



CALAVERAS COUNTY PLANNING DEPARTMENT
891 Mountain Ranch Road,
San Andreas, California 95249
(209) 754-6394

Planning Commission Staff Report

Hearing Date	March 27, 2025
Project Number/Name	2025-011 Appeal of AUP 2024-082 for Noah and Amber Glanville
Supervisory District Number	District 3 - Martin Huberty
Assessor's Parcel Number(s)	034-003-137 and 068-010-126
Planner	Bret Sampson, Planning Director

Date: March 14, 2025

PROJECT DESCRIPTION An appeal of the Planning Director's decision to approve Administrative Use Permit 2024-082, to permit the use of the existing on-site 20'x25' dog kennel structure for the operation of a 5-run dog boarding facility at 1298 Apple Blossom Drive, Murphys (APNs 034-003-137 and 068-010-126). See Attachment 1 for the appeal letter.

APPELLANT: Ralph Niven
PO Box 766
Murphys, CA 95247

LANDOWNER: Noah and Amber Glanville
1298 Apple Blossom Drive
Murphys, CA 95247

PROJECT LOCATION The subject parcels total 40.83-acres in size, zoned General Agriculture with a 40-acre minimum (A1-40), on land designated by the General Plan as both Working Lands and Rural Transition A (RTA), and located in portions of Sections 31 and 32 of T04N, R14E and a portion of Section 5 of T03N, R14E of the MDM.

