RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a resolution denying Appeal No. 2006-224 with findings, upholding the Planning Commission’s action on Appeal No. 2006-50. The Planning Commission: 1) denied appeal No. 2006-50; 2) upheld the Planning Director’s Notice of Zoning Ordinance Violation dated January 31, 2006; 3) disallowed any non-commercial recreational camping use and camping facilities on the property which exceed 14 overnight stays in any 90 day period; 4) required storage use on-site to cease and all stored items to be removed within thirty days; and 5) required all other junk materials to be removed within thirty days.

Justification is provided in Memorandum to Board of Supervisors from Mariposa Planning.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this appeal.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Deny the appeal but modify the requirements for compliance.

Grant the appeal, reversing the Planning Commission’s action and reversing the Planning Director’s determination of violation.

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Memorandum to the Board with Attachments:

A. Vicinity Map & Photographs
B. Planning Commission Resolution No. 2006-26
C. Planning Commission Minutes Excerpt
D. Notice of Appeal
E. Draft Board Resolution
F. Planning Director Notice of Violation

CLERK’S USE ONLY:

Res. No.: Ord. No. ______
Vote – Ayes: ______
Noes: ______
Absent: ______
( ) Approved
\(1\) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: ______

Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: ______
Deputy

COUNTY ADMINISTRATIVE OFFICER:

______ Requested Action Recommended
______ No Opinion

Comments:

________________________
________________________
________________________
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS  

Resolution  
No. 06-391  

A resolution denying Appeal No. 2006-224 and upholding the Planning Commission’s action on Appeal No. 2006-50 and upholding the Planning Director’s Notice of Violation regarding APN 007-080-052 at 8321 Hunters Valley Road

WHEREAS a Notice of Intent to Find Zoning Ordinance Violation was issued by the Planning Director on the 12th day of December 2005, to Renee Adamson, property owner, for property located at 8321 Hunters Valley Road, also known as Assessor Parcel Number 007-080-052 and hereinafter referred to as “subject property”; and

WHEREAS on the 9th day of January 2006, the Planning Director received a written response to the Notice of Intent from Renee Adamson; and

WHEREAS the Planning Director considered the information contained in the response from Renee Adamson; and

WHEREAS a Notice of Zoning Ordinance Violation was issued by the Planning Director on the 31st day of January 2006, to Renee Adamson for the subject property; and

WHEREAS the Planning Director determined that the current use of the subject property does not comply with Zoning Ordinance regulations; and

WHEREAS the Planning Director determined that the use of the subject property is not solely for recreational purposes, but primarily for residential purposes; and

WHEREAS the Planning Director’s determination that the use of the property is primarily for residential purposes was based upon consideration of definitions as well as characteristics and history of occupancy of the site; and

WHEREAS the Planning Director determined that the frequency of site occupancy is similar to a residential occupancy of a property and is not allowed as non-commercial recreation; and

WHEREAS the Planning Director’s determination was based upon a finding that this frequency of occupancy, like a residential occupancy, has impacts which are regulated by Health, Safety and Building Codes. These include, but are not limited to, requirements for a permitted septic disposal system, and requirements for a habitable structure which meets current building, plumbing and electrical codes; and

WHEREAS the Planning Director determined that non-commercial recreation as a permitted use in the Mountain General zone is not an allowance for unlimited camping or unlimited non-commercial recreation, such as regular and frequent recreational activities.
occupancy of a permanently parked RV, as this would circumvent important Health, Safety and Building codes; and

WHEREAS the Planning Director required the following be immediately done as resolution for the identified violations:

1. Cease and remove the residential camping use and camping facilities from the property; and
2. Cease the "storage use" and remove all stored items from the property; and
3. Remove all junk materials that can be observed from any public street, road or easement, or property line. Disposal of junk materials must be to an appropriate disposal facility; and

WHEREAS an appeal of the Planning Director’s Notice of Violation was submitted on the 21st day of February 2006 and that appeal is known as Appeal No. 2006-50; and

WHEREAS the appellant is Renee Adamson, property owner; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for the 2nd day of June 2006; and

WHEREAS a Staff Report addressing the Notice of Appeal was prepared pursuant to local administrative procedures; and

WHEREAS on the 2nd day of June 2006 the Planning Commission continued the public hearing for Appeal No. 2006-50 to the 16th day of June 2006 at 9:00 a.m. or as soon thereafter as possible. The continuance was based upon two verbal requests from the appellant for a continuance made to staff via telephone voice mail prior to the public hearing, as well as the scheduling of an emergency meeting of the Board of Supervisors; and

