

The asphalt plant is scheduled to be disassembled and removed from the site this month.

If you have any questions, please contact this office.

Sincerely,



Gerald L. Edwards
Project Manager

GLE/jr

cc: Ben Prock

EXHIBIT 23

OFFICE CONTACT REPORT

NAME: Mr. Jerry Edwards DATE: October 4, 2001

COMPANY/AGENCY: Kiewit Pacific Co. TIME: 11:55 am

ADDRESS:

TELEPHONE NO: 360-314-3666

SUBJECT: Update on Kiewit Pacific Co. Operations in Placer Co.

Mr. Edwards called to notify the District on the status of various operations.

1. The portable rock crusher (AC-00-48) in Meadow Vista has been shutdown and removed from location.
2. The asphalt plant (AC-01-51) has shutdown and will be removed from location in the next two weeks.

I indicated that we have not yet seen the source test reports. Mr. Edwards stated that the source test company had not provided any results. He knew the reports were overdue. He has been contacting them weekly to get a report.

3. Concrete Plant (AC-01-04) in Gold Run is operating but will shutdown for the winter and restart in the spring.

We also discussed the emergency generator on site which has a state portable registration. Mr. Edwards inquired as to whether a district permit was needed since the project will last longer than a year but will not be a continuous operation. I explained that the unit could still operate under the portable equipment registration if it was moved during the twelve month period.

Followup: Archive files AC-00-48 and ac-01-51 (Rock crusher and asphalt plant, Meadow Vista)

BY: John Finnell

[T:\APC\JWF\CONTACTS\KEIWIT2.CON]

EXHIBIT 24

EX-125-2704 1897

Bill

8589 Thys Court

P.O. Box 278930

(916) 386-5900 • FAX (916) 386-2940

RECEIVED
FEB 22 2005

[illegible]

FEB. 22 '2005 15:16

#2504 P.003/003

The distinction between our operation and a similar operation which was granted an air permit based on the same Chevreux use permit at the same site by Placer County APCD is of concern to Teichert. Predicated on a one year project duration, an Authority to Construct permit was granted to Kiewit Pacific in May 2001 to operate a portable asphalt plant to provide asphalt to a Hwy 80 pavement rehabilitation project at the same Chevreux site. This permit allowed the operation of a diesel-fired burner which was allowed to generate up to 7,416 lbs of NOx, and 7,315 lbs of CO emissions per quarter.

Teichert's project description is no different than Kiewit's. Teichert's Gencor portable plant is designed to burn much cleaner than the previously approved Kiewit plant. The Gencor plant burns clean LP gas and will generate no more than 72 lbs of NOx and 336 lbs of CO per day. This equates to 4,536 lbs of NOx and 7,056 lbs of CO per day. These numbers are 60% of the maximum NOx emissions and 96% of the CO emissions allowed by previous permitting. In addition, we have asked for a maximum daily production limit of no more than 4,000 tons per day. Kiewit Pacific was granted an air permit which allowed up to 4,800 tons per day. Our daily production request is 83% of the limit granted to Kiewit Pacific. It is a concern to Teichert that our plant, which is clearly a cleaner running plant with a daily production output lower than the Kiewit plant is now under further governmental scrutiny after the County has already validated the Chevreux use permit and has instructed the APCD to issue an Authority to Construct.

Teichert is unclear as to why the air permit is being withheld pending further review. Based on our confirming phone conversation on Tuesday, Feb. 8th, Teichert has notified our manufacturer to ship the plant to the Chevreux site. The delivery and erection is proceeding as the new asphalt plant is presently being shipped from Orlando, FL and Marquette, IA. and we must take delivery. Please respond at your earliest convenience.

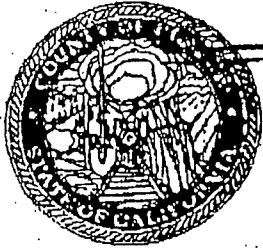
Sincerely,
TEICHERT CONSTRUCTION



Daniel C. Palmer
Portable Plant Manager
Heavy & Highway Division

cc: Larry Rhoden
Ty Smith

EXHIBIT 25

**PLACER COUNTY PLANNING DEPARTMENT**

11414 B Avenue/Auburn, California 95603/Telephone (530) 886-3000/FAX (530) 886-3080
Web Page: <http://placer.ca.gov/planning> E-Mail: bcombs@placer.ca.gov

Daniel C. Palmer
Portable Plant Manager
Heavy and Highway Division
Teichert Construction
8589 Thys Court
P.O. Box 276830
Sacramento, Ca. 95827-6830 (and by fax to 916-386-2940 *(3 pages)*)

Subject: Response to your letter of February 11/22

Dear Mr. Palmer:

This letter is sent in response to your letter dated February 11, 2005. Despite that date, for whatever reason, it was not received in our office until today (February 22, 2005).

I did give you a call to advise you that Tony LaBouff, County Counsel, and Fred Yeager, Planning Director, had reviewed the files and had made a preliminary determination that LDA-786 appeared to have established rights for the Teichert project to proceed. I later advised you that Mr. LaBouff had decided to investigate the case further, which has been on going. At no time did I advise you to begin moving equipment and starting operation at the Chevreax site.

As you know, Mr. LaBouff spoke at a town forum with representatives from your organization last night in Auburn, and indicated that he is still investigating the matter. Our Department is in no position to either direct the Air Pollution Control District to issue their permit, nor to withhold approval—I would suggest that such a decision rests with the determinations made by County Counsel.

If you have any further questions, please let me know.

Sincerely,

Bill Combs
Bill Combs
Principal Planner

Cc: Supervisor Bruce Kranz, Anthony LaBouff, Flood, County Counsel, Fred Yeager,
Planning Director, Scott Finley, Tom Christofk

EXHIBIT 26

TAYLOR & WILEY

A PROFESSIONAL CORPORATION

ATTORNEYS

2870 GATEWAY OAKS DRIVE, SUITE 200
SACRAMENTO, CALIFORNIA 95833
TELEPHONE: (916) 929-5545
TELEFAX: (916) 929-0283

**TELEFACSIMILE TRANSMISSION
COVER SHEET**

DATE: March 23, 2005 TIME: _____

TOTAL NUMBER OF PAGES: 2 INCLUDING COVER SHEET.

TO: Susan Brandt-Hawley

FROM: John M. Taylor

RE: Press Release

IF YOU DO NOT RECEIVE THE CORRECT NUMBER OF PAGES, PLEASE
CALL 916/929-5545 AS SOON AS POSSIBLE.

MESSAGE:

Phone number of telefacsimile machine: 707/576-0175
Phone number of recipient: 707/938-3908

Original will _____ will not XX follow in mail.

WARNING TO RECIPIENT

The information contained in this facsimile message is confidential information and may be attorney/client privileged. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service.

Draft Statement Version 2
NOT FOR DISTRIBUTION

[Date]

Contact: [name]

TEICHERT WITHDRAWS PLANS FOR ASPHALT PLANT

Auburn -- Teichert Construction Vice President Larry Rhoden issued the following statement today regarding the company's project to repave Interstate 80 between Colfax and Newcastle:

"After listening to Supervisor Kranz, we have concluded that it will not be possible for us to address his numerous concerns about the location of the temporary asphalt plant in time to meet the terms of our Caltrans contract.

"Therefore, we are no longer pursuing the use of the Chevreux site for supplying asphalt for the Interstate 80 improvement project.

"Teichert instead will use sources of asphalt outside the Meadow Vista/Auburn area to fulfill its contract with Caltrans to fix this bazardous stretch of highway that is utilized by tens of thousands of drivers every day.

"We do not anticipate supplying the project from any site in Placer County, nor is it our intention to haul materials for this work on Highways 49, 65 or 193."

###

EXHIBIT 27



MEMORANDUM
FROM THE OFFICE
OF COUNTY COUNSEL

TO: Fred Yeager, Planning Director

FROM: Anthony J. La Bouff, County Counsel

DATE: February 25, 2005

RE: Validity of LDA-786

Introduction

As a result of the recent proposal by Teichert Construction to operate an asphalt batch plant on certain property in Meadow Vista, this office has examined issues surrounding the validity of a conditional use permit issued to Chevreaux in 1972. The conclusions herein are based upon a review of the facts as disclosed in the records of the County Planning Department, information that has been received from interested members of the public, as well as subsequent follow-up investigation.

The applicability of CEQA to the issuance of a permit by the Air Pollution Control District is not addressed in this opinion, as the District is independent from the County.

Chronology

Beginning in 1947, an asphalt plant began operations on the site of the present Chevreaux gravel and quarrying operations in Meadow Vista. The operations took place on an intermittent basis. (Memorandum of Tom McMahan of May 25, 1972, not attached). In response to a request from the County, Chevreaux applied for a conditional use permit for an asphalt plant operation on the site, and the first permit for an asphalt batch plant was issued on May 27, 1971 (LDA-691). Approximately one year later, on May 25, 1972, the permit currently in question, LDA-786, was issued. The purpose of LDA-786 was to allow the operation permitted by LDA-691 to be moved to a different location within the same property. It appears the approval was done without consideration under the California Environmental Quality Act (CEQA). The plant was being used for work on Interstate 80.

A copy of LDA-786 is attached. The permit is subject to twelve (12) conditions. Condition No. 1 states: "This is to be a permanent location for an asphalt batch plant."

(Emphasis added.) Other conditions concern compliance with the requirements of the Air Pollution Control District, restrictions on discharges into the Bear River, and maintenance of the designated off-site haul road routes. There is no condition that explicitly restricts either the quantities of material to be produced on the site from the operations or the hours of operation. The permit does not have an expiration date. In theory, the operation could be 24 hours per day, 7 days per week, 52 weeks per year.

A complete history of the nature of the activity that has taken place under LDA-786 has not yet been compiled, but it appears that no other County permit for an asphalt batch plant operation has been sought or been issued for this location. However, at least one other application for a concrete batch plant has occurred. (CUP 1199). In 1987, Chevreux made written inquiry about the status of the permit, and after reviewing the status of the permit, the Planning Director verified that the permit was still valid at that time. (A copy of the opinion of the Planning Director is attached.) Importantly, the Planning Director's letter is premised on compliance with the existing conditions of the permit and makes no particular finding as to that compliance.

In May of 2001, the Placer County Air Pollution Control District (APCD) issued AC-01-51 for the operation of a plant at the site by Kiewit Pacific producing approximately 100,000 tons per quarter. This plant was providing material for use on a project involving Interstate 80. We are not aware of any questions raised during that permitting process about the continued validity of LDA-786. In August of 2004, a representative of Chevreux contacted the County Planning Department regarding the permit. Chevreux thereafter applied to APCD for a new permit without objection from the Planning Department. On November 11, 2004, APCD issued AC-04-66 allowing production of 52,000 tons per quarter. Most recently, Teichert Construction filed an application with APCD on January 10, 2005, for a permit for a larger and different operation than was permitted by A-04-66. This operation proposes a considerably higher tonnage than was approved under AC-04-66, and will involve routine nighttime transportation, something we understand has never occurred before.

Legal Principles and Discussion

1. Vested Rights

For a conditional use permit to be in effect, it must be exercised. There appears to be no question that an asphalt plant operated at this site for several years after the initial issuance of LDA-786 in 1972 and thus the permit has been exercised. Once relied upon by a property owner, a conditional use permit becomes a vested right. (*O'Hagen vs. Board of Zoning Adjustment* (1971) 13 Cal.App.3d 151.) The permit "runs with the land," that is, the rights are transferable to another owner or operator at that location. (*Anza Parking Corporation vs. City of Burlingame* (1987) 195 Cal.App.3d 855.)

However, a subsequent user has no greater rights in the uses allowed under the permit than the owner obtained at the time the permit was issued. (*Sounhein vs. City of San Dimas* (1998) 47 Cal.App.4th 1181.)

Thus, while the holder of a conditional use permit that has been exercised obtains some level of protected property interest to continue the activities allowed under the permit, those activities must comply with any conditions of approval and be within the scope of the permit as approved. If not, the permit is subject to revocation. (See County ordinance 17.62.170) However, because an exercised permit is a property right, it may not be revoked under the United States Constitution without due process, which includes providing the permit holder notice of the grounds for revocation and some type of hearing. (*Community Development Commission vs. City of Fort Bragg* (1988) 204 Cal.App.3d 1124.) (*Bauer vs. City of San Diego*, 75 Cal.App.4th 1281 (1999)). Thus, a property owner who holds a permit is entitled to a hearing on the factual basis for the revocation of the permit before it can be revoked.

2. Compliance with Permit—Conditions of Approval and Scope

It is our understanding little information has been provided to your department as to the nature of the proposed activity. As mentioned above, every permit must be used in compliance with the conditions of its approval and within its scope. Otherwise, the permit is subject to revocation for violation of the conditions of approval. These are ultimately factual determinations. In order to make any ultimate determination as to whether the activity proposed by Teichert Construction is allowed under LDA-786, we suggest obtaining in formal manner documentation from the permit holder as to how they intend to comply with the existing conditions. The following types of additional information would be necessary:

- 1) What was the nature of the operation that was occurring on the site when the first permit was approved in 1971? Did it include nighttime production and offsite hauling? What was the nature of the operations prior to 1971?
- 2) What kind of activities took place between 1972 and 1987, when the Planning Director affirmed the validity of LDA-786? Was there ever any nighttime production? What was the production volume?
- 3) What kind of activities took place between 1987 and 2001, when the permit was issued for the Kiewit Pacific facility? Again, was there any nighttime production? What was the volume of material produced?
- 4) Conditions No. 3 and 4 require approval from the Air Pollution Control District for the equipment operating at the site. If operations occurred prior to 2001 (when APCD

issued AC-01-51), what kinds of approvals were issued by APCD?

5) Conditions No. 5 and 6 concern the effects of the operations on the Bear River. Have these conditions been complied with?

6) The conditions of approval of a County permit may require the permittee to comply with the requirements of other agencies with regulatory jurisdiction over the activities being conducted. Condition No. 7 requires approval by the State Water Quality Control Board, Central Valley Region, of any discharges. This site is reportedly subject to Waste Discharge Requirements Order No. R5-2003-0176. Information provided to this office by officials at Central Valley Regional Board suggests there has not been compliance. This needs to be formally verified. The order apparently requires information regarding the operation of an asphalt plant on the site to be provided to the Regional Water Quality Control Board, Central Valley Region at least 180 days prior to the placement of the plant. We have been informed it has not occurred.

3. Lapse

Interested members of the public have raised the issue as to whether the permit may have lapsed. (See Section 17.58.160(B)(2).) A permit may lapse if the permitted use is discontinued for a period of more than twelve consecutive months. The Zoning Ordinance makes a distinction between uses that require "appurtenant structures" and uses that do not. Whether a lapse has occurred is also a fact-driven determination. Regardless of the language of our ordinance, use permits do not automatically terminate. They would lapse only after appropriate notice is given and an opportunity to be heard has occurred. (See, Bauer and Fort Bragg cited above). To date, the County has made no such finding and in contrast has acted as if there has not been a lapse. It could be argued that the permit holder could reasonably rely upon such actions of the County in exercising its business judgments. In order to make any ultimate determination as to whether the permit has lapsed and whether the activity proposed by Teichert Construction requires a new conditional use permit, the following type of additional information is necessary:

1) How frequently, and for what lengths of time, was an asphalt batch plant in operation on the site from 1946 through 1971?

2) How frequently, and for what lengths of time, was an asphalt batch plant in operation on the site from 1972 through 1987?

3) How frequently, and for what lengths of time, was an asphalt batch plant in operation on the site from 1987 through 2001?

4) Has each plant been placed on the site as needed and then removed after the production is over or are there any appurtenant structures that are associated with the operation of an asphalt batch plant on the site?

Although not exactly on point, the State Supreme Court has addressed similar questions regarding the non-conforming land use of a quarry operation in Nevada County. (*Hansen Brothers Enterprises, Inc., vs. Board of Supervisors* (1996) 12 Cal.4th 533.) The court found discontinued of some uses alone is insufficient grounds for the permit to lapse. The total operation needs to discontinue. Fluctuation in level of activity and location is to be expected as normal business market demand ebbs and flows. To determine if there is an expansion of the use requires a factual finding that the purpose and character of the operation has changed. Here, it does not appear the purpose has ever changed, i.e., the periodic, intermittent processing of asphalt. The current proposed use in volume and hours of operation might be considered a change in character however.

4. California Environmental Quality Act

Questions have been raised as to the role of the California Environmental Quality Act ("CEQA"—Public Resources Code section 21000 *et seq.*) in permitting the most recent activities. CEQA applies when a public agency is undertaking a discretionary approval of a project. Discretion involves the exercise of judgment or deliberation, as opposed to determining whether there has been compliance with applicable regulations and standards. (CEQA Guidelines section 15357.) (See generally Remy, et al., Guide to the California Environmental Quality Act, Pages 68-74).

The continuance of activity under a previously approved permit is not a new project for CEQA purposes. (CEQA Guidelines section 15301.) The monitoring of that activity by the County to assure compliance with the conditions of approval is an enforcement activity and is exempt. (CEQA Guidelines section 15321.) Whether the review of any proposed use for compliance with the condition is a ministerial act or discretionary can be a difficult legal judgment at times. (See, *Friends of Westwood, Inc. vs. City of Los Angeles* (1987) 191 Cal.App.3d 259). However, in this circumstance the conditions are few and appear very straightforward and may lack the judgment element discussed in *Friends of Westwood*.

Because this property is also an already permitted gravel and quarrying operation, subsidiary activities such as grading of the site for the plant are covered by the existing entitlements. Thus, there is no new discretionary permit or a grading permit called for. It does not appear that any new discretionary approvals need be obtained from the County for an asphalt plant to be operated on the site under the existing permit.

As indicated this is a permit that is more than 30 years old and has apparently never faced scrutiny under CEQA. While we have concluded that the permit is valid, we also conclude there are questions about the limits of its scope and nature. The original permit called for a "permanent location." The practice exercised by the permit holder however, was not to create a permanent asphalt plant but rather intermittent temporary plants. This practice requires County staff with each new exercise of the permit to renew investigations of compliance with the existing conditions. It appears the practice of the permit holder at times has allowed long breaks without the activity being exercised (in the nature of 10 plus years) before they renew their activity. Again, without review under CEQA.

From the limited information provided to us however, the operations appear to have been substantially smaller in volume historically and exercised during daylight hours generally. At the 1972 Zoning Administration hearing a proposed condition on hours of operation was expressly rejected after the owner offered to follow a policy regarding hours of operation except in emergencies. Over the course of 30 years the practice of Caltrans for highway renovation have shifted to nighttime operations. One can assume this is because of business reasons of the State including the management of traffic congestion at construction sites and the availability of technology to work at night. This change in practice and pattern of the State results in contracts being let for nighttime operations. It does not appear to this office that the existing permit is broad enough to include routine lengthy nighttime operations without CEQA review. However, such a determination can only be done formally consistent with the due process principles discussed in this memorandum and County ordinances.

Teichert may be required to obtain additional permits from other regulatory agencies. To the extent the issuance of those permits require the exercise of discretion, that agency may be required to comply with CEQA. Such a determination must be made by that other permitting agency after examination of the type of permit required (i.e., discretionary vs. ministerial) and the type of activity being permitted. That agency's review of the environmental consequences of the activity are usually limited to impacts arising out of type of permit being sought, and may not cover the entirety of the operations.

Summary

1) Based upon the information available for review as of this writing, it would appear that Chevreux has a vested right in the 1972 CUP in the activities permitted by LDA-786. The scope of the proposed operation might exceed that permit. As such, the permit holder is entitled to due process prior to revocation of the permit, including notice of the basis for the revocation and the opportunity for a hearing.

2) Operations being pursued in accordance with LDA-786 must comply with all conditions of approval. The determination of whether a violation of the conditions has occurred is a factual question and requires a detailed review of all of the factors surrounding the issuance and usage of the permit as well as a hearing. This office expresses no opinion on this issue at this time, but recommends a complete factual investigation be undertaken.

3) A question has been raised as to whether the permit has lapsed. The determination of lapse is a factual question and requires a detailed review of all of the factors surrounding the issuance and usage of the permit. Pursuant to case law the permit cannot lapse until some due process has been extended the permit holder, therefore at this point the permit has not lapsed. Consistent with the direction laid out in Hansen such a hearing could occur. It does not appear on the limited facts provided to us at this time that such a hearing would likely be successful. However, this office expresses no final opinion on this issue at this time, but recommends a complete factual investigation be undertaken.

4) The California Environmental Quality Act applies only to discretionary decisions. LDA-786 is an existing and valid permit. There is no additional discretionary review for the County if Chevreux's utilization of the property is already allowed by existing permits. To the extent other permits are required from other regulatory agencies, the scope of that agency's authority and review will determine the applicability of CEQA. However, if staff is required to exercise judgment to determine compliance with existing conditions, CEQA might be triggered. Any expansion of the permit would trigger CEQA review.

I recommend obtaining information from the permit holder discussed above.

AJL/dkp

Cc: Valerie Flood, Counsel for APCD

Attachments: Planning Director Opinion, dated July 31, 1987

Copy of LDA-786, dated May 25, 1972

EXHIBIT 28

MEMO

To: Anthony J. LaBouff, County Counsel
Scott Finley, Deputy County Counsel
Supervisor Bruce Kranz, 5th District

From: Brigit S. Barnes

Subject: Continued Validity of Chevreux Aggregates, Inc. Use Permit LDA-786;
Response to Placer County Counsel Memo dated February 25, 2005
Our Client, Chevreux Aggregates, Inc., Chevreux Concrete, Inc.
Chevreux/Combie, Our File No. 2364.01

Date: March 9, 2005

The purpose of this memorandum is to respond and provide information, insofar as possible, to the questions contained in your February 25, 2005 memo, and to provide a preliminary analysis of our client's rights relative to Use Permit LDA-786. The conclusion of your February 25, 2005 memo is that Chevreux's quarry permits and asphalt permits were properly exercised and are vested. There is no discretionary review of those permits allowed, and issues of discretion can only apply to Teichert's proposed asphalt plant, which the County may believe exceeds LDA-786's scope.

Since the analysis contained in your memorandum turns on information you did not have, the chronology included herein is intended to provide that missing data. Assuming that our supplements provide the needed information requested in your memo, I am also including our interim legal analysis.

It is our contention that historic uses of the site for major roadway repair jobs beginning in 1947, and continuing under the auspices of the relevant permit, establish that the Chevreux Combie asphalt plant site is vested for regular, but intermitted substantial uses.¹ LDA-786 was issued on May 25, 1972. The Zoning Administrator (ZA) deleted proposed condition number 5 dealing with hours of operation and tonnages. He also explained to the audience that the use permit hearings could not be used "as an abatement proceeding or to reduce the truck traffic in the area." In his findings, the ZA also explained that a condition limiting hours of operation for asphalt "has no force and effect

¹ The quarry itself pre-dates 1947 and is not only vested under SMARA, but Placer County re-zoned the Chevreux/ARP Ranch/NID site "Mineral Reserve" in 1978 to preserve the ability of the quarry to continue to operate in the face of increased neighborhood population.

BRIGIT S. BARNES & ASSOCIATES, INC.

A Professional Law Corporation

www.landlawbybarnes.com

3262 Penryn Road, Suite 200

Loomis, CA 95650

Telephone: (916) 660-9555

Facsimile: (916) 660-9554

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

because there are no specific hours of hauling; and enforceability was questionable as trucks serving both operations use Combie Road." [The May 25, 1972 ZA Hearing Minutes are attached as **Exhibit A**].

The quarry itself has operated since at least 1946, and we believe it has been permitted since 1965 under permit number 1224 for quarrying. No permit, whether land use related or asphalt plant related, includes restrictions in truck traffic, or nighttime operations. Therefore, Teichert's current application is substantially within the historic production and traffic patterns for large construction and repair jobs supplied with asphalt from the Combie site. The basis for our contentions involves a careful review of what historic records have been discovered, together with our review of case law, committee reports and legislative intent analysis to determine an appropriate interpretation of exemptions, and discretionary versus ministerial projects for the purposes of CEQA analysis applicable to Teichert's proposed site for its asphalt operations at the Chevreux quarry.

CHRONOLOGY

Your memo seeks the following information:

- 1) **What was the nature of the operation that was occurring on the site when the first permit was approved in 1971? Did it include nighttime production and offside hauling? What was the nature of the operations prior to 1971?**

Tom McMahan's memo of May 25, 1972 [referenced by you] accurately reflects a summary of the status of the plant. Mr. Chevreux wrote Richard Heika, then Placer County Planning Director, on April 21, 1971 identifying prior asphalt operations at the gravel plant. [A copy of the Heika letter is attached as **Exhibit B**]. That letter identifies asphalt production at regular, but not-continuous intervals in connection with major road construction and maintenance projects:

- | | |
|-----------|--|
| 1947-1948 | Placer Hill Road, Placer County/and private projects, involving Syar Construction Co., Vallejo, California. We have also identified from Chevreux company records road contracts on Highway 49 dating to October 6, 1947, and the Auburn Airport Road. Our records for actual tonnage do not start until 1988 with the Morrison-Knudsen job. |
| 1949-1952 | Highway 40 [Interstate 80] Auburn to Clipper Gap, Caltrans project, plus other County and private jobs; Wesbrook & Pope, Sacramento and Frederickson and Watson, Oakland. |

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

1956-1960 Clipper Gap Newcastle, Interstate 80, Highway 49
from Auburn to Combie Road, etc. Caltrans and
County jobs; Baldwin Contracting Co., Marysville and
Isabell Construction Co., Reno, Nevada.