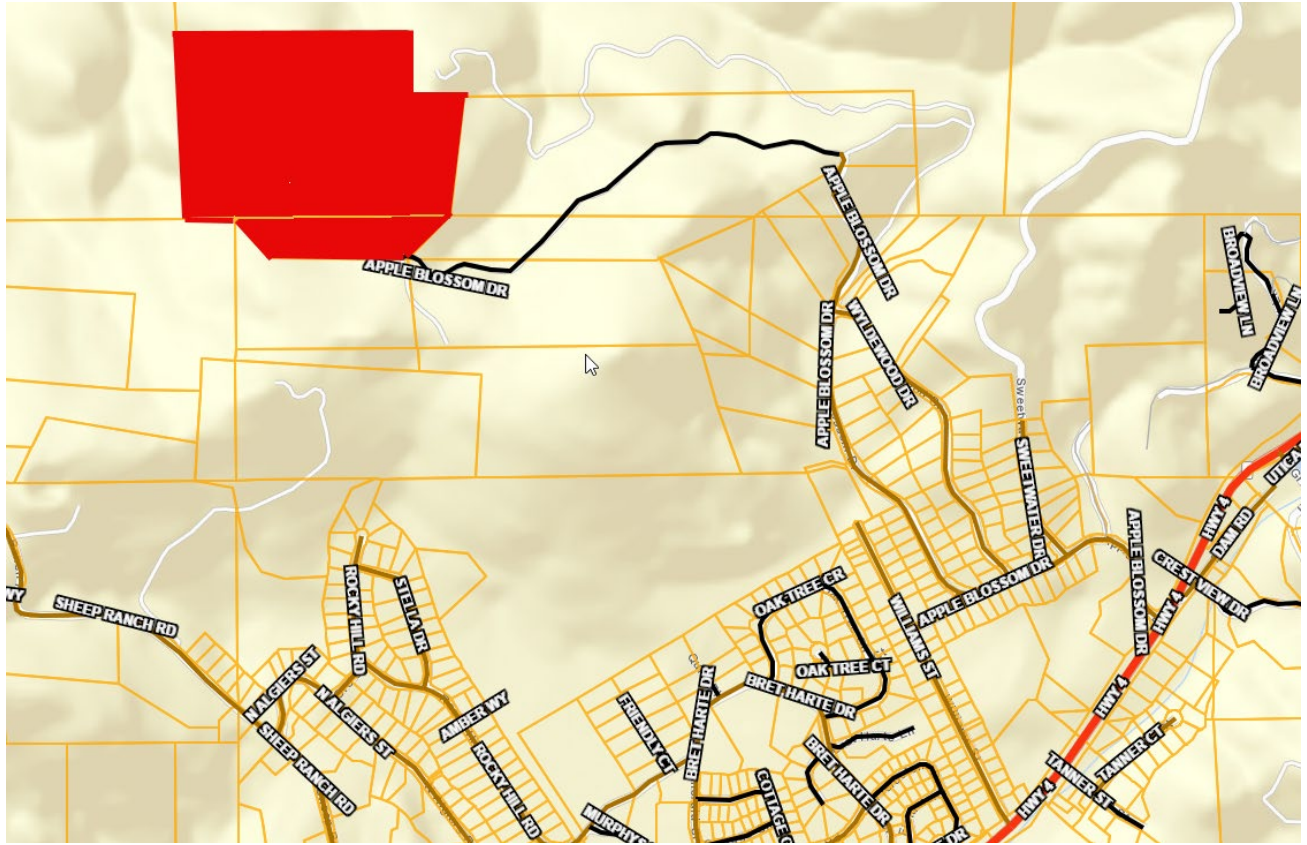


Figure 1. Location Map

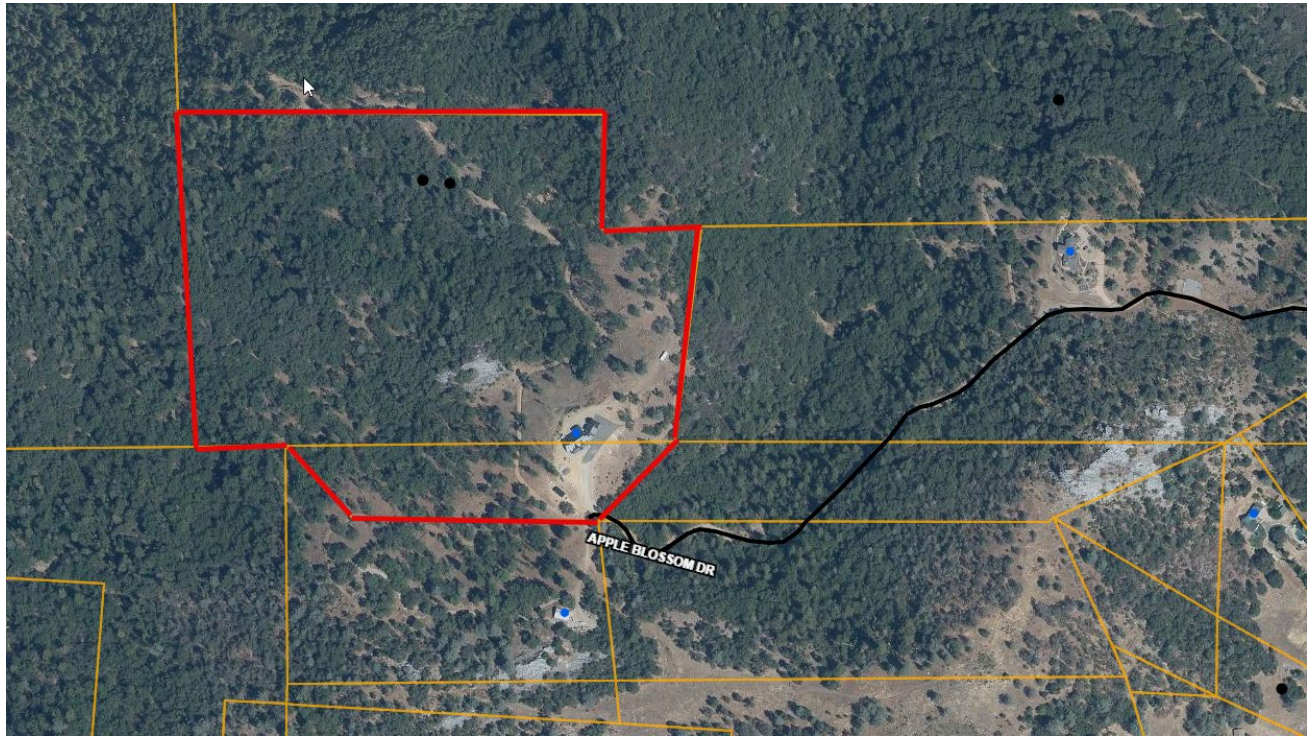


Figure 2. Aerial Map

I. Background and Analysis

On November 5th, 2024, the Calaveras County Planning Department received an Administrative Use Permit (AUP) application from Noah and Amber Glanville (Applicant), to operate a 5-run dog boarding facility from the existing on-site 20'x25' dog kennel at 1298 Apple Blossom Drive, in Murphys. Pursuant to Section 17.04.020 of County Code, the A1 zone permits Animal Boarding with approval of an AUP and requires the operator or caretaker to reside full-time on the site.