WHEREAS the appellant was in attendance at the Planning Commission meeting on the 2nd day of June 2006 and agreed to the continuance; and

WHEREAS on the 16th day of June 2006 the Planning Commission did hold a public hearing on Appeal No. 2006-50 and considered all of the information in the public record, including the Staff Report packet, the Notice of Appeal, and the comments of the appellant; and

WHEREAS on the 16th day of June 2006 the Planning Commission adopted Resolution No. 2006-26 denying Appeal No. 2006-50 and upholding the Planning Director’s Notice of Violation. The Planning Commission established a camping limit to apply to the property, a time limit for removal of specific stored items, and a time limit for removal of junk materials; and
WHEREAS an appeal of the Planning Commission’s action on Appeal No. 2006-50 was submitted on the 5th day of July 2006 and that appeal is known as Appeal No. 2006-224; and

WHEREAS Appeal No. 2006-224 was accepted as complete for processing on the 10th day of July 2006; and

WHEREAS the appellant is Renee Adamson, property owner; and

WHEREAS a duly noticed Board of Supervisors’ public hearing was scheduled for the 22nd day of August 2006; and

WHEREAS a Staff Report addressing the Notice of Appeal for Appeal No. 2006-224 was prepared pursuant to local administrative procedures; and

WHEREAS on the 22nd day of August 2006 the Board of Supervisors did hold a public hearing on Appeal No. 2006-224 and considered all of the information in the public record, including the Staff Report packet, the Notice of Appeal, and the comments of the appellant.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby deny Appeal No. 2006-224.

BE IT FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby uphold the Planning Commission’s action on Appeal No. 2006-50 and hereby incorporates the entire staff report document for Appeal No. 2006-50 into this resolution by reference.

BE IT FINALLY RESOLVED THAT the denial of Appeal No. 2006-224 is based upon the discussion of the Notice of Appeal as contained in the Staff Report to the Board of Supervisors for Appeal No. 2006-224 also hereby incorporated into this resolution by reference.

BE IT FURTHER RESOLVED THAT the Board of Supervisors makes the following determinations and findings in support of their action to deny Appeal No. 2006-224:

1. The current use of the subject property and the camping structures on the subject property as described in the January 31, 2006 Notice of Violation do not comply with Zoning Ordinance regulations.

2. The use of the subject property as described in the January 31, 2006 Notice of Violation is not solely for recreational purposes, but primarily for residential purposes.

3. The determination regarding use of the property as primarily for residential purposes is based upon consideration of definitions as well as characteristics
and history of occupancy of the site as described in the January 31, 2006 Notice of Violation.

4. The frequency of subject property site occupancy is similar to a residential occupancy of a property and is not allowed as non-commercial recreation.

5. The frequency of subject property occupancy, like a residential occupancy, has impacts which are regulated by Health, Safety and Building Codes. These include, but are not limited to, requirements for a permitted septic disposal system, and requirements for a habitable structure which meets current building, plumbing and electrical codes.

6. The Board of Supervisors recognizes the Superior Court Order on the Motion for Preliminary Injunction for Case No. 8841 filed on the 6th day of February 2006 (County of Mariposa v. Alex Adamson and Renee Adamson) which prohibited the use of the recreational vehicle on the subject property for residential purposes, which required removal of the recreational vehicle from the property, and which prohibited use of the subject property for residential purposes until a permitted dwelling is constructed and appropriate permits and other prerequisites to establishing a residence have been met.

7. Non-commercial recreation as a permitted use in the Mountain General zone is not an allowance for unlimited camping or unlimited non-commercial recreation, such as regular and frequent occupancy of a permanently parked RV, as this would circumvent important Health, Safety and Building codes.

8. Camping is not a listed permitted use in the Mountain General zone. Non-commercial recreation does not expressly allow camping. The allowance of camping as a non-commercial recreational use is only possible pursuant to the similar use findings of the Zoning Ordinance as allowed by Sections 17.108.030 and 17.08.120, County Code.

BE IT FINALLY RESOLVED THAT the Board of Supervisors upholds and clarifies the Planning Commission’s requirements for resolution of the identified Zoning Ordinance violations on APN 007-080-052 as follows:

1. Non-commercial recreational camping uses and camping facilities on the subject property shall not exceed 14 overnight stays in any 90 day period. Proper provisions shall be made for disposal of waste materials in accordance with all applicable health and safety codes.

   There are no limits to daytime visits to the property which may be necessary for maintenance of an agricultural use on-site, for activities necessary for compliance with this resolution, or for other uses permitted by the zoning ordinance.