We have located references in the Auburn Journal (dated April 1965) where
nighttime truck traffic is indicated.

The application for Use Permit LDA-786 was intended to relocate the asphalt
operations away from the Bear River and Lake Combie. (See Chevreux discussion in
Minutes of Zoning Administrator, May 25, 1972, attached as **Exhibit A** in support of
the Kaiser job for repairs and maintenance to Interstate 80.)

- 2) **What kind of activities took place between 1972 and 1987, when the
Planning Director affirmed the validity of LDA-786? Was there
ever any nighttime production? What was the projection
volume?**

Our records show that the Kaiser job lasted from May 1971 to 1976, and processed
275-300 tons of base rock per hour, distributed out of the Lake Combie plant over two
shifts daily. [See *California Builder & Engineer* article dated August 11, 1972,
attached as **Exhibit C**]. Our engineers have extrapolated that the 275-300 tons A.B.
converts to 330 to 366 tons/hour (A.B. plus asphalt delivered up to I-80 over two
shifts, at 25 tons per truckload = 13.2 to 14.6 trucks per hour). These tonnage figures
only represent an average. Actual paving volume would peak above the 50-60 tph
level, although the article is silent on how much. Our plant records indicate that
operations would have started around 7:00 a.m. and concluded around 2:00 a.m.

On February 8, 1974, Joe Chevreux wrote Gibbons & Reed, the predominant freeway
contractor operating out of the Chevreux operations, refereeing continued operations
of the asphalt plant. (**Exhibit D**.)

Anecdotal evidence of night traffic was given by Frank Schwartz at the March 3, 2005
Meadow Vista MAC meeting. Mr. Schwartz is a local paving contractor who has
worked out of the Chevreux asphalt plant since the early 1970s. He recalls the
nighttime paving from the early to mid-1970s.

Thereafter, smaller asphalt jobs occurred until the next major Interstate 80 overhaul
began in 1980, and continued until 1985 under the Caltrans job undertaken by
Morrison/Knudsen.

BRIGIT S. BARNES & ASSOCIATES, INC.
A Professional Law Corporation
www.landlawbybarnes.com

3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

- 3) What kind of activities took place between 1987 and 2001, when the permit was issued for the Kiewit Pacific facility? Again, was there any nighttime production? What was the volume of material produced?

The Morrison/Knudsen job, which began in 1980 and continued until 1985, was the next major I-80 overhaul and involved substantial amounts of concrete as well as asphalt. Our records indicate 1,559.69 trips over 6 months = 13 trucks a day for 1988; trips over six months = 65 trucks a day in 1989; and the tail end of the job in 1990 involved 446.54 trips per year, averaging 4 trucks a day.

Occasionally, Chevreux continued to produce asphalt from the plant from 1990 to 2001. Please keep in mind that asphalt can only be produced during relatively warm weather; therefore, at most, the plant was operational for six months per year. Following the Morrison/Knudsen job, the next major Interstate 80 overhaul occurred in 2001 and lasted until 2002 with the Kiewit Pacific job [referenced on page 2 of your opinion]. This job involved production of 110,000 tons per quarter, 4,800 tons per day, delivered over one shift at the rate of 14 trucks per hour. The Peter Kiewit Co. applied for, and was granted, a separate air quality permit - Number AC-01-51. (A copy of Permit Number AC-01-51 is attached for your records as **Exhibit E**.) Night operations were not required for this job. Despite the size of the job, only limited public comment was received by Kiewit operations, and our files show that the County advised Chevreux that all neighbor concerns were resolved. [See Placer County Air Pollution Control District fax dated February 4, 2005, **Exhibit F**]. There is no record of any public objection to the production of asphalt during that job or the number of trucks traversing to and from the quarry site.

- 4) Conditions Number 3 and 4 require approval from the Air Pollution Control District for the equipment operating at the site. If operations occurred prior to 2001 (when APCD issued AC-01-51), what kind of approvals were issued by APCD?

On July 28, 1971, APCD issued Fresno Paving, the operator of the plant at Chevreux's Combie operation, a permit to operate; indicating that the plant was installed and operating in accordance with APCD's requirements (**Exhibit G**). LDA-786 was intended by Mr. Chevreux to follow directly from the understandings and conditions contained in LDA-691. In preparation for the use permit hearing for LDA-691, the County Health Department/Air Pollution Control Board sent a memo dated May 19, 1971 to the Development Review Committee (DRC) recommending what became Condition Number 5 of the final permit. (The APCD memo is attached as **Exhibit H**). That condition requires submittal of various tonnage and hours of

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

operation information for the APCD to manage the issuance and policing of permits under their area of control. As later intimated in the LDA-786 hearing minutes, it does not institute hours of operation control or tonnage limits on trucking. Placer APCD sent Joe Chevreux a letter dated June 29, 1973 (**Exhibit I.1-I.3**) stating:

"We wish to thank you for your timely response to our letter of June 12...improved the dust situation..."

This letter confirms that one year after issuance of LDA-786 APCD conditions were being met.

Our research to obtain copies of permits issued to companies working in the quarry continues. Permit No. AC-01-51 included dust control, fuel oil and emission limitations. (A copy of Permit Number AC-01-51 is attached for your records as **Exhibit E**.) A note from APCD indicates that the type of asphalt plant proposed by Teichert is much cleaner than the Kiewit diesel plant. (A copy of the note from APCD is attached as **Exhibit F**).

- 5) **Conditions Number 5 and 6 [of LDA-786] concern the effects of the operations on the Bear River. Have these conditions been complied with?**

We were informed last week that, based on a citizen complaint, the Regional Water Quality Control Board is separately reviewing the conditions of the present Teichert application. Mr. Fleming, the Chevreux engineer, is meeting with RWQCB on March 8, 2005 to review the scope, location and conditions of asphalt manufactured to ensure that all aspects of the permit have been met. (Attached for your information is WDR 75-264 for Fresno Paving and Joe Chevreux, dated November 21, 1975, which replaced the prior WDR 72-116 (**Exhibit J**).) This permit contains no restrictions involving truck traffic or hours of operation.

Your memo also asked for information regarding potential lapse of asphalt batch operations since 1946:

- 1) **How frequently, and for what lengths of time, was an asphalt batch plant in operation on the site from 1946 through 1971?**

On April 21, 1971, Mr. Chevreux wrote Richard Heika, then Placer County Planning Director, identifying prior asphalt operations at the gravel plant. (A copy of the Heika letter is attached as **Exhibit B**). That letter identifies asphalt production at regular, but not-continuous intervals in connection with major road construction and maintenance projects:

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

- 1947-1949 Placer Hill Road, Placer County/and private projects, involving Syar Construction Co., Vallejo, California. We have also identified, from Chevreux company records, road contracts on Highway 49 dating to October 6, 1947, and the Auburn Airport Road. Our records for actual tonnage do not start until 1988 with the Morrison-Knudsen job.
- 1949-1953 Highway 40 (Interstate 80) Auburn to Clipper Gap, Caltrans project, plus other County and private jobs; Wesbrook & Pope, Sacramento and Frederickson and Watson, Oakland.
- 1956-1960 Clipper Gap Newcastle, Interstate 80, Highway 49 from Auburn to Combie Road, etc. Caltrans and County jobs; Baldwin Contracting Co., Marysville and Isabell Construction Co., Reno, Nevada.

The application for Use Permit LDA-786 was intended to relocate the asphalt operations away from the Bear River and Lake Combie (See Chevreux discussion in Minutes of Zoning Administrator, May 25, 1972, attached as **Exhibit A** in support of the Kaiser job for repairs and maintenance to Interstate 80.)

2) How frequently, and for what lengths of time, was an asphalt batch plant in operation on the site from 1972 through 1987?

Our records show that the job lasted from May 1971 to 1976, and processed 275-300 tons of base rock per hour; distributed out of the Lake Combie plant over two shifts daily. [See August 11, 1972 *California Builder & Engineer* article attached as **Exhibit C**]. Our engineers have extrapolated that the 275 to 300 tons A.B. converts to 330 to 366 tons/hour. (A.B. plus asphalt delivered up to I-80 over two shifts, at 25 tons per truckload = 13.2 to 14.6 trucks per hour.) Our plant records indicate that operations would have started around 7:00 a.m. and concluded around 2:00 a.m.

On February 8, 1974, Joe Chevreux wrote Gibbons & Reed, the predominant freeway contractor operating out of the Chevreux operations, refereeing continued operations of the asphalt plant. (**Exhibit D**.)

Anecdotal evidence of night traffic was given by Frank Schwartz at the March 3, 2005 Meadow Vista MAC meeting. Mr. Schwartz is a local paving contractor who has worked out of the Chevreux asphalt plant since the early 1970s. He recalls the nighttime paving from the early to mid-1970s.

BRIGIT S. BARNES & ASSOCIATES, INC.
A Professional Law Corporation
www.landlawbybarnes.com

3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

Detailed records are not available until about 1987. However, our records indicate that regular, smaller asphalt jobs occurred during the summer months each year until the next major Interstate 80 overhaul began in 1980, and continued until 1985 under the Caltrans job let to Morrison/Knudsen. This job involved substantial amounts of concrete as well as asphalt. Our records indicate 1,559.69 trips over 6 months = 13 trucks a day for 1988; 7,785.29 trips over six months = 65 trucks a day in 1989; and the tail end of the job in 1990 involved 446.54 trips per year, averaging 4 trucks a day.

Occasionally, Chevreux continued to operate asphalt from the plant from 1990 to 2001. Please keep in mind that asphalt can only be produced during relatively warm weather; therefore, at the most, the plant was operational for six months per year.

3) How frequently, and for what lengths of time, was an asphalt batch plant in operation on the site from 1987 through 2001?

Following the Morrison/Knudsen job, the next major Interstate 80 overhaul occurred in 2001 and lasted until 2002 with the Kiewit Pacific job [referenced on page 2 of your opinion]. This job involved production of 110,000 tons per quarter, 4,800 tons per day, and delivered over one shift at the rate of 14 trucks per hour. The Peter Kiewit Co. applied for and was granted a separate air quality permit - Number AC-01-51. Night operations were not required for this job. Despite the size of the job, only limited public comment was received by Kiewit operations, and our files show that the County advised Chevreux that all neighbor concerns were resolved. (See Placer County Air Pollution Control District Fax dated February 4, 2005, **Exhibit F.**) There is no record of any public objection to the production of asphalt during that job or the number of trucks traversing to and from the quarry site.

In late July, 1987, Planning Director, Tom McMahan, provided an opinion letter (in consultation with County Counsel) stating that even due to a recent lapse of asphalt activity since 1976, LDA-786 was valid and in good standing, subject to continuing to meet the permit's conditions.

Thus, a review of the records available, establish that LDA-786 confirmed the historic asphalt and concrete operations at the Combie site, and that asphalt operations were maintained on a regular but intermittent basis - in smaller local jobs, and at significant sizes whenever major road repairs were needed.

ANALYSIS OF CHEVREUX'S VESTED USE PERMIT RIGHTS

As confirmed above, your office concurs that Chevreux's mining operations are fully exercised and vested. Your memo acknowledges that Chevreux's conditional use permit, which has been exercised, obtains a protected property interest. As has been

BRIGIT S. BARNES & ASSOCIATES, INC.
A Professional Law Corporation
www.landlawbybarnes.com

3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

shown by the history provided above, the LDA-786 permit has been exercised at regular intervals, whenever major roadwork is required on Highway 49 or Interstate 80, or surrounding roads, and that permitted operations have never lapsed. We submit that in addition to the permit's being regularly exercised, the permit is coupled with regular contributions made by our client at the request of the County, but which were not mandated, which contributions further vest the permit with permanency.

For example, the Advisory Comment included in the May 27, 1972 hearing minutes identified the widening of the shoulder on Combie Road, and requested Chevreux's assistance. While this request *was not made a condition of the use permit*, the Chevreux corporations performed the widening at Chevreux expense. In 1973, the Placer County Health Department, the precursor to the Air Pollution Control District, wrote Mr. Chevreux regarding excessive dust caused by Kaiser and Fresno Paving during the ongoing project. (Please note: No complaints were received from the public for the nighttime operations of the Kaiser/Fresno Paving job. Mr. Chevreux responded, advising the County that Fresno Paving was to have paved the access roads, but failed to provide this service. Even though it was not a condition of the permits, Chevreux Aggregates oiled the roads to prevent further dust problems for residents. (Copies of the relevant correspondence are attached as **Exhibits I.1** through **I.3**)

Contrary to issues recently raised to the effect that the hours of operation or amount of truck traffic have ever been restricted, our research into very old files indicates that no restrictions have ever been imposed. The Department of Public Works sent a memo dated May 20, 1971 as part of the LDA -691 review (**Exhibit K**) discussing proposed condition number 2: "Truck traffic not to conflict with the established school bus schedules and hauling shall be coordinated with the school district and limited to specific times." This condition was not finally recommended or adopted, probably due to the stated lack of objections by the school district. The LDA-691 meeting minutes of May 27, 1971 (**Exhibit L**), when the permit was approved, show that Placer Hills School District submitted a letter stating, "The purpose of this letter is to ... stipulate that we voice no objection ... of the basis of the information that traffic levels will not increase." It is reasonable to postulate that in 1971 the school district was aware of the long-standing truck traffic use going back to 1947, and that traffic for asphalt was part of the regular quarry product traffic. The minutes indicate that no action was taken to limit truck traffic; instead, road shoulder repair work was requested.

On April 26, 1972, Mr. William Cramer of Placer County's Planning Department wrote Joe Chevreux (**Exhibit M**) stating:

"This letter is in response to your request concerning relocation of your asphalt plant. Tom McMahan and I reviewed in the field . . . the overall operation of the plant was in order, and to the best of our knowledge, all

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

conditions of the Use Permit for this operation are being carried out. . . .
County Counsel has informed us that as long as the relocation site for the asphalt plant is within the confines of the two parcels mentioned above, there will be no need for a new hearing. It is our opinion, after the field review with you, that the new relocation site . . . conforms with the approval granted under permit LDA-691."

Therefore, we respectfully disagree with your analysis that the Chevreux use permit could be revoked or modified after a hearing to provide the corporation's due process. As is detailed in the chronology described above, the proposed Teichert asphalt plant does not represent a change in circumstances. Further, after a permit has been issued, it may not be revoked by an administrative body on the basis of a subsequent change of circumstances where the permittee has made substantial improvements in good faith reliance on the permit. (See Russian Hill Improvement Assn. v. Board of Permit Appeals (1967) 66 Cal.2d 34, 39 [57 Cal.Rptr. 672, 423 P.2d 824]; Brouger v. Board of Public Works (1928) 205 Cal. 426, 432-435 [271 P. 497].) These cases examined subsequent changes in zoning laws affecting use permitted operations. In the case of the Chevreux use permits, the relevant later zoning change *actually protects quarry operations, and does not permit encroachment by surrounding neighborhoods.*

Our records indicate that the Placer County Board of Supervisors approved the rezone of the Chevreux NID/ARP Ranch property in 1978 to assure that the property was designated Mineral Reserve, specifically to "flag for future developers of (surrounding properties) that the property contains minerals that might be commercially extracted." Auburn Journal, May 17, 1978 (A copy of this article is attached as **Exhibits N**).

Your analysis made clear that the County was not in possession of historical information from which to determine whether or not Teichert's proposed uses would expand vested permit operations or should be considered as contemplated within the vested use permits; therefore, allowing for review of those expanded uses under CEQA. Teichert's activities, which appear to be in question, i.e., night traffic and size of the asphalt plant, are activities contemplated in the vested permit, and, therefore, should not trigger CEQA because use permit LDA-786 is vested. Nighttime operations were explicitly contemplated and ongoing during the 1971-1976 Kaiser job, when the use permit was issued. Teichert's proposal for a separate air quality permit for the asphalt plant is the subject of a separate review; and the Air Pollution Control District has already acknowledged it is cleaner than the previously permitted Keiwi plant.

A project applies to the "whole of an action." [14 Cal. Code Reg. §15378²]. Any activity, which may cause either a direct physical change in the environment, or a

² "Effects" and "impacts" as used in these guidelines are synonymous. (a) Effects include: (1) Direct or primary effects which are caused by the project and occur at the same time and place; (2) Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

reasonably foreseeable indirect physical change in environment and/or an activity supported in whole or in part by a public agency or an activity involving the issuance by a public agency of some form of entitlement or permit. [Pub. Res. Code §21065³; 14 Cal. Code Reg. §15378].

These definitions might require CEQA review of the permit application, if that application and the activities contemplated by the permit did not go back to 1947. CEQA provides an exemption for activities that were approved or carried out before December 5, 1972. Pub. Res. Code § 21169. This exemption was created by the Legislature to avoid the retroactive application of the California Supreme Court's decision in Friends of Mammoth v. Board of Supervisors (1972) 8 Cal. 3d 247, 104 Cal. Rptr. 761, 502 P.2d 1049 to ongoing previously permitted activities. Since the scope of ongoing uses dating back to 1947 involved unrestricted hours of operation and truck traffic, these aspects of the present Teichert proposal should be treated as exempt.

CEQA's Guidelines also confirm the "grandfathered exemption." Private projects approved before compliance date of CEQA are excluded from the CEQA guidelines unless a suit challenging CEQA grounds was pending on the effective date of December 5, 1972, or if further discretionary approval or public agency responsibility or control is needed. [14 Cal. Code Reg. §15261(b)(3)⁴]

Cal Pub Resources Code § 21169, which had an effective date of December 5, 1972 states:

"Any project defined in subdivision (c) of Section 21065 undertaken, carried out or approved on or before the effective date of this section and

are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems; (b) Effects analyzed under CEQA must be related to a physical change.

³ "Project" means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following: (a) An activity directly undertaken by any public agency; (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

⁴ Where a private project has been granted, a discretionary governmental approval for part of the project before April 5, 1973, and another or additional discretionary governmental approvals after April 5, 1973, the project shall be subject to CEQA only if the approval or approvals after April 5, 1973, involve a greater degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

BRIGIT S. BARNES & ASSOCIATES, INC.
A Professional Law Corporation
www.landlawbybarnes.com

3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

the issuance by any public agency of any lease, permit, license, certificate or other entitlement for use executed or issued on or before the effective date of this section notwithstanding a failure to comply with this division, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective. Any project undertaken by a person which was supported in whole or part through contracts with one or more public agencies on or before the effective date of this section, notwithstanding a failure to comply with this division, if otherwise legal and valid, is hereby confirmed, validated and declared legally effective."

This office recognizes the trepidation that the County may feel in relying on this exemption given the window for application. However, the exemption directly applies to the facts of the Chevreux use permit. We have detailed the historic uses we can still clearly confirm which occurred before and during the 1972 permit hearings. LDA-786 was approved June 5, 1972, before the effective date of CEQA, and related back to May 27, 1971, under LDA-691. It is important to note that the Kaiser job was ongoing at the time the second permit was issued. The initial uses of the permit, including substantial truck traffic on both Combie Road and out through Placer Hills Road for two shifts continuously for four (4) years, was explicitly approved by the Zoning Administrator's findings:

"... Condition No. 5 of the previous permit limiting hours of operation has no force and effect because there are no specific hours of hauling; and the enforceability was questionable as trucks serving both operations use Combie Road..."

Moreover, the CEQA process applies only to discretionary projects proposed to be carried out or approved by public agencies: [Pub. Res. Code § 21080(a)]. This definition excludes from CEQA purview proposed agency actions that are ministerial rather than discretionary and actions that are not projects. [14 Cal. Code Reg. §§ 15002(i)⁵, 15357⁶]. You and I concur that the term "ministerial" is limited to those approvals that can be legally compelled without substantial modification or change. [Friends of Westwood, Inc. v. City of Los Angeles (1987) 191 Cal.App.3d 259, 272.]

The factual analysis the County is engaged in is enveloped within the very definition of

⁵ (i) Discretionary Action. CEQA applies in situations where a governmental agency can use its judgment in deciding whether and how to carry out or approve a project. A project subject to such judgmental controls is called a "discretionary project." See Section 15357.

⁶ "Discretionary project" means a project that requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

Memorandum to County Counsel
Re: Chevreaux Aggregates, Inc. /Chevreaux Concrete, Inc.
March 9, 2005

ministerial review. Anticipated use and scope of the pre-existing permit is being examined to make sure the present use fits within what was contemplated by the LDA-786 permit. Review only becomes discretionary if a factual review determines that the hours of operation were not contemplated within the scope of LDA-786. The Zoning Administrator explicitly considered limiting the hours of operation and determined that the hours should not be limited. The Planning Department had prepared conditions that would have required periodic review of quantities and hours of operation. (The relevant memorandum is attached as **Exhibit L.**) Condition Number 5 was rejected after the testimony received from the surrounding neighbors and Mr. Chevreaux.

You have suggested to me that Mr. Chevreaux's language at the May 25, 1972 hearing regarding limiting hours of operation as a matter of policy amounts to a promise to limit hours that was relied upon by the County. I have carefully reviewed all the documentation our clients can find on this issue. In fact, at the very time the hearing was conducted, two shifts were regularly operating out of the quarry on the Kaiser job. Practically, this means that truck traffic on Placer Hills and Combie would have started around 7:00 a.m. and continued until around 1:00 a.m., daily. Therefore, no one present at the hearing could have understood Mr. Chevreaux's statements to mean daylight hours of operation only. The Teichert application has been geared to Caltrans' present requirements, and should include substantial nighttime loads only; not daytime and nighttime loads, as was permitted under Use Permit LDA-786 and contemporaneously exercised for the Kaiser job. The scope of use appears to be very close in size to the number of trucks anticipated for the Teichert job; likewise, Teichert's proposal falls within the scope of traffic for both the Kaiser and Keiwit jobs, both of which operated under the relevant permit.

The issue of reliance actually supports upholding the non-discretionary/vested nature of the permits. It is the Chevreaux organization, which relied on its agreements with the County, and expended substantial sums to maintain public roads in furtherance of its attempts to be a good neighbor, all to Placer County's benefit. Mr. Chevreaux continued to honor the non-obligatory un-written conditions of the permit in the breach. Our research indicates that once again in 2000 and 2001, Chevreaux Aggregates contributed the materials used to re-pave the shoulders on Combie Road and Placer Hills Road in preparation for the Kiewit job; and supplied nearly 1,000 tons of shoulder backing sand, dirt and concrete, and over 40 truck loads for this repair and maintenance work to County roads.

Regular but intermittent exercise of the asphalt permit likewise does not vitiate the CEQA exemptions identified above. Whether an activity requires environmental review depends upon whether it expands or enlarges project facilities or whether it merely monitors and adjusts the operation of existing facilities to meet fluctuating conditions. (Cf. County of Inyo v. Yorty (1973) 32 Cal.App.3d 795, 806-807 [108 Cal.Rptr. 377]; Nacimient Regional Water Management Adv. Com. V. Monterey County Water

BRIGIT S. BARNES & ASSOCIATES, INC.
A Professional Law Corporation
www.landlawbybarnes.com

3262 Penryn Road, Suite 200
Loomis, CA 95650
Telephone: (916) 660-9555
Facsimile: (916) 660-9554

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

Resources Agency (1993) 15 Cal. App. 4th 200; 19 Cal. Rptr. 2d 1. Examples of case law upholding ongoing operations, which required no additional environmental review, included the following:

The decision to draft from one reservoir to another for the first time in 10 years is a project involving a ministerial decision necessitated by law and conditions and therefore is exempt from CEQA. [Leach v. City of San Diego (1990) 220 Cal.App.3d 389, 393-395].

Additionally, 14 Cal. Code Reg. §15301 establishes that certain existing facilities and uses with certain limited changes are exempt from CEQA:

Class 1: Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures or facilities that does not expand existing uses.

Case law that supports applying this exemption includes:

1. Erven v. Riverside County Bd. of Supervisors (1975) 53 Cal. App. 3d 1004, 1014 (exemption includes authorization of road maintenance and repair);
2. Committee for a Progressive Gilroy v. State Water Resources Control Bd. (1987) 192 Cal. App. 3d 847, 864, (exemption includes Regional Water Quality Control Board Order permitting operation of waste water treatment plant at previously approved capacity);
3. Bloom v. McGurk (1994) 26 Cal. App. 4th 1307, 1315; 31 Cal. Rptr. 2d 914 (exemption includes issuance of medical waste permit by State Department of Health Services for continued operation of existing facility); and
4. Apartment Assn. of Greater Los Angeles v. City of Los Angeles (2001) 90 Cal. App. 4th 1162, 1173-1176 (exemption was appropriate for adoption of city housing code enforcement ordinance that required owners to rehabilitate and repair residential properties).