Pursuant to Section 17.30.010 of County Code, the AUP review and approval process is intended to apply to uses that are consistent with the goals, objectives, and policies of the General Plan and purposes of the zone where they are proposed and are generally limited in potential impacts, but still require special consideration to ensure that they can be designed, located, and operated in a manner that will be compatible with the surrounding area and uses.

On November 15th, 2024, the application packet was routed to respective County departments, County officials, and local public agencies for their review and comments. Comments were received from the Environmental Management Agency (EMA) and Animal Services, with recommended conditions to apply to an approved permit. Pursuant to County Code Section 17.30.060, in approving an AUP, the review authority may impose reasonable conditions or restrictions. See Attachment 2 for conditions of approval.

Pursuant to Section 17.27.090 of County Code, after the Director takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Title, the Director shall provide notice of the action to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Department. On December 9th, 2024, a Notice of Pending Determination was sent out to property owners within 300' of the subject parcels, in compliance with the requirements of public notices, pursuant to Section 17.27.070 of County Code. The Department received comments from the neighboring property owners regarding traffic and road impacts, noise nuisance, and public safety. See Attachment 3 for comments.

On January 8th, 2025, a site visit was conducted by Planning Staff. On January 9th, 2025, due to interest from the surrounding neighbor's, a second Notice of Pending Determination was sent out to property owners within 300' of the subject parcels, as well as parties that participated in the comment period for the first Notice of Pending Determination.

After a complete analysis of the project including agency comments and public concerns, the Planning Director, making all required findings, conditionally approved the permit, imposing reasonable restrictions necessary to achieve the general purpose of Section 17.30 of County Code and to ensure the project will not adversely affect the public health, safety, or general welfare of the community.

II. APPEAL

On February 24, 2025, the Planning Department received an Appeal of the Planning Director's decision to approve AUP 2024-082. The approved AUP was appealed with concerns regarding access rights, compatibility with surrounding land uses (existing & future), assumed liability to neighbors and nuisance. The neighbor's comments are provided below, followed by the County's response.

A. Appeal Section 1

"The property does not have permission to utilize the private road easement to access the applicable property for an animal boarding facility open to the public.

The only access to the applicant's property is by a private road easement that has only ever been used for strictly residential purposes. Approximately ¾'s of the newly paved, one-way narrow road runs directly through private properties before reaching the applicant's. It is a simple private road, but an easement with limited use over private property. The private road easement is attached hereto as Exhibit 1 and does not provide the applicant with permission to use the road for public, business, or commercial use. This road has never been intended for commercial use and thus the public does not have permission to cross private property to access his. "An easement is a restricted right to specific, limited, definable use or activity upon another's property, which right must be less than the right of ownership." (Mesnick v. Caton (1986) 183 Cal.App.3d 1248, 1261.) "It is fundamental that the language of a grant of an easement determines the scope of the easement." (County of Sacramento v. Pacific Gas & Elec. Co. (1987) 193 Cal.App.3d 300, 313.) Where an easement is founded upon a grant, as here, only those interests expressed in the grant and those necessarily incident thereto pass from the owner of the fee.' (Glass v. Gulf Oil Corp. (1970) 12 Cal.App.3d 412, 428.) The easement is specifically limited to an "easement for private road and public utilities" and thus is limited to private use, and not use by the public for business purposes.

The paved easement itself is narrow, very steep, and contains many blind spots. Thus, creating a safety problem with increased vehicular traffic. It was never construed or designed to carry traffic. There have been several close calls with the applicant's contractor vehicles as it is. Further, if anyone was injured from using the easement, that would put all of the neighbors responsible for maintaining the easement at risk of liability. At multiple points along the road, only one car can use the road at a time which necessitates that one car must reverse and back up to reach a safe spot before the vehicles can maneuver around each other. It is a dangerous road for public use, especially where the neighbors currently share responsibility for the road maintenance.

Lastly, Calaveras County Code § 17.04.040(3) Supplemental Standards require the applicant to provide proof that any proponents of uses having legal access over private roads not maintained by the County must prove they either have a road maintenance agreement for the use requested, have amended an existing road maintenance agreement to provide for an additional road maintenance fee for the use, or record a road maintenance agreement for the portion of the road located where the use is located.