2. The storage use on-site shall cease and all stored items shall be removed from the property within thirty (30) days from the date of action by the Board of
Supervisors (by Thursday, September 21, 2006). This shall apply to the numerous storage bins, the storage bin contents and all of the other items stored within the chain link fenced area, unless the property owner can demonstrate to the satisfaction of the Planning Director or his designated representative that these storage bins and the contents of the storage bins are a viable part of the agricultural operation on-site. Additionally, there are items stored outside of the chain link fenced area (between the chain link fenced area and the driveway into the property) to which this requirement applies.

The fencing, the barn, the water storage tank and the water lines for agricultural purposes may remain on-site. The keeping and maintaining of livestock may remain on-site. The storage of hay, grain, feed buckets, water buckets, shelters and bedding is typically associated with an agricultural use. If there are any additional items on-site which may be associated with the agricultural use, which are not clearly or customarily related to the agricultural use, the property owner may store them on-site with the written approval of the Planning Director who shall make findings of accessory or appurtenant use.

3. All other junk materials which can be observed from any public street, road or easement, or property line shall be removed from the property within thirty (30) days from the date of action by the Board of Supervisors (by Thursday, September 21, 2006). Disposal of junk materials must be to an appropriate disposal facility.

ON MOTION BY Supervisor Turpin, seconded by Supervisor Pickard, this resolution is duly passed and adopted this 22nd day of August, 2006 by the following vote:

AYES: Stetson, Turpin, Fritz, and Pickard

NOES: None

EXCUSED: Bibby

ABSTAIN: None

LEE STETSON, Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS
Clerk of the Board of Supervisors
APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

THOMAS P. GUARINO
County Counsel
TO: KRIS SCHENK, Planning Director
    THOMAS P. GUARINO, County Counsel

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Appeal No. 2006-224, an Appeal of the Planning Commission’s Action on Appeal No. 2006-50 Regarding the Planning Director’s Written Notice of Violation on APN 007-080-052, Appellant: Renee Adamson.

RESOLUTION 06-391

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on August 22, 2006

ACTION AND VOTE:

10:48 a.m. Kris Schenk, Planning Director;

A) PUBLIC HEARING to Consider Appeal No. 2006-224, an Appeal of the Planning Commission’s Action on Appeal No. 2006-50 Regarding the Planning Director’s Written Notice of Violation on APN 007-080-052, Appellant: Renee Adamson.

BOARD ACTION: Sarah Williams, Deputy Planning Director, presented the staff report. She reviewed the timelines of the violations and the actions by the Planning Director and the Planning Commission. She advised that the primary questions for the appeal are: what is a residential use, what is a camping use, what is an allowable non-commercial recreational use, and what is an allowable accessory use. She presented photographs of the subject property; and she reviewed the Planning Director’s determinations. She reviewed a summary of the nine appeal issues. She responded to questions from the Board relative to the appeal issue concerning camping and recreational use of the property and what would be permitted in the Mountain General zoning. Thomas P. Guarino, County Counsel, provided input on a separate legal action that was authorized by the Board of Supervisors relative to the removal of the recreational vehicle pursuant to a Preliminary Injunction issued by the Court finding that the use of the recreational vehicle was for residential purposes in violation of the Building Code. He presented a copy of the Court’s Order prohibiting the use of the recreational vehicle and ordering its removal from the property; and further ordering that the property may not be utilized as a residence until such time as a permitted dwelling is constructed and the appropriate permits and other prerequisites to establishing a residence at the property have been met. He advised that while the Building Code violation is not a part of this action, this is a zoning violation; it shows that with respect to the balance of the uses that have been described that there was a determination on the facts that the recreational vehicle was being used for residential purposes, not for recreational use. Staff responded to questions from the Board relative to the standard practice for maintaining agricultural uses, including livestock, on the property; clarification of whether a building permit was taken out for a permanent structure and whether temporary housing is acceptable if it is hooked up to a septic system; relative to staff’s
relative to staff's recommendation that items to be stored onsite need to have the written approval of the Planning Director; and relative to the determination that a maximum of 14 nights camping be allowed in any 90 day period for non-commercial recreation. County Counsel advised of a decision rendered by the Superior Court several years ago in the case of Winterberg v. the County of Mariposa, that addressed camping on property— the Court found that something between 12 to 16 days for that case would be permitted in a year; so he feels that would support the Planning Director's decision in this matter. Supervisor Turpin referred to a discussion the Board held about a year earlier relative to camping, and he noted that reference was made to what is allowed on public lands. Supervisor Pickard asked if that was for commercial use versus non-commercial.