Therefore, whether or not CEQA is triggered depends on the new activities, the amount of those activities, and the impact of those activities. Comparing the relevant cases with the activities contemplated by Teichert located on the land permitted under LDA-786, confirms that the County should determine that the contemplated activity is excluded

Memorandum to County Counsel
Re: Chevreux Aggregates, Inc. /Chevreux Concrete, Inc.
March 9, 2005

because it is contemplated under a permit issued pre-existing to CEQA; non-discretionary, and, therefore, not subject to CEQA; and that the contemplated activity is exempt under 14 Cal. Code Regs. 15301.

EXHIBITS:

Exhibit A:	Zoning Administrator Hearing Minutes dated May 25, 1972
Exhibit B:	Chevreux Letter to Richard Heika dated April 21, 1971
Exhibit C:	<i>California Builder & Engineer</i> article dated August 11, 1972
Exhibit D:	Chevreux Letter dated February 8, 1974 to Gibbons & Reed
Exhibit E:	Permit No. AC-01-51
Exhibit F:	Placer County Air Pollution Control District fax - February 4, 2005
Exhibit G:	Fresno Paving/Chevreux Air Quality Permit
Exhibit H:	APCD Memo to DRC
Exhibit I-1-I-3:	Correspondence between Placer County Health Dept. and Chevreux
Exhibit J:	WDR 75-264
Exhibit K:	DPW Memo dated May 20, 1971
Exhibit L:	LDA-691 Meeting Minutes
Exhibit M:	Cramer Letter to Chevreux dated April 26, 1972
Exhibit N:	Auburn Journal article dated May 17, 1978

Chevreux/Combie.CountyCounci.AsphaltUsePermit.Memo.030805

EXHIBIT 29



Placer County Counsel

COUNTY ADMINISTRATIVE CENTER • 175 FULWEILER AVENUE
AUBURN, CALIFORNIA 95603-4581
(530) 889-4044 • FAX: (530) 889-4069

ANTHONY J. La BOUFF
County Counsel

GERALD O. CARDEN
Chief Deputy

March 22, 2005

Brigit S. Barnes, Esq.
Barnes & Associates
3262 Penryn Road, #200
Loomis, California 95650

Re: Validity of LDA-786

Dear Ms. Barnes:

Thank you for your memorandum dated March 9, 2005 responding to the issues raised in my memorandum dated February 25, 2005. This office has continued to review the status of the Teichert Construction's proposal to operate an asphalt plant under Placer County Permit LDA-786. The purpose of this letter is to apprise you that, having reviewed the information you provided and the files of other regulatory agencies and having done some independent investigation of facts, this office continues to question whether the Teichert proposal falls within the bounds of the permit that was granted to Joe Chevreux in 1972.

I wish to briefly detail for you some of the issues from the perspective of this office.

First and foremost is the matter of hours of operation. While you have provided some anecdotal evidence that Chevreux ran shifts at the site in the early 1970's that may have extended beyond daylight hours, there is no evidence that any operation has ever been run that operated only through nighttime hours as is currently being proposed. Regardless of the lack of specificity in operating hours in the original permit, the record of the hearing in 1972 does not support an inference that Mr. Chevreux was intending to preserve the right to operate throughout the night on a sustained basis. There is doubt whether the intent of LDA-786 as issued was to grant the right to engage in unlimited nighttime operations.

Second, there is a question of intensity of the Teichert operation. While the County acknowledges that a permittee is entitled to utilize his or her permit in a

MAR 23 2005

reasonable manner in light of its purpose, the Teichert proposal would appear to be a level and manner of production that far exceeds any previous use. Even a permitted use can become a nuisance when it impermissibly expands beyond its original scope.

Third, the issue of lapse has never been fully addressed. The fact that the County determined, in 1987, that the permit was valid at that time does not conclusively establish its status almost 20 years later, especially in light of the amendment to the County ordinances in the interim to include new standards concerning lapse. The County is not estopped from looking into the use of the site over time and reviewing that issue should the validity of the permit be otherwise called into question.

Fourth, there are unresolved issues as to whether the Teichert operation will involve discharges into the Bear River, whether Teichert is required to obtain a separate discharge permit from the Regional Water Quality Control Board for this activity and whether Chevreux needs to submit an amendment of its work plan to the RWQCB. Condition Number 7 requires compliance with the discharge requirements of the RWQCB. Until compliance is assured, operations cannot proceed.

In addition, the County is concerned about the apparent non-compliance of Chevreux Aggregates itself with respect to its existing Discharge Permit. The permit covers the property upon which the asphalt plant is located and regulates the overall operations that will be providing source material to the asphalt plant. This situation could be a violation of Condition Number 6 of LDA-786.

Fifth, the actual location of the proposed Teichert plant may be at issue. LDA-786 was issued to allow a change in location for the plant permitted by LDA-691. The use of any other location on your client's property for this activity is not permitted.

In my earlier memorandum, I acknowledged that your client has a vested right in LDA-786. When a permit holder acts in a manner that the County believes is in excess of the permit entitlement, the mechanism for enforcement is for the County to issue a notice of violation and hold a hearing under the provisions of Placer County Zoning Ordinance 17.62.170—Permit Revocation. If the County were to proceed with a revocation hearing, your client would have an opportunity to present more evidence prior to any decision being made as to whether the Teichert proposal is permitted under LDA-786. You should be aware that if a revocation proceeding were initiated, any and all of the foregoing issues could be asserted as separate and individual bases for revocation.

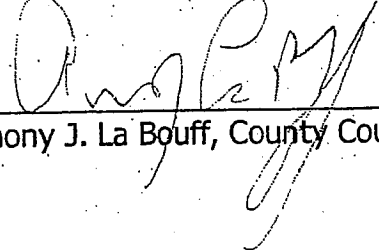
Brigit S. Barnes, Esq.
Re: Validity of LDA-786
March 22, 2005
Page 3

The result of a revocation proceeding is difficult to predict, and the decision could range from outright revocation to imposition of reasonable hours of operation. In the interests of being fully candid with you, given the information that has been presented to date, I am prepared to advise the Planning Director that there is sufficient reason to take this matter to a hearing to resolve the issues discussed above if the proposal proceeds.

As always, the County seeks to achieve a balance between the needs of a property owner and the interests of the community, and this matter is no different. I would be happy to discuss any further information regarding this matter if you so wish.

Very truly yours,

PLACER COUNTY COUNSEL'S OFFICE

By: 

Anthony J. La Bouff, County Counsel

AJL/dkp

Cc: Fred Yeager, Planning Director
Valerie Flood, Counsel for APCD
John Taylor, Esq.
Susan Brandt-Hawley, Esq.

EXHIBIT 30

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

OCT 16 2006

JOHN MENDES
EXECUTIVE OFFICER & CLERK
By M. Baxley, Deputy



SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

MEADOW VISTA PROTECTION,
Petitioners and Plaintiffs,
vs.
CHEVREAUX AGGREGATES, INC., et
al.,
Respondents and Defendants.

Case No.: SCV 19614
RULING ON SUBMITTED
MATTER

On October 6, 2006 the court issued a tentative ruling on the demurrers of respondents/defendants Chevreaux Aggregates, Inc., County of Placer and County of Placer Planning Department. No hearing was requested by respondents/defendants County of Placer and County of Placer Planning Department. Accordingly, the court adopts its tentative ruling as its final ruling on those demurrers, with the exception of extending the date for leave to amend, as set forth below. Defendant/respondent Chevreaux Aggregates, Inc. ("Chreveaux") requested a hearing as to the court's tentative ruling on its demurrer. The matter was heard on October 10, 2006. Timothy Kassouni, Esq. and Angela Thompson, Esq. of the Zumbrun Law Firm appeared on behalf of petitioner/plaintiff Meadow Vista Protection.

1 Brigit S. Barnes, Esq. appeared on behalf of Chevreaux. The matter was
2 argued and the parties were permitted to file supplemental memoranda of
3 points and authorities. The court, having considered all of the moving and
4 opposing papers and the arguments of counsel, rules as follows on the
5 matters submitted:

6 Demurrers of County and Planning Department.

7 The demurrer of respondents/defendants County of Placer and County
8 of Placer Planning Department to the first cause of action for mandamus in
9 the complaint is sustained. Petitioner has failed to set forth a mandatory or
10 ministerial duty of the defendants. Section 17.60.020 describes the general
11 authority of the planning director and no mandatory duties are set forth in
12 that provision. Section 17.62.170 provides that the code enforcement
13 officer "may" initiate proceedings. This is clearly a discretionary duty. In an
14 abundance of caution, and exercising liberality with respect to allowing
15 petitioner to amend, the court will grant petitioner leave to amend. Any
16 amended petition shall be served and filed by October 26, 2006.

17 Demurrer of Chevreaux.

18 With respect to the demurrer of defendant Chevreaux to the second
19 and third causes of action for declaratory relief, an actual, justiciable
20 controversy has been alleged as between the parties. After the hearing, the
21 parties submitted supplemental memoranda regarding the applicability of
22 *Pinnacle Holdings, Inc. v. Simon (1995) 31 CA4th 1430* and related matters.
23 In that case, Pinnacle, the owner of a mobile home park, brought an action
24 after the defendant city's rent review board failed to grant a discretionary
25 rent increase. Essentially, Pinnacle sought mandamus relief compelling the
26 respondent rent review board to grant its request for a rent increase at the
27 mobile home park. In addition to suing the city and the rent review board,
28 Pinnacle joined four tenants of the park as defendants as a result of their

1 efforts in opposing the rent increase at the administrative hearing. The
2 court properly sustained the tenants' demurrers, without leave to amend,
3 because the relief requested by the owner could be granted without the
4 participation of the tenants. (*Pinnacle Holdings, Inc., supra, at 1436.*) In
5 other words, the tenants, who were not members of the rent review board,
6 had no ability to grant the essential relief sought by Pinnacle – to overturn
7 the administrative decision of the board. In this case, the prayers to the the
8 second and third causes of action, relating to Chevreaux's quarry and
9 asphalt operations, respectively, make clear that petitioners/plaintiffs do not
10 seek to invalidate the County's issuance of the subject permits. Rather, in
11 essence, petitioners/plaintiffs seek a declaration that Chevreaux's various
12 activities are not in compliance with the valid permits issued long ago.
13 Whether such relief is warranted can be determined without the participation
14 of the County as a party.

15 As to the causes of action for injunctive relief, plaintiff need not submit
16 affidavits at the time the complaint was filed. The complaint was verified
17 and sets forth sufficient facts to support the request for injunctive relief. For
18 the purposes of demurrer, the court must accept the allegations as true.
19 Defendant's demurrer to these causes of action is overruled.

20 Defendant Chevreaux's demurrer to the fifth cause of action for public
21 nuisance is overruled. By definition a public nuisance is one that affects at
22 the same time an entire community or neighborhood, or any considerable
23 number of persons, although the extent of the annoyance or damage
24 inflicted upon individuals may be unequal. (*Civil Code section 3480.*) In
25 this case, the complaint alleges plaintiff is a California nonprofit corporation
26 (paragraph 10) and that defendant's blasting activities at its quarry cause
27 noise and vibrations "on and near the property of nearby residents, including
28 members of MVP" (paragraph 54). It is alleged defendant's various activities

1 interfere with the comfortable enjoyment and use of MVP member's property
2 (paragraph 54). Accordingly, the cause of action has been pled sufficiently.
3 Further, by extension, the holding of *Residents of Beverly Glen v. City of Los*
4 *Angeles (1973) 34 CA3d 117* supports plaintiff's claim that it has standing to
5 sue to abate a nuisance alleged to be public in nature.

6 As to the sixth cause of action for private nuisance, defendant
7 Chevraux's demurrer is sustained, with leave to amend. The essence of a
8 private nuisance is its interference with the use and enjoyment of land.
9 Unlike public nuisance, which is an interference with the rights of the
10 community at large, private nuisance is a civil wrong based on disturbance
11 of rights in land. (*Venuto v. Owens-Corning Fiberglas Corp. (1971) 22 CA3d*
12 *116, 124.*) A nuisance may be both public and private, but to proceed on a
13 private nuisance theory the plaintiff must prove an injury specifically
14 referable to the use and enjoyment of his or her land. The injury, however,
15 need not be different in kind from that suffered by the general public. (*Koll-*
16 *Irvine Center Property Owners Assn. v. County of Orange (1994) 24 CA4th*
17 *1036, 1041.*) A plaintiff suing on this theory must allege and prove
18 interference with a property interest. (*Lew v. Super.Ct. (Byrd) (1993) 20*
19 *CA4th 866, 873; Oliver v. AT & T Wireless Services (1999) 76 CA4th 521,*
20 *533-534.*) In a claim for private nuisance, a plaintiff typically must
21 establish, among other elements, that it owns, leases, occupies or controls
22 real property. (*CACI 2021.*) In this case, the plaintiff nonprofit corporation
23 MVP does not allege interference with any property interest of its own.

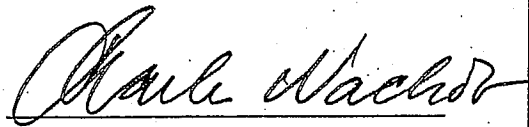
24 As to the cause of action for trespass, the demurrer of defendant
25 Chevraux is sustained, with leave to amend. The cause of action for
26 trespass is designed to protect possessory interests in land from unlawful
27 interference. "An action for trespass may technically be maintained only by
28 one whose right to possession has been violated; however, an out-of-

1 possession property owner may recover for an injury to the land by a
2 trespasser which damages the ownership interest." (*Smith v. Cap Concrete,*
3 *Inc. (1982) 133 CA3d 769, 774.*) The proper plaintiff in an action for
4 trespass to real property is the person in actual possession; no averment or
5 showing of title is necessary. (*Smith v. Cap Concrete, Inc., supra, 133 CA3d*
6 *at 775.*) Just as with its cause of action for private nuisance, plaintiff non-
7 profit corporation MVP has not alleged unlawful interference with any
8 possessory interest of its own so as to support a cause of action for private
9 nuisance. Instead, plaintiff MVP alleges that it is its members, who are
10 "nearby residents" at unspecified properties, whose possessory rights have
11 suffered.

12 As to the sixth and seventh causes of action for private nuisance and
13 trespass, respectively, plaintiff is granted leave to amend.

14 Any amended complaint shall be filed and served on or before October
15 26, 2006.

16
17 Dated: 10/16/06



Hon. Charles D. Wachob
Judge of the Superior Court

1 Case No. SCV 19614

Title of Case: Meadow Vista Protection vs. Chevreaux

2 **Proof of Service**

3 I am employed by the County of Placer, State of California. I am over the age of 18 years
4 and not a party to the within above entitled action. My business address is PLACER COUNTY
5 SUPERIOR COURT, 101 Maple Street, Auburn, California 95603. On this date, I served the
6 within:

7 ***Ruling on Submitted Matter***

8 On the parties below named in said action by placing a true copy thereof for collection and
9 mailing so as to cause it to be mailed on the date stated below, following standard court practices, in
10 sealed envelopes addressed as follows:

11 (X) Copy mailed to below listed address.

(X) Copy via FAX.

13 The Zumbrun Law Firm
14 Angela Thompson
15 Timothy Kassouni
16 3800 Watt Avenue, Suite 101
17 Sacramento, CA 95821

Facsimile: 916-486-5959

Brigit S. Barnes & Associates, Inc.
Brigit S. Barnes
3262 Penryn Road, Suite 200
Loomis, CA 95650

Facsimile: 916-660-9554

18 I am readily familiar with the County's practice of collection and processing correspondence
19 for mailing. Under the practice it would be deposited with the U.S. Postal Service and/or inter
20 office mail on that same day with postage thereon fully prepaid in the ordinary course of business.

21 I declare under penalty of perjury, under the laws of the State of California, that the
22 foregoing is true and correct. Executed on 10/16/06 Auburn, California.

23 JOHN MENDES, CLERK OF THE COURT

24 By: M. Baxley
25 Marcia Baxley, Deputy Court Clerk
26
27
28

EXHIBIT 31

Chapter 17 ZONING*Article 17.02 INTRODUCTORY PROVISIONS

17.02.010 Title and purpose.

This chapter shall be known and may be cited as the "Placer County Zoning Ordinance," Chapter 17 of the Placer County Code. This chapter is enacted to protect and promote the public health, safety, peace, comfort, convenience and general welfare; and more particularly to:

A. Carry out the goals and objectives of the Placer County general plan and the community plans adopted pursuant to the general plan, and to guide and manage the future growth of the county in accordance with those plans;

B. Manage land use in a manner that will assure the orderly development and beneficial use of the unincorporated areas of Placer County for residential, commercial, industrial, agricultural, forestry, open space and other purposes;

C. Manage the distribution of population in accordance with the availability of the natural resources, and public facilities and services necessary to support a growing population;

D. Protect and preserve important features of the Placer County natural environment and the natural beauty of the area;

E. Reduce hazards to the public resulting from the inappropriate location, use or design of buildings and land uses in relation to natural and built hazards, and the county highway system;

F. Attain the physical, social, and economic advantages resulting from comprehensive and orderly land use and resource planning. (Ord. 5126-B (part), 2001)

[<< previous](#) | [next >>](#)

EXHIBIT 32

Chapter 17 ZONING*Article 17.04 DEFINITIONS**17.04.020 Land use definitions.**

A. Purpose and Intent. In addition to other specialized terms and phrases, Section 17.04.030 defines the land uses that are identified as allowable in each zone and combining district by Sections 17.06.050 (Land Use and Permit Tables) and 17.60.060 through 17.52.130, by providing examples of specific uses that are included under the general titles listed in the land use and permit tables. The definitions are intended only to list the various land uses included under each general title, and do not explain what permit requirements or development standards may be applicable to a given use. Such requirements are instead found in Articles 17.06 through 17.52 (Zone Districts and Allowable Uses of Land), 17.54 (General Development Regulations), 17.56 (Specific Use Requirements). Section 17.04.030 also defines terms and phrases used in this chapter that are technical or specialized, or that may not reflect common usage.

B. References to SIC. Whenever a land use definition in Section 17.54 includes a reference to "SIC", such reference is to the Standard Industrial Classification Manual, 1987, published by the Executive Office of the President of the United States, Office of Management and Budget. The SIC is a collection of more comprehensive and detailed definitions of land uses, which may be consulted by the planning director in determinations about whether specific land uses are allowed in particular zone and combining districts.

C. General Rules for Construction of Language. The following general rules of construction shall apply to the interpretation and application of the terms and phrases used in this chapter:

1. The specific shall supersede the general.
2. In any case where there appears to be a difference in meaning or implication between the text of a provision and any caption or illustration, the text shall control.
3. "Shall" is mandatory; "may" is discretionary.
4. Words used in the present tense include the future; words used in the singular include the plural, and words used in the plural include the singular, unless the context clearly indicates the contrary.
5. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as shown:
 - a. "And" means that all items or provisions so connected shall apply;
 - b. "Or" means that all items or provisions so connected may apply singly or in any combination;
 - c. "Either...or" means that the items or provisions so connected shall apply, but not in combination;
 - d. "And/or" means that all items or provisions so connected shall apply collectively, or that such items shall apply singly, as may be appropriate to the specific situation.
6. All public officials, bodies, and agencies, as well as ordinances, policies, regulations, etc., referred to in this chapter are those of Placer County unless otherwise specifically noted. (Ord. 5126-B (part), 2001)

<< previous | next >>

EXHIBIT 33

Chapter 17 ZONING*Article 17.04 DEFINITIONS**17.04.030 Definitions of land uses, specialized terms and phrases.**

The following definitions are organized in alphabetical order.

"Above grade" means any elevation higher than the natural ground contour.

"Access" means the means of vehicular entrance or exit to a site.

Accessory Use. See "Use, accessory."

"Administrative Approval" means a written approval granted by the planning director pursuant to this chapter. See 17.56.060F.

Adult Entertainment Businesses. See "Sex-oriented entertainment businesses" definition. (See Section 17.56.030 for definitions of types of sex-oriented businesses.)

"Agency director" means the head of the community development/resource agency of Placer County.

"Agricultural accessory structure" (land use) means an uninhabited structure or building designed and built to store farm animals, implements, supplies or products, that contains no residential use and is not open to the public. Includes: barns; grain elevators; silos, and other similar buildings and structures, but not commercial greenhouses (which are under "Plant nurseries") or buildings for agricultural processing activities (which are under "Agricultural processing"). Also includes but is not limited to wind-powered and solar machines used for direct climate control, and water pumping or other conversion of wind or solar energy to mechanical or thermal power. Wind energy conversion machines for electric power generation are included under "Electric generating plants." See Section 17.56.020 for specific use requirements applicable to agricultural accessory structures.

Agricultural District or Zone. See "Agricultural, resource or open space district or zone."

"Agricultural processing" (land use) means the processing of crops after harvest, to prepare them for on-site marketing or processing and packaging elsewhere, including but not limited to the following; provided, that any of the activities performed in the field with mobile equipment not involving permanent buildings are included under "Crop production:"

1. Alfalfa cubing;
2. Corn shelling;
3. Cotton ginning;
4. Custom milling of flour, feed and grain;
5. Custom grist mills;
6. Dairies (but not feedlots, see instead "Animal sales yards, feedlots, stockyards");
7. Drying of corn, rice, hay, fruits and vegetables;
8. Grain cleaning and custom grinding;
9. Hay baling and cubing;
10. Pre-cooling and packaging of fresh or farm-dried fruits and vegetables;
11. Sorting, grading and packing of fruits and vegetables;
12. Taxidermy;
13. Tree nut hulling and shelling;
14. Wineries and alcohol fuel production. (SIC: 0723, 0724)

"Agricultural, resource or open space district or zone" means any of the following zone districts established by Section 17.06.010: agricultural exclusive (AE), farm (F), forestry (FOR), open space (O), timberland preserve (TPZ), water influence (W). Also, any of the following land use districts established by the Squaw Valley Land Use Ordinance (Chapter 17, Appendix A of the Placer County Code): forest-recreation and conservation preserve. In addition, any of the following land use districts established by the Tahoe City Area general plan or the Tahoe City community plan (Chapter 17, Appendix B of the Placer County Code), and the North Tahoe community plans (Chapter 17, Appendix C of the Placer County Code): conservation and recreation.

"Air pollution control district" means the air pollution control district of Placer County as established by California Health and Safety Code, Part 4, Division 26.

"Airfields, airports and landing strips" (land use) means any area of land or water used for the

landing and take-off of aircraft as well as any appurtenant areas used for airport buildings, aircraft operations and related facilities, including aprons and taxiways, control towers, hangers, safety lights and structures. Such facilities may also include parachute jump areas and FAA-certified parachute lofts; and facilities for aircraft manufacturing, maintenance, repair and reconditioning. Public airports may include aircraft sales and dealerships, beauty and barber shops, car rental establishments, gift shops, hotels and motels, restaurants and bars, tobacco and news stands, and other similar commercial uses serving the air-traveling public and airport employees. Also includes agricultural, personal, restricted and public use landing strips, defined as follows:

1. "Agricultural" or "personal landing strip" means a landing strip or heliport for agricultural crop dusting or personal use of the tenant or owner of the site, not available for public use, and with no commercial operations.

2. "Restricted use airfield" means a landing strip or heliport with exclusive rights of use reserved to the owners or tenants of units within any cluster development, multi-family development, subdivision, industry, or institution, with not more than ten (10) based aircraft; or an emergency heliport in conjunction with a hospital or public safety facility.

3. "Public use airfield" means any landing strip, airport, or heliport available for public use, or listed in the Airport Directory of the current Airman's Information Manual or in the Pacific Airman's Guide and Chart Supplement.

Section 17.56.040 contains specific use requirements for airfields and landing strips.

"Alley" means a roadway that extends through the interior of a block to provide secondary vehicular access to abutting lots, and is not intended for general traffic circulation.

Allowable Use. See "Use, allowable."

"Animal husbandry project" means, for the purposes of this chapter, the raising of farm or game animals such as cattle, horses, goats, sheep, hogs, chickens, rabbits, birds, etc., as a school, 4-H or Future Farmers of America (FFA) project.

"Animal raising and keeping" (land use) means the keeping, feeding or raising of animals as a commercial

agricultural venture, avocation, hobby or school project, either as a principal land use or subordinate to a land use. Includes the keeping of common farm animals, small-animal specialties such as rabbit farms and other fur-bearing animals; apiaries; aviaries; worm farms; household pets, etc. This definition does not include grazing, which involves the keeping of grazing animals at densities less than one animal per acre, and is instead included under the definition of "Grazing." Section 17.56.050 contains specific use requirements for animal raising and keeping.