The applicant has not done this. He does not have permission to use the private road for commercial use (and it is not safe for commercial use as it stands) and has not amended the current road maintenance agreement to cover the additional road maintenance fee the applicant would have to pay for the use. In short, the applicant cannot use the private road for commercial purposes. And if allowed to do so, should be required to cover a larger portion of the road maintenance fee and indemnify all property owners subject to the road maintenance agreement from any incident that occurs on their property as a result of the dog boarding facility.”

B. Planning Department Response to Appeal Section 1

1. Appellant’s argument that the private road does not offer legal access to Applicant’s parcel is without merit because Applicant’s proposed use is neither trespassory nor illegal.

Pursuant to County Code Section 17.16.040.(A), “proof of legal access from the nearest public road, as indicated by recorded deed, parcel or subdivision map, or other document determined adequate by the Planning Director, shall be provided for all new construction and site alteration.” Parcel Map 8-69b (see Attachment 4), delineates a 50’ wide private road easement and public utility easement. The Planning Department determined that this, in addition to the grant deed, was adequate to satisfy the requirement of legal access. Pursuant to County Code Chapter 17.01.050.(E), “Calaveras County shall not be responsible for monitoring or enforcing private agreements.”

The Planning Department is not required under its ordinances to wade into neighbor disputes about historical uses for a right-of-way easement, and what amount of use might be considered “overuse.” Doing so would be usurping the right of the courts to determine the scope of the easement and to adjudicate disputes between parties. Whether the AUP issues or not, the Appellant retains his right to seek an injunction with the court to say that the use of the easement exceeds the scope and to seek an order preventing the Applicant from using the easement.

The Planning Department’s function is to determine whether a visitor using the private road easement for the purposes in the permit would be either clearly trespassory or illegal. And if not, the Planning Department must consider the access legal for the purpose of issuing the permit.

2. Appellant’s suggestion the proposed use is outside the scope of the private road easement is without merit.

Appellant confuses the distinction between commercial and residential use with private use and public use. Private use means a use that is for the benefit of the individual parcel, while public use means for the benefit of the general public:

*Long ago our Supreme Court made clear the difference between public and private rights of way: Public ways, as applied to ways by land, are usually termed 'highways' or 'public roads', and are such ways as **every citizen** has a right to use. A private way relates to that class of easements in which a particular person, or particular description or class of persons, have an interest or right as distinguished from the general public.*

(County of Sacramento v. Pacific Gas & Elec. Co. (1987) 193 Cal.App.3d 300, 313.)

Contrary to Appellant's confused view that commercial use is tantamount to public use, Applicant's private use means that the only people that will use the road are those seeking ingress and egress from Applicant's parcel (e.g., Applicant's commercial visitors), rather than the public at-large using the easement for some reason other than to reach Applicant's parcel.

3. Appellant's view that the express easement across Appellant's land does not permit commercial use is without merit.

The Appellant further states, "this road has never been intended for commercial use and thus the public does not have permission to cross private property to access his." However, California Law provides that "grant without limitations permits any reasonable use." (Zissler v. Saville (2018) 29 Cal.App.5th 630, 648.) As the easement in the grant deed does not restrict the language to residential uses, the easement must be read to include "reasonable uses" such as the reasonable commercial use contemplated in the AUP.

4. Appellant's suggestion that the AUP does not satisfy County Code Section 17.05.040(A) is without merit.

Appellant refers to "a current road maintenance agreement" but suggests that such agreement is not sufficient to cover additional maintenance fees under County Code Section 17.05.040(A)(3). Because the AUP condition 1-5 would condition the permit on daily traffic not exceeding that of a Single-Unit Dwelling, no additional maintenance fee is appropriate under County Code Section 17.05.040(A)(3), because no additional maintenance costs would be sustained by the Appellant beyond that of a residential use. See Attachment 2 for conditions of approval.

The Planning Department has determined that Section 17.04.040(A)(3) was satisfied, as the project was conditioned to limit traffic as to not exceed the allowed average daily trips (ADT) generated by a Single-Unit Dwelling, including both residential and nonresidential uses commutatively. The physical boarding facility is such that a maximum of 5 dogs will be kenneled on site for multiple days at a time and the project has no associated employee trips, therefore there is no indication that this project would exceed the 7.5 ADT allowed for a Single-Unit Dwelling. Similarly, pursuant to 17.25.140.C.10 of County Code Home Occupations are allowed up to 7.5 ADT. It is also important to note that with the property's current agricultural zoning designation, many animals, including livestock and pets, are allowed by right for commercial purposes without obtaining an AUP.