The public portion of the hearing was opened and input was provided by the following:

Renee Adamson, appellant, was present to present her appeal. She responded to a question from Supervisor Pickard as to the length of her prepared statement that she planned to read, and she advised that it was about 15 pages. Renee Adamson advised that both of the vehicles on the subject property are drivable and the camper was locked for a year and one-half. She noted that the 14 night camping limit in a 90 day period means that she can only stay every sixth night to take care of the animals and that will not work. She advised that raising the livestock on the property is her income and is used to support her three children. Renee Adamson read her written appeal statement into the record. The statement addressed Mariposa County Code section 17.148.010 relative to agricultural activity or operations and recreation; referred to the Planning Commission minutes of June 16, 2005 and Commissioner Ross' comments that the property looks more like a recreational place in the country versus an agricultural operation; and provided information on the inspections performed by the County. She stated she was told that there was no time limit for camping. She advised that the chain-linked area is a very small portion of the property and was a recreational place in the country where they stayed overnight in a tent. She stated she lives in Gustine and her children go to school there. She feels the use of her property is grandfathered to the 1978 Code. In her statement she reviewed the timelines and actions by the County on the Zoning Ordinance violation processing. She referred to a Grand Jury investigation and privacy rights; and she stated she disagreed with the accuracy of the data that was compiled relative to her being on the property. She agreed that someone was on the property at least every couple of days because the water needs to be checked. She referred to on-going conflicts with the neighbors and their complaints. She questioned how the 14 night maximum stay in a 90-day period was arrived at. She stated she would be able to obtain funding to establish a residence on the property if she receives something in writing from the County that residency is a requirement for the agricultural operation. She responded to a question from the Board and she clarified that her current residence in Gustine. She advised that she collects food stamps in Gustine. She continued with her statement and addressed what she feels is her right to engage in an occupation or business on the property. She noted that the Notice of Violation does not address health or building code issues. She referred to the items that are stored on the property.

Staff responded to questions from the Board relative to the residency issues that were raised and how residency is determined.

Renee Adamson responded to a question from the Board and clarified that she registered to vote in Mariposa County when she purchased a mobile home. However, the mobile home was never moved to the property and she never voted in the County.

12:01 p.m. The Board recessed for the appellant's written statement to be copied for the Board and staff.

12:12 p.m. Staff responded to a question from the Board as to whether there is an onsite domestic well or septic system. Staff advised that a permit was applied for a septic system and the Health Department required an engineered system, so the permit was closed without the septic system being installed; and they do not know about a well.

Renee Adamson responded to a question from the Board relative to the photographs and the Rubbermaid totes that are being used to store ag-related items, and she advised that she would have a concern with this matter if the appeal is denied.

Staff responded to a question from the Board as to whether the Rubbermaid totes and stored items would be allowed to remain on the property. Staff referred to the draft formal resolution language that would allow for the onsite storage of things if a determination is made that the things are being used for agricultural use.
Renee Adamson responded to a question from the Board relative to the availability of water on the property; and she advised that she has a capped spring and three other springs. So she does not have any need for electricity. The recreational vehicle was locked and used for storage for her sister. She advised that she has used a generator.

Persons speaking in support of the appeal: none.
Persons speaking in opposition to the appeal: none.
General comments: none.
Rebuttal by the appellant: none.

County Counsel advised that he provided a copy of the Court’s Order on the Motion for Preliminary Injunction where the Court found that there was a vehicle being used as a residence and ordered that it be removed, as the appellant had referenced this in her report. Renee Adamson asked for a copy of the Court’s order, and County Counsel provided her with a copy. County Counsel advised that this was an order of the Court that was served on the appellant in the Court proceedings.

The public portion of the hearing was closed and the Board commenced deliberations. (M)Turpin, (S)Pickard, Res. 06-391 was adopted denying the appeal and upholding the Planning Commission’s action, as recommended. Discussion was held relative to allowing for the onsite storage of items related to agricultural use. Staff responded to a question from the Board and recommended that the formal resolution include language that the storage bins and their content will be required to be removed unless the property owner can demonstrate to the satisfaction of the Planning Director or his designated representative that they are a viable part of the agricultural operation; and include language referencing the Superior Court’s Order on the Motion for Preliminary Injunction which prohibited the use of the recreational vehicle on the subject property for residential purposes and ordered its removal, and prohibited use of the subject property for residential purposes until a permitted dwelling is constructed. The motion was amended to include these language changes. Ayes: Stetson, Turpin, Fritz, Pickard; Excused: Bibby. The hearing was closed.

Cc: File