"Animal sales yards, feed lots, stockyards" (land use) means specialized and intensive commercial animal facilities including beef and dairy feedlots (any premises where cattle are held or maintained for the purposes of feeding, and fattening for market or milking, and where sixty (60) percent or more of the feed for the cattle is imported or purchased), sales yards, stockyards.

"Antennae, communications facilities" (land use) means public, commercial and private electromagnetic and photoelectrical transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, cellular telephone, and data network communications; including commercial earth stations for satellite-based communications. Includes antennae, towers and equipment buildings. Does not include:

1. Home television and radio receiving antennae, which are included under "Residential accessory uses;"

2. Telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections, which are included under "Pipelines and transmission lines."

See also "Broadcasting studios." Section 17.56.060 contains specific use requirements for antennae and communications facilities.

Apartment. See "Multifamily dwellings."

Approved Use or Land Use. See "Use, approved."

Area. This chapter uses the following terms when dealing with the calculation of area for parking or other purposes (See also the definitions of "Minimum lot area" and "Minimum parcel size"):

1. "Floor area" means gross floor area, including the total floor area of each floor of all buildings on a site, including internal circulation (halls, lobbies, stairways, elevator shafts, enclosed porches and balconies, etc.), storage and equipment space, as measured from the outside faces of the exterior walls. If a room in a building has a sloping ceiling due to some structural component of said building, no portion of the room which measures less than five feet from the finished floor to the finished ceiling shall be included in any computation of gross floor area in the building.

2. "Living area" means any portion of a building defined as "habitable space" by the Uniform

Building Code (as adopted by Placer County) and by Chapter 15 of the Placer County Code.

3. "Office area" means any private interior office or each one hundred fifty (150) square feet of open work area not used for sales, manufacturing or storage.

4. "Site area" means gross site area--all land within the property lines of a parcel or combination of parcels that make up the site for a land use/project, including any internal easements.

5. "Use area" means all developed areas of a site and buildings, except parking and landscaping.

"ARP" means administrative review permit. See Section 17.58.100.

"Arterial" means any major street/road designed for thoroughfare use by regional traffic, as distinguished from rural roads, neighborhood streets, local service routes or collector avenues.

"Attached" means, for purposes of this chapter, buildings and structures shall be considered to be attached if they share a common roof system and if any breezeway or other similar connecting structure is at least one-half as wide as the distance between such buildings and structures, or if at least fifty (50) percent of one wall of each structure is common to the other structure.

"Auto, mobile home, vehicle and parts sales" (land use) means retail trade establishments selling and/or renting new and used automobiles, boats, vans, campers, trucks, mobile homes, recreational and utility trailers, motorized farm equipment, motorcycles, golf carts, snowmobile and jet-skis (except bicycles and mopeds, which are included under "Retail stores"). This use includes any sales of vehicles by an individual when more than six vehicles are sold in one calendar year. Also includes stores selling new automobile parts, tires and accessories (including tire recapping establishments), as well as establishments dealing in used automobiles exclusively. Does not include establishments dealing exclusively in used parts, which are included under "Recycling, scrap and wrecking yards." Includes repair shops only when maintained by a dealership selling new vehicles on the same site. (See also "Repair and maintenance--Vehicle.") Does not include "Service stations," which are separately defined. (SIC: Group 55)

Auto Wrecking Yard. See "Recycling, scrap and wrecking yards."

"Aviary" means a structure designed and used for the keeping of domestic or exotic birds, other than game fowl and poultry or ostriches, emus and similar birds. For purposes of this chapter, there are two types of aviaries (the keeping of domestic or exotic birds within a residence as an accessory use is not an aviary):

1. Indoor Aviary. An "indoor aviary" means a structure with all exterior walls being constructed of a solid and opaque material (e.g., plywood, concrete block, etc.), except that one wall may be constructed of a translucent fiberglass material. The roof must be constructed of solid material (e.g., plywood, fiberglass panels, glass, corrugated metal, etc.) and must cover at least one-half of the total floor area of the structure. The balance of the roof area must be covered with aviary netting or a similar mesh fabric material. The structure shall be equipped with a safety-type door. (See Figure 17.04.030-1A).

2. Outdoor Aviary. An "outdoor aviary" means a structure with at least one-half of the total surface of the exterior walls and one-half of the roof covered with solid materials. The remaining surface of the exterior of the structure shall be covered with aviary netting or a similar mesh fabric. The structure shall be equipped with a safety-type door. (See Figure 17.04.030-1B).

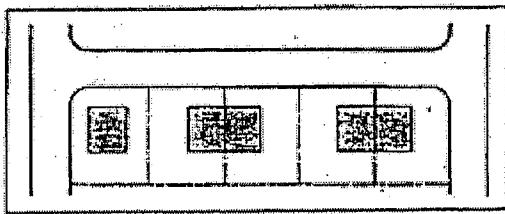


**Figure 17.04.030-1A
OUTDOOR AVIARY**

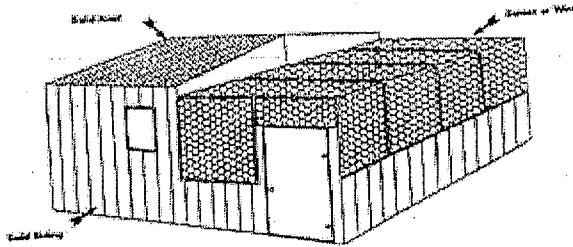


**Figure 17.04.030-1A
OUTDOOR AVIARY**

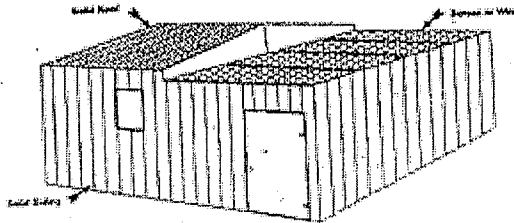


**Figure 17.04.030-1B
INDOOR AVIARY**

**Figure 17.04.030-1B
INDOOR AVIARY**

"Banks and financial services" (land use) means financial institutions including: banks and trust companies; lending and thrift institutions, credit agencies; brokers and dealers in securities and commodity contracts; security and commodity exchanges; holding (but not predominantly operating) companies; and other investment companies; vehicle finance (equity) leasing agencies. Automated teller machines (ATMs) located away from banks are also included under the definition of "Personal services." (SIC: Groups 60, 61, 62, 67)

"Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

"Bed and breakfast lodging" (land use) means a structure designed as a single-family dwelling, with one family in permanent residence, where bedrooms without individual cooking facilities are rented for overnight lodging. Meals may be provided subject to applicable county health regulations. Bed and breakfast establishments and other overnight lodging facilities in commercial zones are considered to be hotels or motels regardless of their design or operational character. This definition does not include "Hotels and motels," which are defined separately; rooming and boarding houses, which are included under "Multifamily dwellings"; or the rental of an entire residence for one week or longer. See Section 17.56.070 for specific use requirements applicable to bed and breakfasts.

"Berm" means a landscaped, earthen mound used for screening and/or noise attenuation purposes instead of a fence or wall.

Billboard. See "Sign, off-premises."

"Board of supervisors" or "board" means the board of supervisors of Placer County, California.

"Boarder" means an individual who pays a stipulated fee in return for occupying a room or rooms and/or sharing meals in a single-family residential home on a weekly or monthly basis.

Boarding House. See "Multifamily dwellings."

"Breezeway" means a covered structure, without walls, which connects two otherwise unattached buildings or structures. See also the definition of "Attached."

"Broadcasting studios" (land use) means commercial and public communications uses including telegraph, telephone, radio and television broadcasting and receiving stations and studios, and motion picture studios, with facilities entirely within buildings. Transmission and receiving apparatus, such as towers, reflectors and antennae are included under the definition of

"Communications facilities."

Building. See "Structure."

Building, Accessory. "Accessory building" means a detached subordinate building, the use of which is incidental to that of a main building on the same lot.

"Building frontage" means the wall area of a building which faces a circulation area open to the general public, which has an entrance in regular use by the general public and/or which has a main window display.

"Building height" means the vertical distance from the average level of the highest and lowest point of that portion of the lot or building site covered by the building to the topmost point of the structure, excluding chimneys or vents (see Figures 17.04.030-2A and 17.04.030-2B and Table 17.04.030-1). For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level unless otherwise specified.

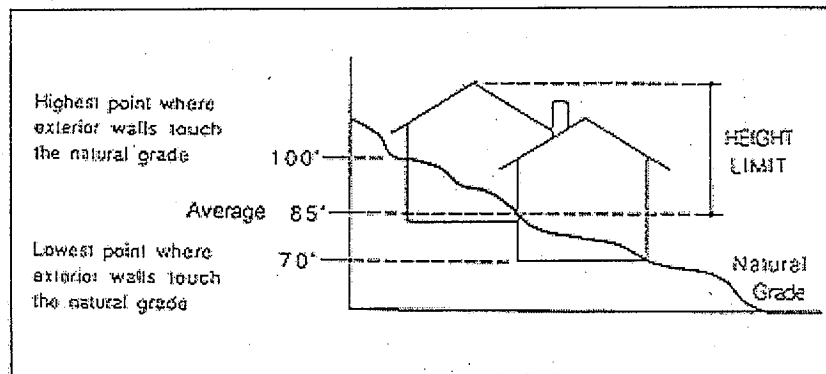


Figure 17.04.030-2A
BUILDING HEIGHT MEASUREMENT

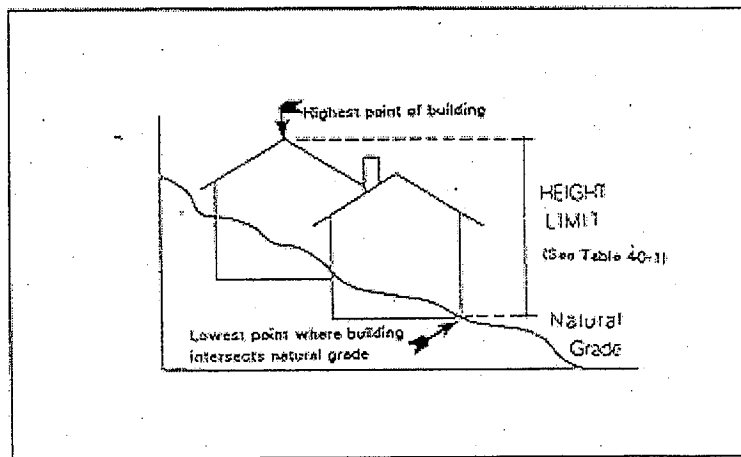


Figure 17.04.030-2B
BUILDING HEIGHT MEASUREMENT - TAILOE

Figure 17.04.030-2A
BUILDING HEIGHT MEASUREMENT

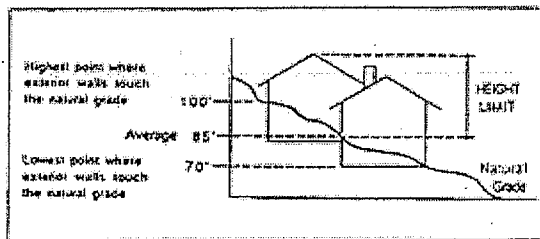


Figure 17.04.030-2A
BUILDING HEIGHT MEASUREMENT

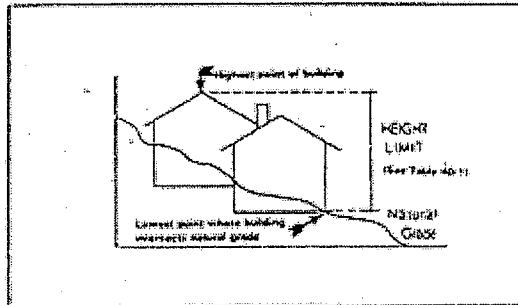


Figure 17.04.030-2B
BUILDING HEIGHT MEASUREMENT - TAHOE

Figure 17.04.030-2B
BUILDING HEIGHT MEASUREMENT - TAHOE

Table 17.04.030-1
MAXIMUM HEIGHTS FOR BUILDINGS--TAHOE

Percent slope retained across building site ¹	Roof Pitch: 0:12	Roof Pitch: 1:12	Roof Pitch: 2:12	Roof Pitch: 3:12	Roof Pitch: 4:12	Roof Pitch: 5:12	Roof Pitch: 6:12	Roof Pitch: 7:12	Roof Pitch: 8:12	Roof Pitch: 9:12	Roof Pitch: 10:12 or >
0	24'-0"	25'-2"	26'-5"	27'-7"	28'-9"	30'-0"	31'-2"	32'-5"	33'-7"	34'-9"	36'-0"
2	24'-6"	25'-8"	26'-11"	28'-1"	29'-3"	30'-6"	31'-8"	32'-11"	34'-1"	35'-3"	36'-6"
4	25'-0"	26'-2"	27'-5"	28'-7"	29'-9"	31'-0"	32'-2"	33'-5"	34'-7"	35'-9"	37'-0"
6	25'-6"	26'-8"	27'-11"	29'-1"	30'-3"	31'-6"	32'-8"	33'-11"	35'-1"	36'-3"	37'-6"
8	26'-0"	27'-2"	28'-5"	29'-7"	30'-9"	32'-0"	33'-2"	34'-5"	35'-7"	36'-9"	38'-0"
10	26'-6"	27'-8"	28'-11"	30'-1"	31'-3"	32'-6"	33'-8"	34'-11"	36'-1"	37'-3"	38'-6"
12	27'-0"	28'-2"	29'-5"	30'-7"	31'-9"	33'-0"	34'-2"	35'-5"	36'-7"	37'-9"	39'-0"
14	27'-6"	28'-8"	29'-11"	31'-1"	32'-3"	33'-6"	34'-8"	35'-11"	37'-1"	38'-3"	39'-6"
16	28'-0"	29'-2"	30'-5"	31'-7"	32'-9"	34'-0"	35'-2"	36'-5"	37'-7"	38'-9"	40'-0"
18	28'-6"	29'-8"	30'-11"	32'-1"	33'-3"	34'-6"	35'-8"	36'-11"	38'-1"	39'-3"	40'-6"

			11"					11"				
20	29'-0"	30'-2"	31'-5"	32'-7"	33'-9"	35'-0"	36'-2"	37'-5"	38'-7"	39'-9"	41'-0"	
22	29'-6"	30'-8"	31'-11"	33'-1"	34'-3"	35'-6"	36'-8"	37'-11"	39'-1"	40'-3"	41'-6"	
24 or >	30'-0"	31'-2"	32'-5"	33'-7"	34'-9"	36'-0"	37'-2"	38'-5"	39'-7"	40'-9"	42'-0"	

1Includes all that land area associated with each detached building.

Building; Main, Primary or Principal. "Main building, primary building" or "principal building" means a building occupied by the principal use of the site. In any residential zone, any dwelling shall be considered the main building on the site.

"Building site" means the area within a lot or parcel of record which is actually proposed for development with buildings, structures, or uses, including areas immediately adjacent to the buildings or structures but exclusive of any required setback areas or easements. A "valid building site" is a building site which has received all of the required approvals from appropriate local agencies (e.g., the county planning, health and public works departments, the fire and school districts, utility providers, etc.) to be issued a building permit for the construction of a residential, commercial or other building or structure.

"Building material stores" (land use) means primarily indoor retail establishments selling lumber and other large building materials, and also including paint, wallpaper, glass, fixtures, nursery stock, lawn and garden supplies (which may also be sold in hardware stores, included under the definition of "Retail stores, general merchandise"). Includes all such stores selling to the general public, even if contractor sales account for a larger proportion of total sales. Also includes incidental retail ready-mix concrete operations. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "Wholesaling and distribution" (SIC: Group 52). Establishments that have more outdoor than indoor storage and sales areas are included under "Storage yards and sales lots."

"Business support services" (land use) means establishments primarily within buildings, providing other businesses with services including maintenance, repair and service, testing, rental, etc., also includes:

1. Blueprinting;
2. Business equipment repair services (except vehicle repair, see "Repair and Maintenance--Vehicle");
3. Commercial art and design (production);
4. Computer-related services (rental, repair, maintenance);
5. Equipment rental businesses within buildings (rental yards are "Storage yards and sales lots");
6. Exterminators;
7. Film processing laboratories;
8. Heavy equipment repair services where repair occurs on the client site;
9. Janitorial services;
10. Mail advertising services (reproduction and shipping);
11. Other "heavy service" business services;
12. Outdoor advertising services;
13. Photocopying;
14. Photofinishing;
15. Protective services (other than office related);
16. Research and development laboratories;
17. Soils and materials testing laboratories;
18. Window cleaning. (SIC: Groups 73, 87)

Cabaret. See Section 17.56.030.

"Campgrounds" (land use) means land or premises that are used or intended to be used by camping parties for occupancies where individual sewer hookups are not available to individual campsites in the campground. See Section 17.56.080 for specific use requirements applicable to campgrounds.

"Camping area" mean any area or tract of land where one or more lots are used, rented or leased, or held out for rent or lease to accommodate camping parties.

Camping, Incidental (land use). "Incidental camping" means the use of tents, travel trailers,

recreational vehicles or other mobile camping equipment for camping and other recreational purposes, without permanent facilities, incidental to some other principal use of a site, including seasonal recreational camping. See Section 17.56.080 for specific use requirements applicable to incidental camping.

"Camping party" means a person or group of not more than ten (10) persons occupying a campsite.

"Campsite" means an area within a campground or incidental camping area intended for occupancy or occupied by a camping party.

"Caretaker and employee housing" (land use) means permanent or temporary housing that is secondary or accessory to the primary use of the property. Such dwellings are used for housing a caretaker employed on the site of a nonresidential use where a caretaker is needed for security purposes or to provide twenty-four (24) hour care or monitoring facilities, equipment, or other conditions on the site, or where work is at locations remote from urban centers. See Section 17.56.090 for specific use requirements applicable to caretaker and employee housing.

"Cemeteries," "columbariums" and "mortuaries" (land use) means interment establishments engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Includes animal cemeteries; cemetery, mausoleum, crematorium and columbarium operations; and full-service funeral parlors, whether accessory to or separate from a cemetery or columbarium.

"Certified mobile home" means mobile homes that are certified under the National Mobile Home Construction and Safety Act of 1974 (42 USC Section 5401, et seq.)

"Chemical products" (land use) means manufacturing establishments that produce or use basic chemicals and establishments creating products predominantly by chemical processes. Establishments classified in this major group manufacture three general classes of products: (1) basic chemicals such as acids, alkalies, salts, and organic chemicals; (2) chemical products to be used in further manufacture such as synthetic fibers, plastic materials, dry colors, and pigments; and (3) finished chemical products to be used for ultimate consumption such as drugs, cosmetics, and soaps; or to be used as materials or supplies in other industries such as paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above in other than one of the uses included in the retail trade group on the land use and permit tables. (SIC: Group 28, 5161)

"Chicken/turkey ranches" (land use) means commercial agricultural establishments where more than one hundred (100) chickens or turkeys are raised or maintained.

"Child/adult day care centers" (land use) means a commercial or nonprofit facility that provides care, protection and supervision of fifteen (15) or more minor children or adults for periods of less than twenty-four (24) hours, typically while parents/caregivers are working, and/or before or after daily attendance at an elementary school. Child/adult day care centers may be operated in conjunction with a school or house of worship, or as an independent land use. Includes pre-schools. Such facilities are required to be licensed by the California State Department of Social Services.

"Child day care, family care homes" (land use) means a private dwelling unit where care, protection and supervision of fourteen (14) or fewer minor children for periods of less than twenty-four (24) hours is regularly provided, typically while parents are working. This land use includes "large family day care homes," which care for seven to fourteen (14) children, and "small family day care homes," which care for six or fewer children. Such facilities are required to be licensed by the California State Department of Social Services.

"Clothing products" (land use) means manufacturing establishments producing clothing and fabricating products by cutting and sewing purchased textile fabrics, and related materials such as leather, rubberized fabrics, plastics and furs. Also includes leather products and clothing. Custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store ("general merchandise stores") are instead included under "Personal services." (SIC: Groups 23, 31)

"Commercial district or zone" means any of the following zone districts established by Article 17.06: business park (BP), commercial planned development (CPD), general commercial (C-2), heavy commercial (C-3), highway services (HS), motel-Tahoe (MT), neighborhood commercial (C-1), office and professional (OP), resort (RES). Also includes any of the following districts established by the Squaw Valley Land Use Ordinance (Chapter 17 Appendix A of the Placer County Code): alpine commercial (AC), entrance commercial (EC), forest recreation (FR), heavy commercial (HC), and village commercial (VC). Also includes any of the following districts established by the Tahoe City Community Plan and/or the Tahoe City Area General Plan (Chapter 17 Appendix B of the Placer County Code), and the North Tahoe Community Plans

(Chapter 17 Appendix C of the Placer County Code): Commercial/public service and tourist. Commercial Use. See "Use, commercial."

"Commercial vehicle" means vehicles more than twenty-four (24) feet in length, single or double axle trailers in excess of fifteen (15) feet in length, tow trucks, water trucks, busses, dump trucks, fork lifts, front loaders, logging vehicles, backhoes, carryalls, graders, tracked vehicles, bulldozers, tractors with or without semitrailers, and farm equipment in excess of ten (10) feet in length. Also, taxis, limousines and any motor vehicle other than a standard passenger car, or any pickup truck or van with a rated carrying capacity of greater than one ton.

Commission. See "Planning commission."

Common Open Space. See "Open space, common."

"Common wall development" means two dwellings on adjoining lots, constructed so that they abut each other at their common property line. (See Figure 17.04.030-3)

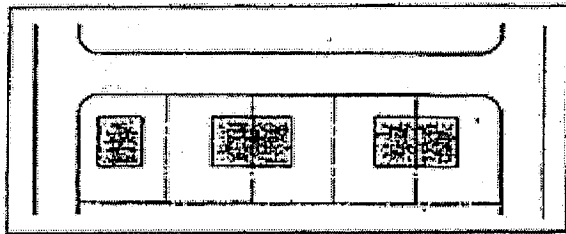


**Figure 17.04.030-3
COMMON WALL DEVELOPMENT**

"Communication towers" means any tower or other structure erected for the purpose of radio, television or microwave transmission or line-of-sight relay devices.

"Community centers" (land use) means multipurpose meeting and recreational facilities typically consisting of one or more meeting or multipurpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, weddings, receptions, dances, etc. Includes grange halls.

"Community development/resource agency" means the agency which provides planning and direction over those county functions that provide land use planning, management of natural resources, building, inspection and code enforcement services, and other permit and land use services to the citizens of Placer County. The agency includes the departments of planning and building and land development core functions such as infrastructure planning, surveying and mapping, permits and construction.

"Community plan" means a component portion of the Placer County general plan, usually bound as a discreet and separate document, which addresses land use, circulation, housing, public services and related issues for a specific geographic portion of the county. Such plans contain specific goals, policies and programs applicable to each particular community area. In general, the community plans supersede the county general plan within their plan boundaries unless otherwise specified in either the general plan or the community plan document.

"Community sewer system" means a sewage effluent collection network, treatment and disposal facilities provided within a prescribed service boundary, which results in the primary, secondary, or tertiary treatment of such effluent.

"Community water system" means a water storage and distribution network for providing potable water to the public for human consumption, within a prescribed service boundary, operated and maintained by a public agency, or private company approved by the board of supervisors. The system must comply with the provisions of the California Safe Drinking Water Act and all applicable laws and standards relating to domestic water supply.

"Concrete, gypsum, and plaster products" (land use) means manufacturing establishments producing bulk concrete, concrete building block, brick and all types of precast and prefabricated concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, such as plasterboard. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under "Building material and hardware stores," and when in conjunction with an equipment rental yard, under "Storage yards and sales lots" (SIC: Groups 326, 327).

"Conditional approval" means the approval of an administrative review permit, minor use permit,

conditional use permit plan or variance application subject to conditions adopted by the zoning administrator or planning commission (or board of supervisors on appeal) as part of the action to approve the application.

"Construction contractors" (land use) means service establishments primarily engaged in construction, including new work, additions, alterations, and repairs. Construction activities are generally administered or managed from a relatively fixed place of business, but actual construction work is performed at one or more different sites. Three broad types of construction are covered: (1) building construction by general contractors or by operative builders; (2) other construction by general contractors; and (3) construction by special trade contractors such as electrical, air conditioning and plumbing contractors, or others such as well drilling services. The installation of prefabricated buildings and equipment is also included. Contractor's business offices that are not on the same site as work crew dispatching, equipment, vehicle or material storage for the establishment may also be considered under the definition of offices. A contractor's outdoor storage yard in conjunction with offices and/or storage buildings is also defined under "Storage yards and sales lots," and is also subject to all applicable standards of this chapter for such uses. (SIC: Groups 15, 16, 17)

"Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of rights-of-way, structures, utilities or similar property.