Contrary to Appellant's argument that the condition of the road is unsafe, the Planning Department conducted a site visit on January 8th, 2025, to determine the safety of the road. Access is primarily provided from Apple Blossom Drive, a portion of which is a newly developed private road. Road improvements include an asphalt surface, large gravel turnouts allowing vehicles to safely pass each other, and drainage facilities. The Public Works Department had no comment on conditions of approval, nor were any improvements recommended for the private easement area.

C. Appeal Section 2

“The application must be denied as it is unreasonably detrimental to the surrounding properties and is not compatible with the existing or reasonably foreseeable future land uses.

Pursuant to Ordinance 17.30.010, the administrative use permit review and approval process is intended to apply to uses that are consistent with objectives of the general plan, the purposes of the zone where they are proposed, and are generally limited in potential impacts to ensure that they can be designed, located, and operated in a manner that will be compatible with the surrounding area and uses. As it stands, this Application is not compatible with the surrounding area and uses.

As part of this approval process, the reviewing authority must make all of the required findings listed in Calaveras County Zoning Code 17.30.050 in order to approve the application, otherwise, the application must be denied. Of those required findings, at least two have not been met here. Specifically:

- 1. The proposed use will not have the potential to adversely affect the public health, safety, or general welfare of the community, nor be unreasonably detrimental to surrounding properties or improvements; and*
- 2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses and circulation in the vicinity; and*

The property subject to the Application and the surrounding areas are strictly rural residential properties. Allowing the applicant to install an animal boarding facility within the rural residential area is not compatible with existing land use, or foreseeable existing land use. The properties in the immediate vicinity share a private road such that the properties are not open to the public and cannot possibly be considered for business purposes if the public does not have permission to access the private properties.

The topography of the surrounding land is such that sound carries significant distances. A kennel adjacent to the other residential properties with multiple dogs

would be a major noise and visual nuisance. Thus, the condition that the applicant comply with Calaveras County Code §9.02.010 is not enough to prevent the noise from occurring as the dogs will be housed in an outdoor kennel which will do nothing to decrease the noise.

A dog boarding facility in close vicinity to residential properties would materially and negatively impact adjacent property values and would be a necessary disclosure for any future buyer of any of the surrounding properties.”

D. Planning Department Response to Appeal Section 2

1. The Appellant’s argument that an animal boarding facility within the rural residential area is not compatible with the existing land use, or foreseeable land use is without merit.

The appeal letter states that “allowing the applicant to install an animal boarding facility within the rural residential area is not compatible with the existing land use, or foreseeable land use.” The project site is in the General Agriculture (A1) zone. Pursuant to Section 17.04.020 of County Code, Animal Boarding facilities are permitted with the approval of an AUP and requires the operator or caretaker to reside full-time on the site. The intended purpose of requiring a full-time caretaker or operator to reside onsite is to have continuous monitoring of the operation, in order to mitigate any issues that may arise. The A1 zone is intended to be the main resource production zone. It is to classify areas for general farming and ranching practices and assign such uses as the primary emphasis for the area. It is the purpose of the A1 zone that residential uses are placed in a position of secondary importance when compared to the commercial scale production of food and fiber. This zone is compatible with the resource management, resource production, and working lands general plan land use categories. The surrounding areas are designated as Working Lands, Resource Production, and Rural Transition A and zoned Resource Zones A1 & RA. Although a 5-dog boarding facility is not a commercial agricultural operation, the use is a less intense use compared to the potential impacts of commercial agriculture.

The letter states again that the private road cannot possibly be considered for business purposes if the public does not have permission to access the private properties. As previously stated, pursuant to County Code Section 17.16.040.(A), “proof of legal access from the nearest public road, as indicated by recorded deed, parcel or subdivision map, or other document determined adequate by the Planning Director, shall be provided for all new construction and site alteration.” Parcel Map 8-69b (see Attachment 4), delineates a 50’ wide private road easement and public utility easement. The Planning Department determined that this, in addition to the grant deed, was adequate to satisfy the requirement of legal access for the reasons enumerated above.

2. Appellant’s argument that AUP lacks required findings is without merit.

Appellant states that the following two findings have not been made:

"Of those required findings, at least two have not been met here. Specifically

- 1. The proposed use will not have the potential to adversely affect the public health, safety, or general welfare of the community, nor be unreasonably detrimental to surrounding properties or improvements; and*
- 2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses and circulation in the vicinity; and [sic]"*

To the contrary, the AUP expressly makes each of these findings in Findings Section C and Section E. See Attachment 2 for required findings.

3. Appellant's argument that the AUP will violate the Calaveras County noise ordinance is without merit.

Appellant states, "the condition that the applicant comply with the Calaveras County Code 9.02.010 is not enough to prevent the noise from occurring as the dogs will be housed in an outdoor kennel which will do nothing to decrease the noise." The County cannot presume that this use will exceed the allowances outlined in Section 9.02.030 of County Code. Pursuant to 6.18.050(C), "all dogs and cats subject to a kennel license shall be kept in such a manner as to not become a nuisance to surrounding or nearby neighbors." The appeal letter also mentions visual nuisance, which is not an applicable standard for this AUP under the Calaveras County Code and is belied by the fact that the minimum parcel size for A1-40 is 40 acres.

E. Appeal Section 3

"The conditions of approval failed to take into account the liability to the neighbors and the nuisance cause by an animal boarding facility.

In providing conditional approval, this county has failed to take into account the fact that because there is only a private road easement that prevents the general public from utilizing the road, the applicant cannot be allowed to utilize the road for anything other than private use. The applicant's choice to move forward with an animal boarding facility negatively impacts all of the neighbors by putting each and every one of them subject to the private road easement at risk of liability for any accidents or issues related to the private road. The neighbors should not bear this burden. For all of the reasons mentioned above, Dr. Niven requests that the application be denied in its entirety."

F. Planning Department Response to Appeal Section 3

1. Appellant's argument that the AUP should not be issued because it could increase Appellant's potential liability is without merit.

Appellant argues the existence of additional vehicles would increase the risk of liability to the landowners. Appellant does not provide any documentation in the record that the AUP would increase the Appellant's liability, nor does Appellant provide any authority for the proposition that an increase in liability would be a basis for denying the permit. Appellant's assertions of increased liability are at odds with Condition 1-5 "The non-residential use plus the residential use shall not exceed the average daily traffic (ADT) generate by a Single-Unit Dwelling, currently seven and a half trips daily." Moreover, Appellant's predecessor in interest voluntarily granted Applicant the non-exclusive right of way easement for the private road in 1991, which included the potential for risks associated with Applicant's visitors on the private road. See Attachment 5 for 1991 Grant Deed. Further still, both Applicant's and Appellant's property are already zoned for A1-40, which provides for commercial agriculture, which would already include the liability involved with commercial use.

III. Environmental Review

This project is categorically exempt per CEQA Guidelines Section 15303(c) which allows for a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area.

IV. RECOMMENDATION

Staff recommends the Planning Commission take the following action:

1. Deny Appeal 2025-011; and
2. Uphold approval of AUP 2024-082, to permit the use of the existing on-site 20'x25' dog kennel structure for the operation of a 5-run dog boarding facility at 1298 Apple Blossom Drive, in Murphys (APNs 034-003-137 and 068-010-126).

ATTACHMENTS

1. Appeal Letter
2. AUP 2024-082
3. Comment letters from neighboring property owners
4. Parcel Map 8-69b
5. Grant Deed (1991)
6. AUP 2024-082 Applicant Letter

Attachment 1

Appeal Letter



**CALAVERAS COUNTY
PLANNING DEPARTMENT**

GOVERNMENT CENTER
891 MOUNTAIN RANCH RD
SAN ANDREAS, CA 95249
Phone (209)754-6394 / Fax (209)754-6540
email: planningweb@co.calaveras.ca.us

APPEAL FORM

Appellant(s):

Name Ralph Niven

Mailing Address P.O. Box 766 Murphys, California 95247

Phone (Business) 650-703-5911 (Home) _____

Email Address airosol1@yahoo.com

Agent:

Name Makayla Whitney of Berliner Cohen LLP

Mailing Address 1601 I street, fifth floor Modesto California 95354

Phone (Business) 209-576-0111 (Home) _____

Email Address makayla.whitney@berliner.com

Project or Action Being Appealed AUP 2024-082

Please attach written description or reason(s) for appeal.