"Construction permit" means any or all of the various entitlements established by this chapter and/or Chapters 12, 13, 15, 16, 18 or Appendix E to Chapter 17 of the Placer County Code that authorize commencement of construction activities, including but not limited to building permits, grading permits, electrical and plumbing permits, demolition permits and moving permits.

"Contiguous" means adjacent and having a common parcel boundary (applies even if the common parcel boundary is a single point).

Corner Lot. See "Lot types."

"Correctional institutions" (land use) means jails, prisons, and other institutions for the confinement and correction of offenders sentenced by a court. Halfway houses and homes for delinquents, or other facilities not under court order, are instead included under "Residential care homes." (SIC: Group 9223)

"County" means the county of Placer, California.

Coverage. "Site or lot coverage" means site or lot coverage means the percentage of the total site area occupied by buildings and structures. For the purposes of this definition, "buildings" include all land covered by primary buildings, garages and carports, accessory buildings, covered decks, and other enclosed and covered areas, but not standard roof overhangs or eaves, uncovered decks, paved areas such as walkways, driveways, patios, uncovered parking areas or roads. All areas of coverage are computed at ground level.

"Crop production" (land use) means agricultural and horticultural uses including but not limited to production of grains, field crops, vegetables, fruits, nut trees, herbs, flowers and seed production, nursery stock and ornamental plant production (including those plants, trees, shrubs and ground covers grown in containers, green houses [See Section 17.56.180(C)(3) for applicable regulations] shade structures, under cover and in the ground [Plant Production nurseries, that is the production of all types of nursery stock and ornamental plants, are subject to separate requirements and permits], tree and sod farms, associated crop preparation services and harvesting activities including but not limited to, mechanical soil preparation, irrigation system construction, spraying, crop processing and sales of the agricultural crop only. (See section 17.56.165).

"CUP" means conditional use permit. See Section 17.58.130.

"Dairy" means a place where three or more cows or goats are maintained for the purpose of producing milk or other dairy products for sale.

Days. Whenever a number of days is specified in this chapter, or in any permit, condition of approval or notice issued or given as provided in this chapter, such number of days shall be construed as calendar days, except that such time limits shall extend to the following working day where the last of the specified number of days falls on a Saturday, Sunday or any county holiday.

"Debris" means materials stored outdoors and visible to the general public, which may be considered both an aesthetic and an environmental nuisance. Debris includes, but is not limited to the following: any and all secondhand and/or used machinery, scrap metals (including parts from automobiles, tools, or farm equipment), appliances, lumber, pipes, abandoned vehicles, wrecked vehicles, inoperable vehicles and/or other discarded personal property, which may or may not have useful value.

"Deck" means an outdoor activity area consisting of a wood and/or concrete platform that is elevated at least twelve (12) inches above the surrounding finish grade, and is unenclosed other

than by a railing.

"Density" means the measure of the ratio of population to the area of land occupied by that population, which for the purposes of this chapter is expressed as dwelling units per acre. "Gross density" is the number of lots derived from dividing the area of a site by the area required for each lot or dwelling unit. "Net density" is the number of lots resulting from subtracting the area required for streets (in the case of a subdivision) from the total area of the undivided site, and then dividing the remaining area by the area required for each lot.

Density Bonus. See "Residential density bonus." (Section 17.54.120).

Department. See "Planning department."

"Design elements" means site layout, building architecture, architectural details and landscaping.

"Development" means any construction activity or alteration of the landscape, its terrain contour or vegetation, including the erection or alteration of buildings or structures. New development is any construction, or alteration of an existing structure or land use, or establishment of a land use after the effective date of this chapter.

"Development project" means a proposed project requiring the approval of Placer County in order to proceed to completion.

"Development review committee (DRC)" means the development review committee of the county of Placer, as provided by Section 17.60.060.

"Developer" means the qualified applicant for a development project. One who has a legal or equitable interest in the real property which is the subject of a development project application. An authorized agent of the applicant or principal developer.

"Diffused light" means light that travels through a shield of material which has the effect of dispersing the light.

Director. See "Planning director" and "agency director."

"Discretionary permit" means a land use entitlement (including administrative review permits (Section 17.60.100)), minor use permits (Section 17.58.110), conditional use permits (Section 17.58.120), and variances (Section 17.60.100) that may be issued under the provisions of this chapter, but requires the exercise of judgment and the resolution of factual issues to determine if the application and proposed development or land use conform with the provisions of this chapter. Generally, a discretionary permit consists of any entitlement that requires a decision to approve, approve subject to conditions or disapprove, based on the judgment of the zoning administrator or planning commission. (See "Ministerial permit").

Double Frontage Lot. See "Lot types."

"Drive-in and drive-thru sales" (land use) means facilities where food or other products may be purchased by motorists without leaving their vehicles. Such facilities include fast-food restaurants, drive-through dairies, etc.

"Drive-in and drive-thru services" (land use) means facilities where services may be obtained by motorists without leaving their vehicles. Such facilities include drive-up teller windows in banks, etc.

"Driveway" means a vehicle access way extending from road or street (See "Road or street") to a building or structure, vehicle parking or delivery area, or pedestrian drop-off point on the site of a land use, or between such areas on a site. A driveway serves no more than two separately-owned parcels.

Duplex. See "Multifamily dwellings."

"Dwelling" or "dwelling unit" means one or more habitable rooms that are designed and/or used as independent living space for one family, with facilities for living, eating and sleeping, with no more than one kitchen (except that two kitchens are allowed where the habitable floor area of the dwelling is eight thousand (8,000) square feet or larger), and at least one bathroom, and where all such habitable areas have access to each other from within the building.

"Effective date of this chapter" means the date after the adoption of the Placer County zoning ordinance, Chapter 17 of the Placer County Code, on which the ordinance became effective (i.e., August 24, 1995).

"Electric generating plants" (land use) means facilities engaged in the generation and distribution of electrical energy for sale. The electricity may be generated from oil, gas, coal or nuclear fuels or from "alternate" sources including but not limited to water, wind, the sun, bio-gas, municipal or agricultural wastes. This includes "cogeneration," which means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by electric power production or the reverse.

"Wind energy conversion system" (WECS) means any device which converts wind energy to a form of usable energy. WECS producing electricity are included here; those used for direct climate control, water pumping or other conversion to mechanical or thermal power, are included

under "Agricultural accessory structures." Transmission lines located off the site of the power plant are included under "Pipelines and transmission lines." Electrical substations are included under "Public utility facilities." (SIC: Group 49)

"Electrical and electronic equipment, instruments" (land use) means establishments engaged in manufacturing machinery, apparatus and supplies for the generation, storage, transmission, transformation and use of electrical energy, including:

1. Appliances such as stoves/ovens, refrigerators, freezers, laundry equipment, fans, vacuum cleaners, sewing machines;
2. Avionics;
3. Electrical transmission and distribution equipment;
4. Electronic components and accessories such as semiconductors, integrated circuits, related devices;
5. Electronic instruments, components and equipment such as calculators and computers;
6. Electrical welding apparatus;
7. Lighting and wiring equipment such as lamps and fixtures, wiring devices, vehicle lighting;
8. Industrial apparatus;
9. Industrial controls;
10. Instruments for measurement, testing, analysis and control, and associated sensors and accessories;
11. Miscellaneous electrical machinery, equipment and supplies such as batteries, X-ray apparatus and tubes, electromedical and electrotherapeutic apparatus, electrical equipment for internal combustion engines;
12. Motors and generators;
13. Ophthalmic goods;
14. Optical instruments and lenses;
15. Photographic equipment and supplies;
16. Pre-recorded magnetic tape;
17. Radio and television receiving equipment such as television and radio sets, phonograph records and surgical, medical and dental instruments, equipment, and supplies;
18. Surveying and drafting instruments;
19. Telephone and telegraph apparatus;
20. Transformers, switch gear and switchboards;
21. Watches and clocks.

Does not include testing laboratories (research and development, soils and materials testing, etc.), which are defined under "Business support services." (SIC: Group 36 and 38)

"Equestrian facilities" (land use) means commercial horse, donkey, and mule facilities including horse ranches, boarding stables, riding schools and academies, horse exhibition facilities (for shows or other competitive events), pack stations, and barns, stables, corrals and paddocks accessory and incidental to such uses. Equestrian facilities and the keeping of horses at such facilities are subject to the provisions of Section 17.56.050 (Animal raising and keeping).

1. "Horse ranch (commercial)" means a facility which provides for the commercial use of horses, donkeys and/or mules other than for traditional agricultural breeding and animal husbandry operations; a dude ranch (i.e., a resort patterned after a western ranch which features horseback riding, camping and other such outdoor activities). Animal sales yards, feed lots and stockyards are defined elsewhere in Article 17.04.

2. "Boarding stables" means any facility and/or "animal enclosure" (as defined by Section 17.56.020(C)) where horses, donkeys and/or mules are kept and cared for in return for money or other valuable consideration. This definition does not include circumstances where such equine animals are kept, fed and cared for in open pastures or where such pasture space is provided by the property owner to other individuals to be used in the keeping and raising of their horses, donkeys and mules in return for money or other valuable consideration. (Note: Pastures are defined later in this section.)

3. "Riding schools and academies" means any premises or facilities where horses, donkeys and/or mules are trained in return for money or other valuable consideration; any premises or facilities where individuals are taught to ride horses, donkeys and/or mules in return for money or other valuable consideration. Premises/facilities which are used by equestrians [other than the property owner(s) or resident tenant(s)] for exercise, riding practice, etc. are also defined as riding schools and academies.

4. "Horse exhibition facilities" means any premises or facilities used for horse shows or other competitive events (e.g., rodeos, roping arenas, dressage exhibitions, hunter/jumper courses, etc.), whether or not such events are themselves commercial in nature.

5. "Pack stations" means facilities for the keeping, feeding and maintenance of horses, donkeys and/or mules when such animals are hired and/or are used for such activities as trail riding, pack trains, hunting expeditions, back-country camping trips, etc.

6. "Equine Pasture Boarding" means any premises or facilities where horses, donkeys, and/or mules are kept, fed and cared for in open pastures or where such pasture space is provided by the property owner to other individuals to be used in the keeping, feeding, and raising of such equine animals in return for money or other valuable consideration. The viability of the pastures, upon which the animals are kept, as evidenced by the presence of sufficient residual plant/forage material, determines the total (both private and commercial) animal density. Animals are to be kept primarily in pastures. Animal enclosures and shelters used for temporary confinement, are incidental to and utilized in support of the pasture operation. Equine pasture boarding is not regulated under Section 17.56.050(F)(5) unless the density exceeds two horses* per acre. (*one horse = 1 adult horse, 2 horses one year of age or younger or one mare and unweaned foal.) Existing Grade. See "Grade."

"Explosives" means any substance defined as an explosive by California Health and Safety Code Section 12000, et seq., and for which a permit is required by the Health and Safety Code.

"Explosives manufacturing and storage" (land use) means the commercial manufacturing and storage of all types of explosives, including but not limited to blasting powder and blasting caps, dynamite, fireworks, gunpowder, high explosives, and the manufacture of conventional explosives for weapons use (including ammunition, bombs, missile warheads, etc.). See Section 17.56.110 for specific use requirements applicable to explosives manufacturing and storage. (SIC: Groups 2892, 3482, 3483)

Factory-built Housing. See "Mobile home." Mobile homes are regulated by Section 17.56.150.

"Family" means one or more persons occupying a dwelling and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family includes any servants and four or fewer boarders.

"Farm equipment and supplies sales" (land use) means establishments primarily engaged in selling or renting (or repairing as an accessory use) agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching:

1. Dairy equipment;
2. Frost protection equipment;
3. Hay, grain and feed sales;
4. Irrigation equipment;
5. Packaged fertilizer;
6. Packaged agricultural sprays;
7. Livestock equipment;
8. Poultry equipment.

Sales may include the final assembly of farm machinery, implements or equipment from component parts received from the manufacturer in a partially assembled state, but not the creation of such components from raw materials. The sale of agricultural machinery does not include trailers, tractors and other motorized, self-propelled farm vehicles, which are included under "Auto, mobile home, vehicle and parts sales" (see also "Storage yards and sales lots").

"Farm labor housing" (land use) means and includes dwellings, mobile homes, rooming and boarding houses and mess halls for farm or other agricultural workers employed on land occupied by the owner of the site on which the quarters are located. See Section 17.56.090 (Caretaker and employee housing).

Fence (Solid). "Solid fence" means a barrier constructed of wood or other materials which form an opaque screen.

Fence (Other Than Solid). "Fence" (other than solid) means a barrier constructed of posts made of wood, metal or any other rigid material connected with wire, fabric, boards or other materials which is intended to demarcate a boundary, separate land uses, secure animals, enclose property, exclude people and animals from a designated area, etc. and which does not form a visually opaque screen.

"Fertilizer plants" (land use) means agricultural support manufacturing facilities where chemical fertilizers are manufactured and packaged, and/or where animal fertilizers are collected, processed and packaged.

"Fisheries and game preserves" (land use) means the operation of fish hatcheries, fish and game preserves, and game propagation. (SIC: Group 09)

"Flag lot" (land use) means a lot which contains the necessary dimensions as required by the zone district in which it is located but which does not have direct frontage on a road or street, and

which is connected to a road or street by a narrow fee ownership appendage (not over four hundred (400) feet in length nor less than twenty (20) feet in width) that is primarily used to provide access to the building site on the lot.

Floor Area. See "Area."

"Food products" (land use) means manufacturing establishments producing or processing foods and beverages for human consumption and certain related products. Includes:

1. Bakery products, sugar and confectionery products;
2. Beverage and liquor production (except in wineries, which are included under "Agricultural processing");
3. Dairy products processing;
4. Fats and oil products (not including rendering plants, which are included under "Slaughterhouses and rendering plants");
5. Fruit and vegetable canning, preserving, and related processing;
6. Grain mill products and by-products;
7. Meat, poultry, and seafood canning, curing and byproduct processing (except a facility that also slaughters animals is included instead under the definition of "Slaughterhouses and rendering plants");
8. Miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.
9. Operations on crops after harvest are included under "Agricultural processing". (SIC: Group 20)

"Forestry" (land use) means the operation and harvesting of timber tracts, tree farms, forest nurseries, and related activities such as reforestation services; also the gathering of gums barks, sap, moss and other forest products; also includes logging camps and sawmills (except for mills producing finished lumber, which are included under "Lumber and wood products"). (SIC: Groups 08, 241)

"Freeway" means a limited access highway where ingress and egress is possible only at certain designated points and which consist of at least two lanes for each direction of traffic.

"Front wall" means the wall of a building or other structure nearest the street upon which the building faces.

"Front line" (of building) means a line parallel to a front property line at the nearest point of a building to the front property line. See Figure 17.04.030-4.

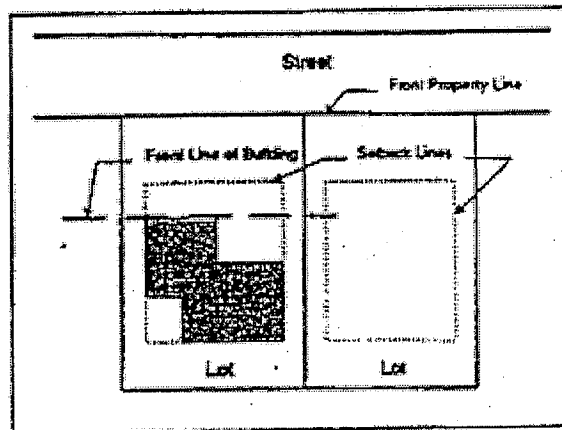


Figure 17.04.030-4
FRONT LINE OF BUILDING

Front Property Line. See "Property lines."

"Fuel and ice dealers" (land use) means retail trade establishments primarily engaged in the sale to consumers of ice, bottled water, fuel oil, butane, propane and liquefied petroleum gas (LPG), bottled or in bulk, as a principal use. (SIC: Group 598)

"Furniture and fixtures products" (land use) means manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Includes wood and cabinet shops. (SIC: Group 25)

"Furniture, furnishings and equipment stores" (land use) means stores primarily selling: home furnishings such as furniture, floor coverings, draperies, glass and chinaware, stoves, refrigerators, other household electrical and gas appliances including televisions and home sound systems and outdoor furniture such as lawn furniture, movable spas and hot tubs. Establishments selling electrical and gas appliances are included only if the major part of their sales consist of articles for home use. Also includes the retail sale of office furniture and large musical instruments. (SIC: Group 57)

"Garage" or "carport" means covered parking space for automobiles or other vehicles of at least ten (10) by twenty (20) feet. A garage is a structure enclosed on at least three sides; a carport is enclosed on no more than two sides.

Garage, Public. "Public garage" means any premises other than a private garage, used for the storage and/or care of self-propelled vehicles, or where such vehicles are equipped for sale or lease. As a land use, public garages are included under the definition of "Vehicle storage."

"Garage space" means an accessible and usable enclosed parking space of not less than nine feet by twenty (20) feet for the storage of automobiles.

Garbage. See "Debris."

"General plan" means the Placer County general plan, including all elements thereof and all amendments thereto, as adopted by the board of supervisors pursuant to Section 65300 et seq. of the California Government Code.

"Glass products" (land use) means manufacturing establishments producing flat glass and other glass products which are pressed, blown, or shaped from glass produced in the same establishment. Does not include artisan and craftsman type operations of a larger scale than home occupations, which are listed under "Small scale manufacturing." (SIC: Groups 321, 323)

"Government Code" means the Government Code of the state of California.

"Grade" means the vertical location of the ground surface, as follows:

1. "Existing or natural grade" means the contour of the ground surface before grading.
2. "Rough grade" means the stage at which the grade approximately conforms to the approved plan.
3. "Finish grade" means the final terrain contour of the site that conforms to the approved grading plan.

"Granting authority" means the body assigned the authority by this chapter to conduct hearings and/or approve, approve subject to conditions, or disapprove applications for land use permits, variances, rezonings and zoning ordinance amendments, appeals, surface mining reclamation plans, or to make any other decisions specified by this chapter. Granting authorities identified by this chapter include the agency director or designee, the zoning administrator, the planning commission, and the board of supervisors.

"Grazing" (land use) means the raising or feeding of horses, beef cattle, sheep and goats, and other similar animals, on a parcel or contiguous group of parcels ten (10) acres or more in gross area, by allowing the land these animals occupy to provide most of their food (e.g., irrigated pasture, dry pasture, range grasses, etc.). Does not include feedlots, which are separately defined. See also the definition of "Animal raising and keeping" and Section 17.56.050 (Animal raising and keeping) of this chapter.

"Greenhouses" means agricultural or residential accessory structures with transparent or translucent roof and/or wall panels intended for the raising of plants. Section 17.56.180 contains the standards for greenhouses. See also "Plant nurseries" Section 17.56.165.

"Grocery and liquor stores" (land use) means stores selling food for home preparation and consumption, as well as the retail sale of packaged alcoholic beverages for consumption off the premises, including wine tasting facilities that are not on the same site as a winery. Includes catering services independent to on-site food sales. Includes retail bakeries. Establishments (except for wine tasting facilities) may include no more than two gas pumps as an accessory use. (SIC: Groups 54, 592)

Gross Lot Area. See "Minimum lot area."

"Guesthouse" means a building with sleeping space, detached from a principal residence on the same site, which may include a bathroom and other living space, but not kitchen facilities, and shall not be rented or otherwise be used for residential occupancy independent from the principal residence.

Halfway House. See "Residential care homes."

Harbor Facilities and Marinas (land use). Harbors involve the physical alteration of a lake or river shoreline to accommodate facilities such as docks and piers, breakwaters, artificial channels or fills. Marinas are water-oriented service establishments, including: yachting and rowing clubs, boat rental, storage and launching facilities; excursion boat and sight-seeing facilities; passenger

and vehicle ferry loading and service docks; and other marina-related activities, including but not limited to fuel sales, boat and engine repair and sales.

"Hedge" means compact evergreen plants forming an opaque screen.

Height. See "Building height."

Heliports. See "Airfields, airports, heliports and landing fields."

"Historic building" means any structure built before 1920, or any structure which is determined to be historically or culturally significant by Placer County, and which was originally intended for residential, commercial or industrial use, or uses appurtenant to such a building.

Historic Vehicle. See "Vehicle, historic."

"Home occupations" (land use) means the gainful employment of the occupant of a dwelling in a limited commercial activity, with such employment activity being subordinate to the residential use of the property. See Section 17.56.120 for specific requirements applicable to home occupations.

"Hotels and motels" (land use) means guest rooms or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other temporary lodging (generally less than thirty (30) days). Hotels provide access to most guest rooms from an interior walkway. Motels provide access to most guest rooms from an exterior walkway. Also includes conference facilities and accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, etc. See Section 17.56.130 for specific use requirements applicable to hotels and motels. (SIC: Group 701)

"Houses of worship" (land use) means religious organization facilities operated for worship or promotion of religious activities, including churches, synagogues, temples, etc., and also includes religious accessory uses on the same site, including but not limited to living quarters for staff, and child day care facilities where authorized by the same type of land use permit required for the house of worship itself. Other establishments maintained by religious organizations, such as full-time educational institutions, hospitals and other potentially related operations (such as a recreational camp) are classified according to their respective activities.

"Idle" means to curtail surface mining operations for one year or more, by more than ninety (90) percent of the operation's maximum annual mineral production, with the intent to resume surface mining operations at a future date.

"Industrial district or zone" means any of the following zone districts established by Section 17.06.010: airport (AP), business park (BP), industrial (I), industrial park (IP). Also, the following land use districts established by the Squaw Valley Land Use Ordinance (Chapter 17, Appendix A of the Placer County Code): heavy commercial. In addition, the following land use district established by the Tahoe City area general plan or the Tahoe City community plan (Chapter 17, Appendix B of the Placer County Code), and the North Tahoe community plan (Chapter 17, Appendix C of the Placer County Code): commercial/public service.

"Industrial subdivision" (land use) means any subdivision of land in an industrial zone, except for a commercial condominium or airspace division.

Inoperable Vehicle. See "Vehicle, inoperable."

Junk. See "Debris."

"Junkyard" means the outdoor storage of debris and/or inoperable vehicles in a manner inconsistent with the provisions of this chapter (See Section 17.56.320) and in a location not permitted by this chapter (See Section 17.56.170).

"Kennels," "catteries" and "animal boarding" (land use) means facilities for the raising and keeping of dogs and/or cats four months of age or older. Does not include dogs or cats in pet shops or animal hospitals. (See Sections 17.56.050(F)(16) (Dogs and Cats) and 17.56.050(F)(17) (Kennels and Catteries))

"Kitchen," "kitchen facilities" means any appliances for the preparation or preservation of food, including but not limited to gas or electric ranges, ovens or stovetops, refrigerators or freezers of more than five cubic feet capacity, and cabinets designed to accommodate such appliances.

Land Use. See "Use of land."

"Land use permit" means a zoning clearance pursuant to Section 17.06.040, administrative review permit (Section 17.58.100), minor use permit (Section 17.58.120), conditional use permit (Section 17.58.130), design review approval (Section 17.52.070(D)) or variance (Section 17.60.100).

"Landing" means an intermediate point on a stairway where a change in the direction of the stairway occurs or where the stairway provides access to a doorway.

"Landowner" means the legal or beneficial owner or owners of all of the land proposed to be included in a development project. The holder of an option or contract to purchase, a lessee having a remaining term of not less than twenty (20) years, or other person having an

enforceable proprietary interest in such land, shall be deemed to be a landowner for the purposes of this definition.

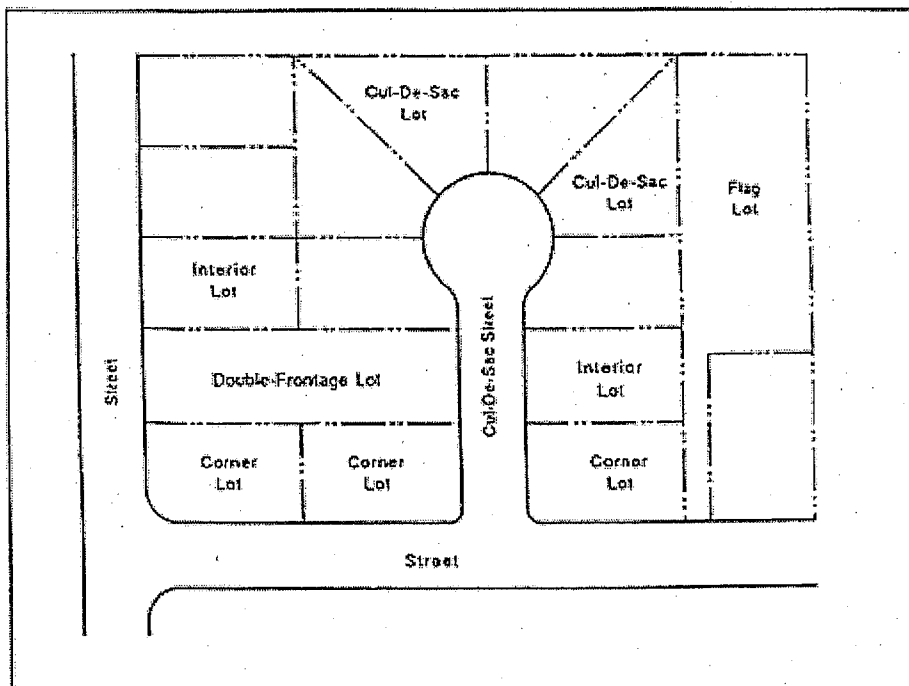
"Laundries" and "dry cleaning plants" (land use) means service establishments primarily engaged in high volume laundry and garment services, including: power laundries (family and commercial); garment pressing and dry cleaning; linen supply; diaper service; industrial laundries; carpet and upholstery cleaners. Does not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment, which are classified in "Personal services." (SIC: Group 72)

"Libraries" and "museums" (land use) means permanent public or quasi-public facilities generally of a noncommercial nature which are intended to provide historical, cultural, literary, artistic and/or educational displays and information. Such uses may include, but are not limited to: libraries, museums, art exhibitions, planetariums, aquariums, botanical gardens, and arboretums. (Zoos are included under "Specialized animal facilities.") Also includes historic sites and exhibits. (SIC: Group 84)

Lot or Parcel. "Lot" or "parcel" means:

1. A parcel of real property shown on a subdivision or plat map, required by the Subdivision Map Act (or local ordinance adopted pursuant thereto) to be recorded before sale of parcels shown on the map or plat, at the time the map was recorded; or
 2. A parcel of real property that has been issued a certificate of compliance pursuant to California Government Code Section 66499.35; or
 3. A parcel of real property not described in subsection (1) or (2) of this definition; provided, the parcel resulted from a separate conveyance or from a decree of a court of competent jurisdiction that was either recorded before the requirement of the filing of a subdivision map by the Subdivision Map Act or a local ordinance adopted pursuant thereto or was exempt therefrom;
 4. When referring to a lot in a mobile home park or recreational vehicle park, any area designated or used for the occupancy of one mobile home, travel trailer, recreation vehicle, or camping party.
- Lot Types. Figure 17.04.030-5 shows examples of the following lot types: corner, cul-de-sac, double frontage, flag, and interior.

**Figure 17.04.030-5
LOT TYPES**



"Lumber" and "wood products" (land use) means manufacturing and processing uses including; merchant sawmills, lath mills, shingle mills, cooperage stock mills, planing mills, plywood and veneer mills engaged in producing lumber and basic wood products; together with the wholesale sale of such products; and establishments engaged in manufacturing finished articles made entirely or mainly of wood. Also included are: truss and structural beam assembly; wood containers, pallets and skids; wood preserving; particle board assembly; turning and shaping wood and wood products on a manufacturing basis; mobile home and modular home assembly. Logging camps are included in "forestry"; craft-type shops are included in "small scale manufacturing." Other wood and cabinet shops are included under "furniture and fixture products." The indoor retail sale of building materials, and the sale of construction tools and equipment is included under "Building material stores." Outdoor retail sales of such products are included under "Storage yards and sales yards." (SIC: Groups 242, 245, 249)

"Machinery manufacturing" (land use) means the manufacturing of machinery and equipment such as: engines and turbines; farm and garden machinery and equipment (except for secondary assembly of such products which is included under "Farm equipment and supplies"); construction, mining and materials handling machinery and equipment such as bulldozers, cranes, dredging machinery, mining equipment, oil field equipment, passenger and freight elevators, conveyors, industrial trucks and tractors; machine tools such as gear cutting machines, die casting machines, dies, jigs, industrial molds, power driven hand tools; machinery for use in the food products, textile, woodworking, paper or printing industries; general machinery and equipment such as pumps, roller bearings, industrial furnaces and ovens; office, computing and accounting machines such as typewriters, computers, dictating machines; machinery for refrigeration and service industries such as commercial laundry and dry cleaning equipment, heating, ventilating and air conditioning equipment, commercial cooking and food warming equipment; miscellaneous machinery such as carburetors, pistons and valves. (SIC: Group 35)

"Mail order" and "vending" (land use) means the retail sale of products by catalog and mail order. Also includes vending machine distributorships and suppliers. Does not include product manufacturing, which is included under the applicable manufacturing use. (SIC: Group 596)

Main Building. See "Building, main."

Manufactured Home. See "Mobile home."

Massage Parlor. See Section 17.56.030.

"Maximum coverage" means the maximum area of a site allowed to be covered by buildings. For the purposes of this definition, "buildings" include all land covered by primary/principal/main buildings, garages and carports, accessory buildings, covered decks, and other enclosed and covered areas, but not paved areas such as walkways, driveways, patios, uncovered parking areas or roads. All areas of coverage are computed at ground level. The purpose of limiting coverage is to minimize the visual impact of the structures proposed on any lot by establishing a proportional relationship between the area of the lot and the area covered by buildings. In the areas of the county proximate to Lake Tahoe which are also within the jurisdiction of the Tahoe Regional Planning Agency (TRPA), coverage is defined differently and is determined according to regulations adopted by the TRPA.

"Medical services"--"clinics" and "laboratories" (land use) means service establishments primarily engaged in furnishing outpatient medical, mental health, surgical and other personal health services including: medical, dental and psychiatric offices (mental health-related services including various types of counseling practiced by licensed individuals other than medical doctors or psychiatrists, or unlicensed individuals, are included under Offices); medical and dental laboratories; out-patient care facilities; and allied health services. Associations or groups primarily engaged in providing medical or other health services to members are included. Clinics may include accessory retail pharmacies.

"Medical services"--"hospitals" and "extended care" (land use) means hospitals and similar establishments primarily engaged in providing diagnostic services, extensive medical treatment including surgical and other hospital services; such establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include accessory retail pharmacies, and emergency heliports. Also includes residential establishments providing nursing and health related care as a principal use with in-patient beds, such as: skilled nursing facilities (facilities allowing care for physically or mentally disabled persons, where care is less than that provided by an acute care facility); extended care facilities; convalescent and rest homes; board and care homes. Long-term personal care facilities that do not emphasize medical treatment are classified in "Residential care." (SIC: Groups 80, 805)

"Medical services"--"veterinary clinics" and "hospitals" (land use) means office and medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and

animal hospitals.

"Membership organization facilities" (land use) means permanent, headquarters-type and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; professional membership organizations; labor unions and similar organizations; grange and farm centers (not including sales activities, which are included under "Farm equipment and supplies"); civic, social and fraternal organizations (not including lodging, which is under "Organizational houses"); political organizations, country clubs (golf courses are under "Parks and playgrounds") and other membership organizations. (SIC: Group 86, except religious organizations which are defined under "Houses of worship.")

"Metal products fabrication" (land use) means the assembly of metal parts, including blacksmith and welding shops, sheet metal shops, machine shops and boiler shops, that produce metal duct work, tanks, towers, cabinets and enclosures, metal doors and gates, and similar products.

"Metal manufacturing industries" (land use) means manufacturing establishments engaged in the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; in the rolling, drawing, and alloying of ferrous and nonferrous metals; in the manufacture of castings, forgings, stampings, extrusions and other basic products of ferrous and nonferrous metals; and in the manufacture of nails, spikes, and insulated wire and cable. Merchant blast furnaces and by-product or beehive coke ovens are also included. (SIC: Group 33)

"Mined lands" means and includes the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools all other materials or property which result from, or are used in, surface mining operations are located.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds formed from inorganic processes or organic substances, including but not limited to coal, granite, limestone, metals, peat, sand and gravel, but excluding geothermal resources, natural gas, and petroleum.

"Minimum lot area" means the smallest area within which a new land use may be approved, and also the minimum lot area for new parcels to be created through subdivision pursuant to Chapter 16 of this code. (See Section 17.54.040(A))

Minimum Open Space. See "Open space, minimum."

Minimum parcel size means the smallest dimensions (length and width) and area allowed by this chapter for a parcel proposed in a subdivision, and for the use of an existing parcel that is the site of a proposed land use.

"Mine operator" means any person who is engaged in surface mining operations, who permits others to conduct surface mining operations on his/her property and who receives a financial benefit therefrom, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

"Mining waste" means and includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by surface mining operations.

Mining, Surface and Subsurface (land use). "Surface mining" and "subsurface mining" means mining, developing mines or exploring for metallic minerals (ores), coal and nonmetallic minerals (except fuels), or surface mines extracting crushed and broken stone, dimension stone or sand and gravel. (See also "Stone and cut stone products"). See Section 17.56.270 for specific use requirements applicable to surface mining. (SIC: Groups 10, 11, 12, 14)

Ministerial Permit. A ministerial decision involves only the evaluation of a proposal with respect to fixed standards or objective measurements, and not its merits or consequences. A zoning clearance (Section 17.06.040) is a ministerial permit established by this chapter.

Mini-storage Facilities. See Storage, mini-storage facilities. (See Section 17.56.260)

"Mobile home parks" (land use) means a parcel or contiguous parcels under one ownership that are planned and improved, or on which two or more mobile home lots are rented, leased, or held out for rent or lease, to accommodate mobile homes for human habitation. The rental paid for any such mobile home shall be deemed to include rental for the lot it occupies. Mobile home parks may include accessory outdoor storage areas for recreational vehicles, boats, etc., for the exclusive use of park residents. See Section 17.56.140 for specific use requirements applicable to mobile home parks.

"Mobile homes" (land use) means a manufactured housing structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or

without a foundation

system. See Section 17.56.150 for specific use requirements applicable to mobile homes.

"Mobile home subdivision" means the subdivision of an existing parcel, or contiguous parcels, of land for the purpose of separate sale, lease or financing to allow for the installation of mobile homes on separately-owned lots (as contrasted to a mobile home park where the property is owned by a single individual or company which, in turn,

rents space to a mobile home owner on which to install a mobile home).

Mobile Recycling Unit. A "mobile recycling unit" means an automobile, truck, trailer or van, licensed by the Department of Motor Vehicles which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans, or trailers, and used for the collection of recyclable materials.

"Motor vehicles" and "transportation equipment" (land use) means manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under "Lumber and wood products").

(SIC: Group 37)

"Multifamily dwellings" (land use) means and includes a building or a portion of a building used and/or designed as residences for two or more families living independently of each other. Includes: halfplex structures (a halfplex is a single dwelling unit that is half of a two-unit building where a property line separates the two units), duplexes, triplexes, and fourplexes (detached buildings under one ownership with two, three, or four dwelling units (respectively) in the same building) and apartments (five or more units under one ownership in a single building); common ownership, attached unit projects such as condominiums and townhouses; and rooming and boarding houses (single dwellings where bedrooms are rented to five or more people and at least one common meal is offered each day). The boarding of four or fewer renters is not considered to be a land use different from a single-family dwelling.

"MUP" means minor use permit. See Section 17.58.120.

Natural Grade. See "Grade."

Net Lot Area. See "Minimum lot area."

Nonconforming Use, or Nonconforming Use of Land. See "Use, nonconforming."

"Nonconforming building" means a building that was constructed in a manner consistent with all applicable county regulations in effect at the time of construction, but that does not conform with one or more requirements of this chapter related to setbacks, height limits, required off-street parking, sign requirements, etc.

"Nonconforming lot" or "parcel" means any lot having dimensions or area less than the smallest minimum dimensions or lot area prescribed by this chapter if:

1. The lot is shown on a duly approved and recorded parcel map or final map; or
2. The lot was created by means that were consistent with applicable legal requirements at the time the lot was created; or
3. The legality of the lot is verified by a certificate or conditional certificate of compliance issued by Placer County pursuant to California Government Code Section 66499.35 et seq.

Nonresidential use. See "Use, nonresidential."

Nurseries. See "Plant nurseries."

"Occupant" means the person occupying, or otherwise in real or apparent charge and control of premises affected by any enforcement action taken pursuant to Article 17.62 of this chapter (Enforcement).

Office Area. See "Area."

"Offices" (land use) means professional or government offices including:

1. Accounting, auditing and bookkeeping services;
2. Advertising agencies;
3. Architectural, engineering, and surveying services;
4. Attorneys;
5. Counseling services;
6. Copying, quick printing, and blueprinting services;
7. Court reporting services;
8. Data processing and computer services;
9. Detective agencies and similar services;
10. Educational, scientific and research organizations;
11. Employment, stenographic, secretarial and word processing services;

12. Government offices including agency and administrative office facilities;
13. Management, public relations and consulting services;
14. Photography and commercial art studios (including art galleries and the retail sale of art objects as an accessory use);
15. Post offices (not including bulk mailing distribution centers, which are included under "Vehicle and Freight Terminals");
16. Real estate agencies;
17. Writers and artists offices outside the home.

Does not include: medical offices, which are allowed under "Medical services--Clinics and laboratories;" or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed in any zone as part of an approved principal use.

Offices, Temporary (land use). "Temporary offices" means a mobile home, recreational vehicle or modular unit used as: a temporary business or construction office during construction of permanent facilities on the same site or as an office on the site of a temporary off-site construction yard; a temporary on-site real estate office for a development project; or a temporary business office in advance of permanent facility construction. (See Section 17.56.300(C))

"Oil" and "gas wells" (land use) means wells producing crude petroleum and natural gas; recovering oil from oil sands and shales; and producing natural gasoline and cycle condensate. Activities include exploration, drilling, oil and gas well operation and maintenance, operation of natural gas and cycle plants, the mining and extraction of oil from oil sands and shales, and on-site processing only to the extent necessary to permit extraction (e.g., enhanced recovery techniques including the use of steam generators), or to conform extracted crude to pipeline requirements. (SIC: Group 13)

"Open space" means land subject to valid restrictions against housing or other development, the maintenance of which in its natural or protected state is necessary for the enhancement of living conditions in Placer County.

Open Space, Common. "Common open space" means a parcel or parcels of land, or an area of water, or a combination of land and water within a site designated for a planned residential development (Section 17.54.080) and designated and intended for the use or enjoyment of all residents of the planned residential development. The use of common open space shall be consistent with the definition of "minimum open space."

Open Space, Minimum. "Minimum open space," within planned residential developments (Section 17.54.080), includes common areas, recreational improvements (both public and private), lakes, and areas subject to easements that restrict residential development and which are left as open space or recreational land. Does not include roads, parking areas, or area covered by any building, garage, carport, other structure (except recreational improvements approved as a part of the project), or undeveloped portions of subdivision lots.

"Outdoor commercial recreation" (land use) means facilities for various outdoor participant sports and types of recreation, including: amusement, theme and kiddy parks; drive-in theaters; golf driving ranges independent from golf courses; miniature golf courses (golf courses are included under the definition of "Parks and playgrounds"); skateboard parks and water slides; go-cart and miniature auto race tracks; recreation equipment rental (e.g., ATCs and other nonhighway motor vehicles, roller skates); health and athletic clubs with predominately outdoor facilities; tennis courts, swim and tennis clubs. May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including but not limited to bars and restaurants, fast-food restaurants, video game arcades, etc. (See also "Sports facilities and outdoor public assembly" and "Rural recreation").

"Outdoor festivals/concerts" means commercial recreational events held out-of-doors which are of limited duration and do not require permanent improvements or construction. Such events are usually single-performance or single-day occurrences involving the assembly of large groups of people (e.g., musical concerts, arts and crafts fairs, etc.). See Section 17.56.300 of this chapter for permit and processing requirements, or Chapter 5, Placer County Code (Outdoor festivals) for alternative permit requirements.

"Outdoor retail sales" (land use) means the outdoor display of products by a permanent business establishment (see Section 17.56.160(F)) and temporary retail operations including: farmer's markets; sidewalk sales; seasonal sales of Christmas trees, pumpkins or other seasonal items; semi-annual sales of art or handcrafted items in conjunction with community festivals or art shows; and retail sales of various products from individual vehicles. Does not include flea markets or swap meets which occupy more than two acres of land, which are "Storage yards and sales lots." (See Sections 17.56.160 (Outdoor retail sales) and 17.56.190 (Restaurants--Outdoor

eating areas)) for specific use requirements applicable to outdoor retail sales.

"Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

"Owner" means the person or persons, firm, corporation or partnership that is the owner of record of a premises identified on the last equalized assessment roll.

"Ownership" means ownership of one or more parcels of land (or possession under a contract to purchase or under a lease, the term of which is not less than ten (10) years) by a person or persons, firm, corporation or partnership, individually, jointly, in common or in any other manner whereby such property is under single or unified control.

Parcel. See "Lot or parcel."

"Parks, playgrounds, and golf courses" (land use) means public and private parks, play lots, playgrounds and athletic fields (nonprofessional); golf courses, (including country clubs, accessory on-site driving ranges, sales of golfing equipment, including golf carts (as in a "pro shop")); bathing beaches, bathhouses, and public restrooms; rollerblade parks consisting primarily of trails through landscaped areas; outdoor amphitheaters without fixed seating.

"Pasture" means an area of land where animals are confined, and which do not otherwise meet the definition of an "animal enclosure" (see section 17.56.020(C) of this ordinance), and where the animals feed on growing grasses and herbage. Pasture, whether dry or irrigated, must have sustainable vegetation present at all times. Therefore, enough residual plant material must be present, during and after grazing, to provide adequate ground cover for re-growth and erosion control to ensure continued forage production. While there may be barren areas where animals congregate or are customarily fed, the term pasture is not intended to indicate denuded, barren ground throughout the pasture area.

"Paper products" (land use) means manufacture of pulps from wood, other cellulose fibers and from rags; the manufacture of paper and paperboard; and the manufacture of paper and paperboard into converted products, such as paper bags, paper boxes, and envelopes. Also includes building paper and building board mills. (SIC: Group 26)

"Paving materials" (land use) means the manufacture of various common paving and roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood and various compositions of asphalt and tar. (SIC: Group 295)

"Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association; city, county, state, or district; and includes any trustee, receiver, assignee, or other similar representative thereof.

"Personal services" (land use) means establishments providing nonmedically related services, including automated teller machines (ATMs) independent from banks and financial institutions; beauty and barber shops; shoe repair shops; massage therapist; tanning salons; laundromats (self-service laundries); dry cleaning pick-up stores and small-scale dry cleaners without pick-up and delivery services; clothing rental; dating and escort services. These uses may also include accessory retail sales of products related to the services provided.

"Petroleum refining and related industries" (land use) means petroleum refining and compounding lubricating oils and greases from purchased materials. Also includes oil or gas processing facilities, liquefied natural gas (LNG) facilities, manufacture of petroleum coke and fuel briquettes, tank farms, and terminal facilities for pipelines. Does not include petroleum pipeline surge tanks and pump stations, which are included in "pipelines and transmission lines." (Petroleum products distributors are included in "Fuel and ice dealers"). (SIC: Group 291, 299)

"Pipelines" and "transmission lines" (land use) means transportation facilities for the conveyance of: crude petroleum; refined petroleum products such as gasoline and fuel oils; natural gas; mixed, manufactured or liquefied petroleum gas; or the pipeline transmission of other commodities. Also includes pipeline surface and terminal facilities, including pump stations, bulk stations, surge and storage tanks. Power transmission includes facilities for the transmission of electrical energy for sale, including transmission lines for a public utility company. Also includes telephone, telegraph, cable television and other communications transmission facilities utilizing direct physical conduits. Does not include offices or service centers (classified under "Offices"), distribution substations (classified under "Public utility facilities"), or power plants (classified under "Electric generating plants"). (SIC: Groups 461, 491)

"Planned residential development" means an area of one or more parcels to be developed as a single project for a number of dwelling units, the plan for which may not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one of the residential districts where allowed by Articles 17.06 through 17.52 of this chapter. All common open space lands within planned residential developments must be

held within the ownership of a home owners' association, a public agency, or a private non-profit corporation for the purpose of environmental preservation or protection. (See Section 17.54.080) "Planning commission," or "commission" means the planning commission of the county of Placer, with responsibilities and authority established by Section 17.60.040 of this chapter, pursuant to California Government Code Section 65101.

"Planning department," or "department" means the Placer County planning department.

"Planning director," or "director" means the head of the planning department and chief planning officer of Placer County who is appointed by the county executive officer upon recommendation of the agency director and serves at the discretion of the agency director and the county executive officer. The planning director is designated as the appointing authority for personnel purposes pursuant to Chapter 3 of this code, with responsibilities and authority established by Section 17.60.020 of this chapter. Unless otherwise stated, the planning director's designee may be substituted for the director wherever this chapter mentions planning director.

"Plant production nurseries, plus" (land use) means commercial establishments engaged in buying, displaying and sell containerized and non-containerized nursery stock produced primarily on-site plus non-plant nursery products as an accessory use to the primary use. Such nursery operations may involve the application of fertilizers, pesticides, herbicides, as well as other appropriate agricultural practices.

"Plant nurseries, retail" means commercial establishments engaged in the sale of ornamental plants, other nursery products, grown under cover or outdoors, garden accessories, garden equipment, and garden or landscape supplies. The sale of house plants or other nursery products entirely within a building is also included under "Retail stores, general merchandise."

"Plant production nursery." A type of crop production. Production of all types of nursery stock and ornamental plants with no accessory sales of non-plant products. See "Crop production," "Plant production nurseries, plus," and Section 17.56.165.

"Plastics" and "rubber products" (land use) means the manufacture of rubber products such as: tires; rubber footwear; mechanical rubber goods; heels and soles; flooring; and rubber sundries from natural, synthetic or reclaimed rubber. Also includes establishments primarily manufacturing tires (establishments primarily recapping and retreading automobile tires are classified in "Auto, mobile home, vehicle and supplies sales"). Also includes: establishments engaged in molding primary plastics for the trade, and manufacturing miscellaneous finished plastics products; fiberglass manufacturing, and fiberglass application services. (SIC: Group 30)

"Porch" means a area immediately outside of a building entrance that is: attached to the building; at least partially roofed; paved, or elevated and constructed of wood, concrete or masonry; and that provides a transition between the outdoors and the building interior.

"Printing and publishing" (land use) means establishments engaged in printing by letterpress, lithography, gravure, screen, offset or other common process including electrostatic (xerographic) copying and other "quick printing" services; and establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This group also includes establishments that publish newspapers, books and periodicals, whether or not they do their own printing; and establishments manufacturing business forms and binding devices. (SIC: Group 27)

"Property lines" means the recorded boundaries of a lot of record, as follows:

1. "Front property line" means a lot boundary that abuts any road or street adjacent to the subject parcel, whether the parcel is a corner or interior lot.
2. Rear Property Line. The rear property line is opposite the front property line of a parcel.
3. "Side property lines" are recorded lot boundaries that are neither front nor rear property lines, that extend between front and rear property lines. There are no side property lines on a corner lot (see Figure 17.04.030-5), only two front and two rear property lines.

"Public safety facilities" (land use) means facilities operated by public agencies including fire stations, lookouts, other fire prevention and fire fighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities (not including jails, which are defined under "Correctional institutions").

"Public utility" means a company regulated by the California Public Utilities Commission or a governmental or quasi-governmental entity with an elected governing body which provides utility services.

"Public utility facilities" (land use) means fixed-base structures and facilities serving as junction points for transferring utility services from one transmission voltage to another or to local distribution and service voltages. These uses include any of the following facilities that are not exempted from land use permit requirements by California Government Code Section 53091: electrical substations and switching stations; telephone switching facilities; natural gas regulating and distribution facilities; public water system wells, treatment plants and storage; and community

wastewater treatment plants, settling ponds and disposal fields or solid waste transfer stations. These uses do not include office or customer service centers (classified in "Offices"), or equipment and material storage yards (classified in "Storage yards and sales lots").

Quarry. See "Surface mining operations."

Rear Property Line. See "Property lines."

"Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface mining effects, incidental to underground mines, so that mined lands are reclaimed to a useable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require back filling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

"Reclamation plan" means a mine operator's completed and approved plan for reclaiming the lands affected by mining operations conducted after January 1, 1976, as called for in Section 2772 of the California Public Resources Code, and in Section 17.56.270 of this chapter.

"Recreation and fitness centers" (land use) means primarily indoor establishments providing amusement, entertainment, or physical fitness services for a fee or admission charge, such as: arcades containing coin operated amusements and/or electronic games (five or more such games or coin-operated amusements in any establishment constitutes an arcade pursuant to this definition, four or less are not considered a land use separate from the primary use of the site); bingo parlors; card rooms, billiard and pool halls; bowling alleys; ice skating and roller skating; dance halls, clubs and ballrooms which are principal uses rather than being subordinate to an eating or drinking place; fitness centers, gymnasiums, health and athletic clubs including indoor sauna, spa or hot tub facilities; tennis, handball, racquetball, indoor archery and shooting ranges and other indoor sports activities.

"Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational or emergency occupancy with a living area of three hundred twenty (320) square feet or less, and bearing the state or federal insignia of approval for recreational vehicles.

"Recreational vehicle park" (land use) means a parcel or contiguous parcels under one ownership where one or more lots are used or intended to be used, by camping parties utilizing recreational vehicles or tents. Recreational vehicle parks may include public restrooms, water, sewer, and power hookups to each lot and are intended as a higher density, more intensively developed, use than campgrounds, which are separately defined. May include accessory food and beverage retail sales where such sales are clearly incidental and intended to serve RV park patrons only. Does not include incidental camping areas, which are defined under "Camping, incidental." See Section 17.56.080 for specific use requirements applicable to recreational vehicle parks.

Recyclable Material. "Recyclable material" means reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with Sections 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.

"Recycling collection stations" (land use) means facilities for temporary accumulation and storage of recyclable materials, that are later transported to processing facilities. Includes sites for implementing the California Beverage Container Recycling Act (AB 2020), which may involve reverse vending machines, mobile collection units, and other attended and unattended collection facilities. Does not include automobile wrecking yards or any recycling processing facilities, which are listed under "Recycling, scrap and wrecking yards"; does not include temporary storage of toxic or hazardous waste materials. See Section 17.56.170 for specific use requirements applicable to recycling collection stations.

Recycling Facility. A "recycling facility" means a center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Recycling facilities may include the following:

1. Collection Facility. A "collection facility" means a center of the acceptance by donation, redemption, or purchase of recyclable materials from the public. Such a facility does not generally

use power-driven processing equipment except in the case of some reverse vending machines. Collection facilities may include the following:

- a. Reverse vending machines(s);
- b. Small collection facilities that occupy an area of not more than five hundred (500) square feet and may include:
 - i. A mobile unit;
 - ii. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than fifty (50) square feet of floor area;
 - iii. Kiosk-type units that may include permanent structures;
 - iv. Unattended containers placed for the donation of recyclable materials.
- c. Large collection facilities that may occupy an area of more than five hundred (500) square feet and may include permanent structures.

2. Processing Facility. A "processing facility" means a building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Processing facilities include the following:

- a. A light processing facility occupies an area of under forty-five thousand (45,000) square feet of gross collection, processing and storage of two outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.
- b. A heavy processing facility is any processing facility other than a light processing facility.

3. See Section 17.56.170 for specific use requirements applicable to recycling facilities.

"Recycling, scrap and wrecking yards" (land use) means establishments primarily engaged in assembling, breaking up, sorting, temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap and the incidental wholesale or retail sales of parts from such vehicles. Does not include terminal waste disposal sites, which are separately defined.

"Repair and maintenance--accessory to sales" (land use) means the repair of vehicles, equipment or other products on the same site as the retail sales of such vehicles, equipment or other products as a service to purchasers, that is incidental and accessory to the sales operation.

"Repair and maintenance--vehicle" (land use) means the repair, alteration, restoration, towing, painting, cleaning (including self-service car wash facilities), or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a principal use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Does not include: automobile parking (see "Vehicle storage"), repair shops subordinate to and maintained by a vehicle dealership which are included under "Auto, mobile home, vehicle and parts sales"; service stations and full-service car wash establishments, which are separately defined; or automobile wrecking yards which are included under "Recycling, scrap and wrecking yards." (SIC: Groups 751, 753, 754)

"Repair and maintenance--consumer products" (land use) means service establishments where repair of consumer products is the principal business activity, including: electrical repair shops; television and radio and other appliance repair; watch, clock and jewelry repair; re-upholstery and furniture repair. Does not include shoe repair (included under "Personal services"). Does not include repair or services incidental and accessory to retail sales. Does not include businesses serving the repair needs of heavy equipment, which are included under "Business support services." (SIC: Group 76)

Residence. See "Dwelling."

"Residential accessory uses" (land use) means and includes any use that is customarily part of, and clearly incidental and secondary to a residence and does not change the character of the residential use. Such uses include accessory structures such as swimming pools, spas and hot tubs, workshops, studios, greenhouses, garages, guesthouses (without cooking or kitchen facilities), solar panels, propane tanks, and similar equipment. Includes home receiving antennae for earth-based TV and radio broadcasts (broadcast and receiving antennas for ham radio and commercial applications, and satellite dish antennae, are included under the definition of "Antennae, communication facilities" (see also Section 17.56.060)). The storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property is included under the definition of "Storage, accessory." See Section 17.56.180 for specific use requirements applicable to residential accessory uses.

"Residential care homes" (land use) means facilities providing residential social and personal care for children, the elderly, and people with some limits on their ability for self-care, but where medical care is not a major element. Includes: children's homes; halfway houses; orphanages; rehabilitation centers; self-help group homes. (SIC: Group 836)

Residential Density Bonus. See Section 17.54.120.

"Residential district or zone" means any of the following zone districts established by Section 17.06.010: agricultural-residential (R-A), forest residential (R-F), multifamily residential (R-M), single-family residential (R-S). Also includes any of the following districts established by the Squaw Valley land use ordinance, Chapter 17, Appendix A of the Placer County Code: high-density residential (HDR), and low-density residential (LDR). In addition, the following land use districts established by the Tahoe City Area general plan land use ordinance and the Tahoe City Community plan land use ordinance (Chapter 17, Appendix B of the Placer County Code), and the North Tahoe community plans (Chapter 17, Appendix C of the Placer County Code): residential and tourist.

"Restaurants and bars" (land use) means restaurants, bars and other establishments selling prepared foods and drinks for on-premise consumption, as well as facilities for dancing and other entertainment that are secondary and subordinate to the principal use of the establishment as an eating and drinking place. Also includes drive-in restaurants, lunch counters, brew pubs, commercial wineries with tasting rooms and refreshment stands selling prepared goods and drinks for either immediate or off-premises consumption. Restaurants, lunch counters, and drinking places operated as subordinate service facilities within other establishments are not included here unless they are operated as leased departments by outside operators, includes catering services incidental to food preparation for on-site consumption. See Section 17.56.190 for specific use requirements applicable to restaurants with outdoor eating areas. (SIC: Group 58) Restaurants, Fast Food (land use). "Fast food restaurants" means franchised or independently-operated restaurants where customers are served prepared food and drinks from an ordering counter or drive-through window, for either on- or off-premises consumption. See Section 17.56.190 for specific use requirements applicable to restaurants with outdoor eating areas. (See also "Drive-In and Drive-Thru Services")

"Retail stores, general merchandise" (land use) means retail trade establishments selling many lines of new merchandise. Such types of stores and lines of merchandise include but are not limited to:

- Artists' supplies;
- Auto parts (not repair or machine shops);
- Bicycles;
- Books;
- Cameras and photographic supplies;
- Clothing and accessories;
- Convenience stores;
- Department stores;
- Drug and discount stores;
- Dry goods;
- Fabrics and sewing supplies;
- Florists and houseplant stores (indoor sales only--outdoor sales are "Plant nurseries");
- General stores;
- Gifts, novelties and souvenirs;
- Handcrafted items (stores may include crafting operations subordinate to sales);
- Hardware;
- Hobby materials;
- Jewelry;
- Luggage and leather goods;
- Musical instruments, parts and accessories;
- Newsstands;
- Orthopedic supplies;
- Pet stores;
- Religious goods;
- Small wares;
- Specialty shops;
- Sporting goods and equipment;
- Stationery;
- Toys and games;

Variety stores.

Reverse Vending Machine(s). A "reverse vending machine" means an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues and cash refund or redeemable credit slip with a value not less than the container's redemption value as determined by the state. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.

1. A "bulk reverse vending machine" means a reverse vending machine that occupies an area larger than fifty (50) square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

"Road" or "street" means right-of-way, easement or prescriptive right-of-way belonging to the county of Placer; a state highway; a private road, easement, or prescriptive right-of-way; and which is customarily used for automobile travel and for providing vehicular access to abutting property, except where such access is restricted.

"Roadside stands for agricultural products" (land use) means structures for the retail sale of agricultural products (except hay, grain and feed sales-included under "Farm equipment and supplies"), located on the site or in the area of the property where the products being sold were grown, including products whose primary ingredients were grown on site and were later modified (e.g., apple cider, cherry pies, fruit preserves, wine made from grapes grown on-site even if the wine is not located on site, etc.). Does not include field sales or agricultural products, which is included under "Crop production."

"Rural area" means any parcel(s) of land designated for agricultural, resource or open space uses, or any parcel(s) designated for residential use with a minimum lot area of five acres or more on any current Placer County zoning map.

"Rural recreation" (land use) means facilities for special group activities such as: outdoor archery, pistol, rifle, and skeet clubs and facilities (indoor shooting facilities are included under the definition of "Recreation and fitness centers"); dude and guest ranches; health resorts including but not limited to outdoor hot spring or hot tub facilities; water ski/wakeboard lakes and clubs; hunting and fishing clubs. Equestrian facilities including riding academies and schools, boarding stables and exhibition facilities are separately defined. Camping facilities are included under "Campgrounds," "Camping, Incidental," and "Recreational vehicle parks" for uses with facilities specifically designed for spectators and special events see "Sporting Facilities". (See also "Outdoor commercial recreation" and "sporting facilities and outdoor public assembly").

"Satellite dish antenna" means an antenna and appurtenant equipment for the purpose of receiving communication or other signals from orbiting satellites or extra-terrestrial sources by a single site. Community receiving and/or transmitting antennae are included under the definition of "Antennae, communications facilities." See Section 17.56.060 for specific use standards applicable to satellite dish antennae.

Schools--College and University (land use). "College" or "university" means community colleges, colleges, universities and professional schools granting associate arts degrees, certificates, undergraduate and graduate degrees and requiring for admission at least a high school diploma or equivalent general academic training. (SIC: Group 822)

Schools--Elementary (land use). "Elementary schools" means elementary and junior high schools serving grades 1 through 8, including denominational and sectarian. Kindergartens are also included. Pre-schools and child day care are included under the definitions of "Child day care centers and family care homes." (SIC: Group 821)

Schools--Secondary (land use). "Secondary schools" means high schools, both denominational and sectarian, serving grades 9 through 12, including boarding schools and military academies.

Schools--Specialized Education and Training (land use). "Specialized education" and "training schools" means business, secretarial schools and vocational schools offering specialized trade and commercial courses. Includes specialized nondegree granting schools such as: music schools; dramatic schools; language schools; driver education schools; ballet and other dance studios; seminars and other establishments exclusively engaged in training for religious ministries; and establishments furnishing educational courses by mail. Facilities, institutions and conference centers are included that offer specialized programs in personal growth and development (including fitness, environmental awareness, arts, communications, and management, as examples). (SIC: Groups 834, 829)

"Secondary dwellings" (land use) means a second permanent dwelling that is accessory to a

primary dwelling on a site. A secondary dwelling may be either a detached or attached dwelling unit which provides complete, independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel or parcels as the primary dwelling. See Section 17.56.200 for specific use requirements applicable to secondary dwellings.

"Secondhand stores" (land use) means indoor retail establishments that buy and sell used products, including but not limited to books, clothing, furniture and household goods. The sale of cars and other used vehicles is included under the definition of "Auto, mobile home, vehicle and parts sales."

"Senior housing projects" (land use) means multifamily residential projects where occupancy is limited to people of fifty-five (55) years or older (except in the case of double occupancy of a unit where only one resident need be fifty-five (55) or older) and no persons under eighteen (18) years of age are permitted as residents. Senior housing projects include "Senior Independent Living Centers" (referred to as "SILCs") and senior apartments, as follows:

1. "Senior independent living centers (SILCs)" means a senior housing project that consists of, but is not limited to, individual apartment units, community dining centers, and common recreation areas. The facilities must be physically accessible to elderly citizens, and the project is intended to provide a comfortable standard of living for its residents.
2. "Senior apartments" means a senior housing project designed to meet the needs of citizens of fifty-five (55) years of age or older. Dwelling units independent and self-contained, and easily accessible to elderly citizens.

See Section 17.56.210 for specific use requirements applicable to senior housing projects.

"Septic system" means an on-site sewage disposal system including any combination of septic tanks and leaching systems or areas, subject to the requirements of the Placer County health department.

"Service stations" and "full-service car wash establishments" (land use) means retail/service establishments selling gasoline, which may also provide lubrication, oil change and tune-up services and the sale of automotive products incidental to gasoline sales. May also include accessory towing, mechanical repair services and trailer rental, and the accessory sales of food, gifts, etc., but does not include storage of wrecked or abandoned vehicles, paint spraying, body and fender work. The retail sale of gasoline as a subordinate service to a grocery store when limited to not more than two dispensing nozzles is instead included under the definition of "Grocery and liquor stores." Full-service car wash establishments, whether combined with or independent from service stations selling gasoline, are also included within this land use definition; however, self-service car wash facilities are not included within this definition and are instead found within the definition of "Repair and maintenance--vehicle (land use)." See Section 17.56.220 for specific use requirements applicable to service stations and full-service car wash establishments. (SIC: Group 554)

Note. Full-service car wash establishments have the following features which distinguish them from self-service car wash facilities:

1. The vehicle cleaning process is accomplished by mechanical equipment and/or employees of the car wash business only; and
2. The vehicle cleaning process (except for preliminary vacuuming and final finish work (e.g., towel drying, application of tire dressing, window polishing, etc.) is conducted entirely within a building and is not visible to public view or is screened from public view by a building, wall or other structure.

"Setback" means an area on a lot where no buildings, structures, or additions to them may be located, and which thereby becomes a yard area. Setbacks may be required by this chapter between buildings, structures and property lines; between buildings and structures themselves; between buildings, structures and natural features such as watercourses; or between other features of site development. The locations of required front, side and rear setbacks are shown in Figure 17.04.030-6.

Setback, Front. The "front setback" means an area formed by a line parallel to a front property line (a lot boundary that abuts any adjacent road or street), or a line parallel to any public or private road that may cross a single parcel as an interior road (See Figure 17.04.030-7). The front setback is measured at right angles to the front property line or interior road.

Setback, Interior. "Interior setback" means an area of separation between two buildings or structures on a single parcel. Interior setbacks are established by Section 17.54.160.

"Setback line" means the line formed by the measurement of the front, side, or rear setbacks required by this chapter. All setback lines together encompass the buildable area of a lot.

Setback, Rear. "Rear setback" means an area formed by a line parallel to the rear property line.

The rear property line is opposite the front property line of the parcel. In the case of a corner lot, there is no rear property line, only two front and two side property lines (see Figure 17.04.030-6). Rear setbacks are measured at right angles to the rear property lines.

Setback, Side. "Side setback" means an area formed by a line parallel to the side property lines of a lot (property lines that are neither front or rear property lines), that extends between front and rear setback areas (except on corner lots). Side setbacks are measured at right angles to the side property lines.

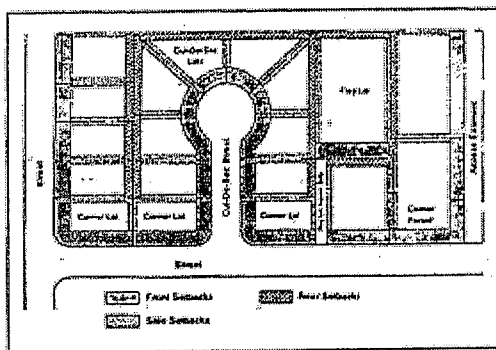


**Figure 17.04.030-6
LOCATION OF REQUIRED SETBACKS**

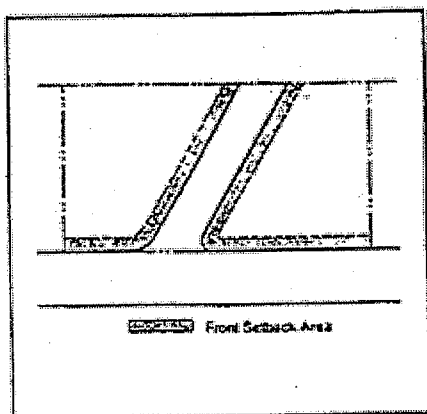


**Figure 17.04.030-7
FRONT SETBACK FROM INTERIOR ROAD**

"Shopping centers" (land use) means commercial developments on a single parcel or contiguous parcels under the same ownership, containing five or more retail stores, service uses, or other tenants, where each have individual entrances from a commonly-owned public area such as a parking lot, mall corridor or atrium. Also includes such commercial developments where individual tenant spaces are subdivided as a commercial condominium, with parking and pedestrian circulation areas owned in common. The land uses allowed in shopping centers are determined by the applicable zone district pursuant to Sections 17.06.030 et seq., of this chapter (Allowable land uses and permit requirements).

Side Property Line. See "Property lines."

"Sign" means any visual device or representation designed or used for communicating a message, or identifying or attracting attention to a premise, product, service, person, organization, business or event, not including such devices visible only from within a building. See Figure 17.04.030-8.

"Sign area" means the area of the smallest rectangle within which a single sign face can be enclosed. See Figure 17.04.030-8 and Section 17.54.170(C).

"Sign copy" means the information content of a sign, including text, illustrations, logos and trademarks.

"Sign face" means the visible portions of a sign including all characters and symbols, but

excluding structural elements not an integral part of the display.

Sign, Freestanding. "Freestanding sign" means a sign not attached to any buildings and having its own support structure, typically including pole-mounted and monument signs. See Figure 17.04.030-8.

"Sign height" means the vertical distance from average adjacent ground level to the top of the sign including the support structure and any design elements.

Sign, Monument. "Monument sign" means a self-supported sign with its base on the ground, not exceeding six feet in height. See Figure 17.04.030-8.

Sign, Nonconforming. "Nonconforming sign" means a sign that was legally established, either by being granted a variance or by conforming with the sign regulations applicable at the time, that does not satisfy the sign regulations of Sections 17.54.170 et seq. of this chapter.

Sign, Off-premises. "Off-premises sign" means a sign directing attention to a business, service, product, or entertainment not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.

Sign, On-premises. "On-premises sign" means an appurtenant sign for the purpose of directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.

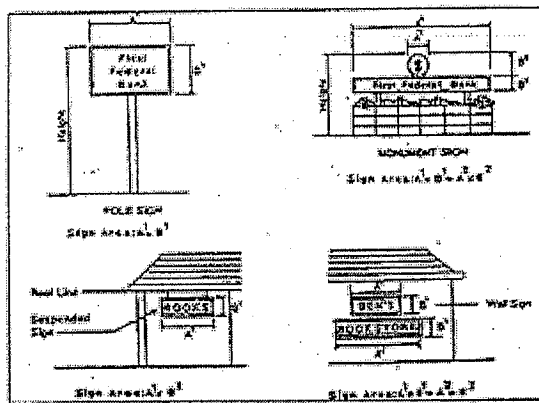


Figure 17.04.030-8
SIGN TYPES, MEASUREMENT OF SIGN AREA

Sign, Projecting. "Projecting sign" means a sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall.

Sign, Roof. "Roof sign" means any sign located on, or attached to the roof of a building.

Sign, Suspended. "Suspended sign" means a sign attached to and located below any permanent eave, roof, or canopy. See Figure 17.04.030-8.

Sign, Wall. "Wall sign" means a single-faced sign painted on or attached to a building or wall, no part of which extends out from or above a wall more than twelve (12) inches. See Figure 17.04.030-8.

Sign, Window. "Window sign" means a sign displayed within a building or attached to a window but visible through a window or similar opening for the primary purpose of exterior visibility.

"Site" means a lot or adjoining lots that are the location of a proposed development project or land use.

Site Area. See "Area."

Site Coverage. See "Coverage."

"Single-family dwelling" (land use) means a building designed for and/or occupied exclusively by one family. Also includes factory-built housing (modular housing), manufactured housing (mobile homes), and the rental of bedrooms within a single-family dwelling to no more than four boarders. More than four boarders constitutes a boarding house, which is included within the definition of "Multifamily dwelling." See Section 17.56.230 for specific use requirements applicable to single-family dwellings.

"Ski lift facilities" and "ski runs" (land use) mean the use of ski lifts, ski runs and trails. Ski lift facilities include powered conveyors for transporting skiers or sightseers up a mountainside, with terminals at each end and supporting towers along the route. Ski lifts can be chair lifts, surface lifts, gondolas, or cable cars. Ski runs include slopes intended for downhill skiing, paths or trails

for cross-country or Nordic skiing, and helicopter skiing runs. Ski facilities also include snow making, helicopter skiing facilities, and related commercial facilities such as equipment rental and storage lockers, warming huts, restaurants and bars, and overnight lodging accommodations. Slaughterhouses and Rendering Plants (land use). "Slaughterhouses" are establishments primarily engaged in slaughtering cattle, hogs, sheep, lambs, calves and/or other animals for meat to be sold or to be used on the same site in canning, curing and freezing, and in the making of sausage, lard and other products. "Rendering plants" are engaged in the rendering of inedible tallow, grease, and tallow from animal fat, bones and meat scraps. (SIC: Group 20)

"Small-scale manufacturing" (land use) means manufacturing establishments not classified in another major manufacturing group, including: jewelry, silverware and plated ware; musical instruments; toys; sporting and athletic goods; pens, pencils, and other office and artists' materials; buttons, costume novelties, miscellaneous notions; brooms and brushes; caskets; and other miscellaneous manufacturing industries. Also included are artisan and craftsman-type operations which are not home occupations, and which are not secondary to on-site retail sales. Also includes small-scale blacksmith and welding services when accessory to another use. (SIC: Group 39)

"Snow tunnels" means a temporary structure erected for the purpose of allowing personal access to residences and seasonal homes during the heavy snow season. Such structures are not for the storage of vehicles, snowmobiles, or other mechanical equipment. See Section 17.56.240 for specific use requirements applicable to snow tunnels.

Special Interest Vehicle. See "Vehicle, special interest."

"Sport facilities and outdoor public assembly" (land use) means indoor and outdoor facilities for spectator-oriented sports, and other outdoor public assembly facilities for such activities as outdoor theater and concerts, that include: amphitheaters; stadiums and coliseums; arenas and field houses; race tracks; motorcycle racing and drag strips; and other sports that are considered commercial. (SIC: Group 794) (See also "Outdoor commercial recreation" and "Rural recreation")

"State" means the state of California.

"Stone and cut stone products" (land use) means manufacturing establishments primarily engaged in cutting, shaping, and finishing marble, granite, slate, and other stone for building and miscellaneous uses. Also includes establishments primarily engaged in buying or selling partly finished monuments and tombstones. (SIC: Group 328)

Storage, Accessory (land use). "Accessory storage" means the indoor or outdoor storage of various materials on the same site as a principal building or land use which is other than storage, which supports the activities or conduct of the principal use. Includes the storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use, and the storage of explosives for on-site use. See Section 17.56.250 for specific use requirements applicable to accessory storage.

Storage, Mini-storage Facilities. "Mini-storage facilities" means individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc. See Section 17.56.260 for more specific use requirements applicable to mini-storage facilities.

"Storage of petroleum products for on-site use" (land use) means the storage of such materials as gasoline, diesel fuel and petroleum lubricants for use by an approved agricultural or commercial enterprise on the same site, including but not limited to the purposes of commercial or agricultural vehicle or equipment fueling and maintenance. (Note: Section 15.04.040(K) of the Placer County Code contains additional restrictions beyond those found in this chapter.)

Storage Yards and Sales Lots (land use). "Storage yards" are service establishments primarily engaged in the outdoor storage of motor vehicles; construction equipment, materials or supplies; manufacturing machinery (including farm and garden machinery) or industrial supplies on a lot or portion of a lot greater than three hundred (300) square feet in area. "Sales lots" consist of any permanent outdoor sales area for construction equipment or other heavy equipment; outdoor equipment rental yards (except auto rental which is included under "Auto, mobile home, vehicle and parts sales"); large-scale temporary or permanent outdoor sales activities such as swap meets and flea markets; or livestock auctions and sales. Also includes retail ready-mix concrete operations which are incidental to an outdoor equipment rental yard. Does not include: sales lots for autos and other vehicles, which are included under "Auto, mobile home, vehicle and parts sales"; or the sale of farm equipment, which is included under "Farm equipment and supplies sales."

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a

building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused floor space is more than six feet above the natural grade of the building site for more than fifty (50) percent of the total perimeter of a building or is more than twelve (12) feet above natural grade at any point, such usable or unused under-floor space shall be considered a story for purposes of this chapter.

Stream, Intermittent. "Intermittent stream" means a watercourse that is dry a large part of the year, is classified as a "wetland" using the U.S. Army Corps of Engineers jurisdictional three-parameter criteria, and requires a one hundred (100) year floodplain delineation (assuming full build-out of its watershed) to be necessary by the Placer County department of public works. Also, a stream that has a significant flow of water within a well-defined channel thirty (30) days after the last significant storm or is designated as an intermittent stream on any applicable general plan or community plan map.

Stream, Perennial. "Perennial stream" means a watercourse that has a flow of water within a well-defined channel almost all year long and/or is designated as a perennial or permanent stream on any applicable general plan or community plan map. Such streams are usually designated with solid blue lines on U.S.G.S. topographic maps and they often have names.

Street. See "Road."

"Structural clay and pottery products" (land use) means manufacturing establishments primarily producing brick and structural clay products, including pipe, china plumbing fixtures, and vitreous china articles, fine earthenware and porcelain electrical supplies and parts. Artist/craftsman uses are included in "Small scale manufacturing" or "Home occupations." (SIC: Groups 325, 326)

"Structural alteration" means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

"Structure" means any artifact constructed or erected, the use of which requires attachment to the ground, or over one hundred twenty (120) square feet in area or over six feet in height, or any structure that requires a building permit, including any building, but not including fences or walls six feet or less in height, or concrete flat work such as patios or planters less than twelve (12) inches in height.

"Substation" means any public utility electrical substation, pumping station, pressure regulating station, or similar facility.

"Suburban area" means any parcel(s) of land designated for residential uses with a minimum lot size greater than one acre but less than five acres on any Placer County zoning map.

"Surface mining operations" means all, or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to: the processing (i.e., crushing, sorting, loading, etc.) and wholesale/retail sale of mined materials on-site, the in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities. Surface mining operations shall also include the creation of borrow pits, streambed skimming, and the segregation, stockpiling and recovery of mined materials. See Section 17.56.270 for specific use requirements applicable to surface mining operations.

"Tahoe-Sierra" means the area covered by Placer County zoning maps 90.24 through 90.39.

"Temporary dwelling" (land use) means the temporary placement and occupancy of a mobile home, travel trailer or recreational vehicle as a dwelling while building a permanent dwelling on the same site, or for hardships. The use of a temporary dwelling for caretaker or employee housing is instead included under "Caretaker and employee housing." See Sections 17.56.280 and 17.56.290 for specific use requirements applicable to temporary dwellings, and Section 17.56.090 for specific use requirements applicable to caretaker and employee housing.

"Temporary uses and events" (land use) means any use of a structure or land for an event for a limited period of time where the site is not to be permanently altered by grading or construction of accessory facilities. Events include but are not limited to art shows, circuses, rodeos, religious revivals, tent camps, outdoor festivals and concerts. See Section 17.56.300 for specific use requirements applicable to temporary uses and events.

"Tenancy" means an individual business occupant of a commercial building or group of buildings on a single site.

"Tent" means any enclosed structure or shelter fabricated entirely, or in major part, of cloth, canvas, or similar flexible material.

"Textile and leather products" (land use) means manufacturing establishments engaged in performing any of the following operations: Preparation of fiber and subsequent manufacturing of yarn, threads, braids, twine cordage; manufacturing woven fabric and carpets and rugs from

yarn; dying and finishing fiber, yarn, fabric, and knit apparel; coating, waterproofing, or otherwise treating fabric; the integrated manufacture of knit apparel and other finished products from yarn; the manufacture of felt goods, lace goods, non-woven fabrics and miscellaneous textiles; hide and leather tanning; and upholstery manufacturing. (SIC: Group 22)

"Theaters" and "meeting halls" (land use) mean indoor facilities for public assembly and group entertainment, other than sporting events, such as: public and semi-public auditoriums; exhibition and convention halls; civic theaters, meeting halls and facilities for "live" theater and concerts; motion picture theaters; meeting halls for rent and similar public assembly uses. Outdoor theaters, concert and similar entertainment facilities, and indoor and outdoor facilities for sporting events are included under the definition of "Sport facilities and outdoor public assembly."

"This chapter" means Chapter 17 of the Placer County Code, the Placer County zoning ordinance.

"Timeshare project" means any development offering for sale or lease more than eleven (11) estate or use interests in a specific structure or structures for commercial, transient residential or residential purposes. This definition is intended to include any and all interval ownership projects regulated as "timeshare projects" by the state of California as well as other developments which, in the opinion of the planning commission, may be accurately reflected by the above description. See Section 17.56.310 for specific use requirements applicable to timeshare projects.

"Transit stations and terminals" (land use) means passenger stations for vehicular and rail mass transit systems; also terminal facilities providing maintenance and service for the vehicles operated in the transit system. Includes buses, taxis, railway, subway, etc. (SIC: Group 41)

"Truck stops" (land use) means service establishments selling diesel fuel and gasoline to commercial trucks in transit. Such establishments may also include vehicle services incidental to fuel sales including mechanical repair, lubrication, oil change and tune-up, as well as accessory towing services and accessory trailer rental, but does not include the storage of wrecked or abandoned vehicles. May also include driver services such as a convenience store, restaurant or coffee shop, showers and lockers.

"Urban area" means any parcel(s) of land designated for industrial or commercial uses, or any parcel(s) designated for residential uses with a minimum lot area requirement of one acre or less on any current Placer County zoning map.

Use, Accessory. "Accessory use" means a use accessory to any principal use and customarily a part thereof, which is clearly incidental and secondary to the principal use, is significantly smaller in area than the principle use and does not change the character of the principal use.

Use, Agricultural, Resource or Open Space. "Agricultural, resource or open space use" means any land use listed by Section 17.06.050 (Land use and permit tables) as part of the agriculture, resources and open space uses group.

Use, Allowable or Permitted. "Allowable or permitted use" means a land use that is identified as an allowed use, use subject to zoning clearance, or use subject to administrative review, minor use or conditional use permit approval in a particular zone district by Sections 17.06.050 (Land use and permit tables) or 17.06.060, et seq. (Zone district regulations).

Use, Allowed. "Allowed use" means a land use that is allowed by Sections 17.06.050 (Land use and permit tables) or 17.06.060, et seq. (Zone district regulations) without land use permit approval, subject to compliance with all applicable provisions of this chapter, and subject to obtaining any building or other permits required by the Placer County Code.

Use, Approved. "Approved use" means a use of land that is either:

1. Identified by Sections 17.06.030 et seq. (Allowable uses and permit requirements) as an allowed use in the applicable zone district, and is established and maintained in a manner that is consistent with all applicable provisions of this chapter; or
2. Authorized by the county to be constructed and/or established through the approval of an administrative review permit, minor use permit, or conditional use permit as set forth in Article 17.58 (Discretionary Land Use Permit Procedures).

Use Area. See "Area."

Use, Commercial. "Commercial use" means any land use listed by Section 17.06.050 (Land use and permit tables) as part of the retail trade or service uses groups.

Use, Manufacturing or Industrial. "Manufacturing or industrial use" means any land use listed by Section 17.06.050 (Land use and permit tables) as part of the manufacturing and processing uses group.

Use, Nonconforming. "Nonconforming use" means a use of land that was lawfully established, but that is not identified as an allowable use by Sections 17.06.030 et seq. (Allowable land uses and permit requirements) of this chapter.

Use, Nonresidential. "Nonresidential use" means any land use listed by Section 17.06.050 (Land

use and permit tables) in other than the residential uses group.

"Use of land" means the purpose for which a parcel of land, a premises or building is designed, arranged or intended, or for which it is or may be occupied or maintained. Such uses that are permitted by this chapter are identified by Sections 17.06.030 et seq. (Allowable land uses and permit requirements) of this chapter.

Use, Principal or Main. "Principal or main use" means the primary purpose for which a building, structure or lot is designed, arranged or intended, or for which they may be used, occupied or maintained under this chapter.

Use, Residential. "Residential use" means any land use listed by Section 17.06.050 (Land use and permit tables) as part of the residential uses group.

Use, Service. "Service use" means any land use listed by Section 17.06.050 (Land use and permit tables) as part of the service uses group.

"Utility lines" means water or sewer lines, electric, natural gas, telephone and cable television local distribution lines.

"Utility transmission and distribution lines" (land use) means transportation facilities primarily engaged in the pipeline transportation of: crude petroleum; refined products of petroleum such as gasoline and fuel oils; natural gas; mixed, manufactured or liquefied petroleum gas; or the pipeline transmission of other commodities. Also includes pipeline surface facilities, including pump stations and surge tanks. Power transmission includes facilities for the transmission of electrical energy for sale, including transmission lines for a public utility company. Does not include offices or service centers (classified in "Offices"), equipment and material storage yards (classified under "Storage yards and sales lots"), distribution substations (classified under "Public utility facilities"), or power plants (classified under "Electric generating plants"). Does not include distribution pipelines, wires and conduits that provide service to end-users, which are not regulated by this chapter. (SIC: Groups 461, 491)

"Vehicle and freight terminals" (land use) means transportation establishments furnishing services incidental to transportation including: freight forwarding services; transportation arrangement services; packing, crating, inspection and weighing services; freight terminal facilities; joint terminal and service facilities; trucking facilities, including transfer and storage; and postal service bulk mailing distribution centers. Includes rail, air and motor freight transportation. (SIC: Groups 40, 42)

Vehicle, Historic. "Historic vehicle" means vehicles that were manufactured in 1922 or earlier; vehicles manufactured before 1965 with sixteen (16) or more cylinders; or vehicles at least twenty-five (25) years old that are of historic interest.

Vehicle, Inoperable. "Inoperable vehicle" means any car, boat or commercial vehicle that is not currently registered and/or is not operable and clearly cannot be readily made operable, because of damage, missing parts or any other condition that precludes its use. Such vehicles shall be considered operable if they are in a condition to be currently registered and capable of driving on a public roadway.

Vehicle, Special Interest. "Special interest vehicle" means a vehicle of any age, that is unaltered from the manufacturers original specifications, that is being collected, preserved, restored or maintained by a hobbyist as a leisure pursuit. Such a vehicle must have significance such as being a brand or model that is no longer produced, or a model of which less than two thousand (2,000) were sold in California in any model year.

"Vehicle storage" (land use) means service establishments in the business of storing operative cars, buses and other motor vehicles for clients. Includes both day use and long-term public and commercial garages, parking lots and structures, except when accessory to a principal use. (All principal uses are considered to include any customer or public use off-street parking required by Articles 17.54 or 17.56.) Includes sites where vehicles are stored for rental or leasing. Does not include wrecking yards (classified in "Recycling, scrap and wrecking yards") or farm equipment storage (classified in "Storage yards and sales lots"). Does not include the storage of operative vehicles accessory to or used by another use, which is included under "Storage, Accessory." (SIC: Group 752)

"Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

"Wall" means a barrier fence constructed of concrete, stone, brick, tile, or similar type of solid material.

"Warehousing" (land use) means facilities for the storage of farm products, furniture, household goods, or other commercial goods of any nature for later distribution to wholesalers and retailers. Includes cold storage. Also includes warehouse, storage or mini-storage facilities offered for rent or lease to the general public. Does not include warehouse facilities where the primary purpose

of storage is for goods for wholesaling distribution. Does not include terminal facilities for handling freight (classified in "Vehicle and freight terminals").

"Waste disposal sites" (land use) means county-approved or operated refuse dumps, sanitary landfills and other solid waste disposal facilities of a terminal nature, where garbage, trash or other unwanted materials are sorted for recycling, and/or are abandoned, buried or otherwise discarded with no intention of re-use.

"Water extraction and storage" (commercial) (land use) means the use of an on-site well, spring or any other source for the extraction of water to be sold for off-site use.

"Watercourse" means the normal channel or limits of an intermittent or perennial stream, or other body of water, during nonflood conditions.

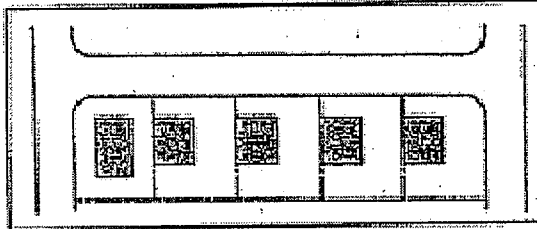
"Weapons manufacturing" (land use) means the manufacturing of nonexplosive weapons and weapons components, including but not limited to small arms, artillery, and missiles. The manufacture of conventional explosives for weapons use (including ammunition, bombs, missile warheads, etc.) is included under the definition of "Explosives manufacturing and storage." (SIC: Group 348)

Weddings, Receptions, etc. See "Community centers."

"Wholesaling and distribution" (land use) means establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes such establishments as: merchant wholesalers; agents, merchandise or commodity brokers, and commission merchants; assemblers, buyers and associations engaged in the cooperative marketing of farm products; stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment; bottling works. (SIC: Groups 50, 511-516, 517, 518, 519)

"Zero lot line development" means a residential project where dwelling units on individual lots of record are located so that they abut one side property line, without a setback. See Section 17.54.140 and Figure 17.04.030-9.

**Figure 17.04.030-9
ZERO LOT LINE DEVELOPMENT**



"Zoning ordinance" or "this ordinance" means the zoning ordinance of the county of Placer, Chapter 17 of the Placer County Code. (Ord. 5375-B § 1, 2005; Ord. 5373-B (part), 2005; Ord. 5339-B (Exh. A) (part), 2004; Ord. 5304-B (Exh. 1) (part), 2004; Ord. 5252-B (Exh. A) (part), 2003; Ord. 5126-B (part), 2001)

[<< previous](#) | [next >>](#)

EXHIBIT 34

Chapter 17 ZONING*Article 17.58 DISCRETIONARY USE REQUIREMENTS**17.58.140 Permit issuance.**

The approval and issuance of an administrative review permit or minor use permit by the zoning administrator or a conditional use permit by the planning commission shall occur as set forth in this section.

A. Findings Required For Approval. No administrative review permit, minor or conditional use permit shall be approved unless the zoning administrator or planning commission (or board of supervisors in the event of an appeal) shall first find that:

1. The proposed use is consistent with all applicable provisions of this chapter and any applicable provisions of other chapters of this code.
 2. The proposed use is consistent with applicable policies and requirements of the Placer County general plan, and any applicable community plan or specific plan, and that any specific findings required by any of these plans are made.
 3. The establishment, maintenance or operation of the proposed use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the county; except that a proposed use may be approved contrary to this finding where the granting authority determines that extenuating circumstances justify approval and enable the making of specific overriding findings.
 4. The proposed project or use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
 5. The proposed project will not generate a volume of traffic beyond the design capacity of all roads providing access to the project, either those existing or those to be improved with the project unless a specific design deficiency is acknowledged and approved in conjunction with the adoption of a general plan or community plan applicable to the area in question.
 6. In a TPZ zone district (Article 17.16), the establishment, maintenance and operation of the proposed use or building will not significantly detract from the use of the property for, or inhibit the growing and harvesting of timber.
 7. Any findings required by Articles 17.06 through 17.52 (Zone districts and allowable uses of land) for the approval of proposed uses in specific zone districts or combining districts are made.
 8. Any findings required by Article 17.56 (Specific Use Requirements) for the approval of specific uses are made.
 9. As required by Section 18.16.040 of this code (Environmental Review) when a proposed negative declaration has been prepared for the project that, on the basis of the initial study and any comments received, there is no substantial evidence that the project will have a significant effect on the environment; or
 10. As required by Section 18.20.070 of this code (Environmental Review) when a final environmental impact report has been prepared for the project, that the project as approved will not have a significant effect on the environment, or that the granting authority has:
 - a. Eliminated or substantially lessened all of the significant effects on the environment, where feasible (as defined and used in Section 21061.1 of the California Public Resources Code); and
 - b. Determined that any remaining unavoidable significant effects on the environment are acceptable due to specified overriding considerations.
 11. As required by Section 18.08.020 of this code (Environmental Review) when the proposed project meets the criteria discussed in the applicable section, that the project is:
 - a. Statutorily exempt from the provisions of CEQA; or
 - b. Categorically exempt from the provisions of CEQA; or
 - c. Not subject to environmental review pursuant to the provisions of Section 18.08.020(D) ("General Rule").
 12. The proposed use is consistent with, replaces or appropriately modifies any prior established relevant conditions of a previous entitlement, if applicable.
- B. Conditions of Approval. In conditionally approving an administrative review permit, minor or

conditional use permit, the granting authority shall adopt conditions of approval as necessary to accomplish the following objectives, consistent with the requirements of state law:

1. Specify the period of validity of the permit and/or the allowed duration of the proposed use. The permit may be issued and/or the use allowed for a revocable, permanent, temporary or otherwise limited term, as deemed appropriate by the granting authority. If no period of validity is specified, the permit shall be subject to the time limits specified by Section 17.58.160 (Permit time limits and extensions).
 2. Ensure that the proposed project will be consistent with all applicable requirements of this chapter, the Placer County general plan, and any applicable community plan or specific plan.
 3. Enable all the findings required by subsection A of this section to be made by the granting authority.
 4. Mitigate environmental impacts identified in environmental documents prepared pursuant to Chapter 18 of this Code (Environmental Review), or adopt overriding findings pursuant to Section 15091 et seq., of the CEQA Guidelines.
 5. Require the dedication of rights-of-way determined by the granting authority to be necessary as a result of the proposed use.
 6. Require the installation, or participation in the cost of installation, of specified on-site or off-site improvements determined by the granting authority to be necessary as a result of the proposed use.
 7. Supersede, replace, or modify conditions of approval applicable to the site as a result of a previous permit approval, where determined by the granting authority to be appropriate.
 8. Limit the size of the project or intensity of the use to a level approved by the granting authority.
 9. The granting authority may also adopt any other conditions of approval as the authority determines are necessary to protect the public health, safety, and general welfare.
- C. Effect of Conditions. It is unlawful, and a violation of this code, for any person to construct or otherwise establish a land use authorized by a permit pursuant to this subchapter prior to compliance with or contrary to the conditions of approval adopted as set forth in this section. See Section 17.62.030 (Penalties) for violations of this chapter.
- D. Effective Date of Permit. An approved administrative review permit, variance, minor or conditional use permit shall become effective for the purposes of commencing the actions necessary to comply with conditions of approval and filing building permit applications, on the 11th day after approval of the permit by the granting authority, provided that approval shall be set aside and of no effect if an appeal is filed within ten days after approval pursuant to Section 17.60.110 (Appeal). If no written or oral testimony is provided as a part of the official record, except for such testimony as may have been provided by the applicant and/or the development review committee (DRC), the hearing body may waive the ten-day waiting period and may establish an effective date for the permit at any time following the conclusion of the public hearing, not to exceed the original ten-day waiting period.
- E. Implementation of Permit. After the effective date of an administrative review permit, minor use permit or conditional use permit, the applicant shall diligently proceed to carry out the conditions of approval and implement the permit by establishing the approved use within the time limits set forth in Section 17.58.160. (Ord. 5126-B (part), 2001)

[<< previous](#) | [next >>](#)

EXHIBIT 35

Chapter 17 ZONING*Article 17.58 DISCRETIONARY USE REQUIREMENTS**17.58.160 Permit time limits, exercising of permits, and extensions.**

A. Time Limits for Action by County. As provided by California Government Code Section 65950, an administrative review, minor or conditional use permit shall be approved or disapproved by the granting authority within the following time limits:

1. If a negative declaration is adopted or if the project is exempt from regulation under the California Environmental Quality Act (CEQA) pursuant to Chapter 18 of this code, the project shall be approved or disapproved within three months from the date of adoption of a negative declaration, or, for those projects which are exempt from regulation under CEQA, within three months from the date that the application is determined to be complete pursuant to Section 17.58.050 (Initial review of applications), unless the project proponent requests an extension of the time limit (see Section 17.58.160(A)(3)).
2. If an environmental impact report is prepared for the project pursuant to the provisions of Chapter 18 of this code, the project shall be approved or disapproved within six months from the date of certification by the hearing body of the environmental impact report, unless the project proponent requests an extension of the time limit (see Section 17.58.160(A)(3)).
3. If a project proponent requests, in writing, an extension of the time limits specified in Sections 17.58.160(A)(1) and 17.58.160(A)(2), the agency director may grant or deny such a request for good cause. A request for a decision by the agency director to grant an extension of the time limits specified above shall be made prior to the expiration of such time limits. The agency director may grant an extension for such a reasonable additional time period as is deemed appropriate.
4. If the county fails to approve or disapprove a development project within the time limits specified by this section, the failure to act shall be deemed approval of the permit application for the development project. However, the permit shall be deemed approved only if the public notice required by law has occurred. (See California Government Code Section 65956(b).)
5. Except that where the land use permit application is accompanied by an application for a general plan amendment, rezoning or zoning text amendment that is needed to allow the processing of the land use permit, the above time limits shall commence as of the effective date of the general plan amendment, rezoning or zoning text amendment, whichever is chronologically later in time.

B. Permit Expiration. An approved administrative review permit, minor use permit, conditional use permit or variance is subject to the following time limits. It shall be the responsibility of the applicant alone to monitor the time limits and make diligent progress on the approved project, so as to avoid permit expiration.

1. Time Limit for Permit Implementation. An approved permit is valid for twenty-four months from its effective date (Section 17.58.140(D)), or for any other period specified by the granting authority in conditions of approval, or other provision of this chapter. At the end of twenty-four months, the permit shall expire and become void unless by that time:
 - a. The permit has been implemented because conditions of approval prerequisite to construction have been satisfied, any required building or grading permits have been issued, and a foundation inspection has been conducted and approved by the building official or a designee; or
 - b. The permit has been implemented because a use not requiring construction permits has been established on the site and is in operation as approved, and all conditions of approval prerequisite to establishment of the use have been satisfied; or
 - c. The permit has been implemented for a multiple building or multiple structure project because conditions of approval prerequisite to construction have been satisfied, any required building or grading permits have been issued, and foundation inspections for each and every building or structure have been conducted and approved by the building official or a designee (Note: For multiple phase projects which require a discretionary permit, the conditions of approval for that permit can provide for extended dates of expiration); or
 - d. A conditional use permit granted for a planned residential development (Section 17.54.080) has been implemented through the recordation of the final subdivision map pursuant to the

approved PD; or

e. An extension of time has been granted according to subsection C of this section.

2. Lapse of Permit After Implementation. Once a project has been implemented as set forth in Section 17.58.140(E), the permit that authorized the use shall remain valid and in force and shall run with the land, including any conditions of approval adopted with the permit, unless one of the following occurs:

a. Work under an approved construction permit toward completing the project and complying with the permit conditions of approval ceases such that the construction permit expires pursuant to Chapter 15 of this code (Construction Requirements), and one additional year elapses after the expiration of the construction permit.

b. After a use has been established and/or operated as approved, the use (if no appurtenant structure is required for its operation) is discontinued for more than twelve consecutive months, or (if an appurtenant structure is required for the conditionally-permitted use) the structure is removed from the site for more than twelve consecutive months. If a structure associated with the operation of a conditionally permitted use is issued a certificate of occupancy and all other conditions of approval of the conditional use permit are satisfactorily completed, the entitlement remains in effect even if the structure is vacant for more than twelve consecutive months; however, no use may be reestablished in the structure and/or on the site unless the use is determined by the planning director to be substantially the same as the original conditionally permitted use.

c. The time limit set for the duration of the use by a condition of approval expires.

3. If one of the foregoing events occurs, the permit shall be deemed to have lapsed. No use of land, building or structure for which a permit has lapsed shall be reactivated, re-established or used unless a new permit is first obtained as provided by this subchapter. The site of a lapsed permit shall be used only for uses allowed in the applicable zone district by Articles 17.06 through 17.52 (Zone districts and allowable uses of land) without a permit pursuant to this chapter.

C. Extensions of Time. The time limit established by subsection (B)(1) of this section for the implementation of an approved administrative review permit, minor use permit, conditional use permit or variance may be extended by the granting authority for a total of no more than three years as provided by this section:

1. Time For Filing an Extension Request. The applicant for an approved permit shall request an extension of time not later than the date of expiration of the permit established by subsection B of this section. The request shall be in writing, shall explain the reasons for the request, and shall be accompanied by the nonrefundable filing fee established by the most current planning department fee schedule. Upon the filing of an extension request as required by this subsection, the time limit for expiration of the permit established by subsection B of this section shall be suspended until a decision is made by the appropriate hearing body regarding the extension request.

2. Notice of Requested Extension. The planning department shall send notice of the requested extension by mail to all individuals and entities (or their legal successors in interest) which were provided notice of the hearing that preceded the approval of the permit requested for extension, and to all members of the development review committee. The notice shall state that any person who objects to the requested extension of time shall notify the planning director, in writing, of the objection within fifteen days from the date of mailing of the notice.

3. Hearing on Objections to Extension. If any objection to the time extension is received, the granting authority that approved the original permit shall follow the entire procedure set forth in Section 17.58.140 (Permit issuance) to consider and approve or disapprove the requested extension, as well as the following subsection.

4. Approval of Extension. After a public hearing, or if no objection to an extension is received, without a public hearing, the granting authority may extend the expiration date of the approved administrative review permit, minor use permit, conditional use permit or variance by no more than a total of three years, provided that the granting authority first finds that:

a. No change of conditions or circumstances has occurred that would have been grounds for denying the original application;

b. The applicant has been diligent in pursuing implementation of the permit; and

c. Modified conditions have been imposed which update the permit to reflect current adopted standards and ordinance requirements. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

[<< previous](#) | [next >>](#)