FOR OFFICIAL USE ONLY

Date Stamp

Receipt Number

PLNG 534

Application Number

PLNG 2025-00011

Method of Payment,

Cash Check # 203523

Amount

\$500 -

RECEIVED

FEB 24 2025

Revised 5-8-23

**Calaveras County
Planning Department**

WRITTEN DESCRIPTION OF APPEAL

Dr. Niven formally Appeals the Calaveras County Planning Department's conditional approval of application AUP 2024-082 for Animal Boarding Facility ("Application").

The Property Does Not Have Permission to Utilize The Private Road Easement to Access the Applicable Property For an Animal Board Facility Open to the Public.

The only access to the applicant's property is by a private road easement that has only ever been used for strictly residential purposes. Approximately $\frac{3}{4}$'s of the newly paved, one-way narrow road runs directly through private properties before reaching the applicant's. It is a simple private road, but an easement with limited use over private property. The private road easement is attached hereto as **Exhibit 1** and does not provide the applicant with permission to use the road for public, business, or commercial use. This road has never been intended for commercial use and thus the public does not have permission to cross private property to access his. "An easement is a restricted right to specific, limited, definable use or activity upon another's property, which right must be less than the right of ownership." (*Mesnick v. Caton* (1986) 183 Cal.App.3d 1248, 1261.) "It is fundamental that the language of a grant of an easement determines the scope of the easement." (*County of Sacramento v. Pacific Gas & Elec. Co.* (1987) 193 Cal.App.3d 300, 313.) Where an easement is founded upon a grant, as here, only those interests expressed in the grant and those necessarily incident thereto pass from the owner of the fee.' (*Glass v. Gulf Oil Corp.* (1970) 12 Cal.App.3d 412, 428.) The easement is specifically limited to an "easement for private road and public utilities" and thus is limited to private use, and not use by the public for business purposes.

The paved easement itself is narrow, very steep, and contains many blind spots. Thus, creating a safety problem with increased vehicular traffic. It was never construed or designed to carry traffic. There have been several close calls with the applicant's contractor vehicles as it is. Further, if anyone was injured from using the easement, that would put all of the neighbors responsible for maintaining the easement at risk of liability. At multiple points along the road, only one car can use the road at a time which necessitates that one car must reverse and back up to reach a safe spot before the vehicles can maneuver around each other. It is a dangerous road for public use, especially where the neighbors currently share responsibility for the road maintenance.

Lastly, Calaveras County Code §17.04.040(3) Supplemental Standards require the applicant to provide proof that any proponents of uses having legal access over private roads not maintained by the County must prove they either have a road maintenance agreement for the use requested, have amended an existing road maintenance agreement to provide for an additional road maintenance fee for the use, or record a road maintenance agreement for the portion of the road located where the use is located.

The applicant has not done this. He does not have permission to use the private road for commercial use (and it is not safe for commercial use as it stands) and has not amended the current road maintenance agreement to cover the additional road maintenance fee the applicant would have to pay for the use. In short, the applicant cannot use the private road for commercial purposes. And if allowed to do so, should be required to cover a larger portion of the road maintenance fee and indemnify all property owners subject to the road maintenance agreement from any incident that occurs on their property as a result of the dog boarding facility.

The Applications Must Be Denied As it is Unreasonably Detrimental to the Surrounding Properties and is Not Compatible With the Existing and Reasonably Foreseeable Future Land Uses.

Pursuant to Ordinance 17.30.010, the administrative use permit review and approval process is intended to apply to uses that are consistent with objectives of the general plan, the purposes of the zone where they are proposed, and are generally limited in potential impacts to ensure that they can be designed, located, and operated in a manner that will be compatible with the surrounding area and uses. As it stands, this Application is not compatible with the surrounding area and uses.

As part of this approval process, the reviewing authority must make all of the required finding listed in Calaveras County Zoning Code 17.30.050 in order to approve the application, otherwise, the application must be denied. Of those required findings, at least two have not been met here. Specifically

1. The proposed use will not have the potential to adversely affect the public health, safety, or general welfare of the community, nor be unreasonably detrimental to surrounding properties or improvements; and
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses and circulation in the vicinity; and

The property subject to the Application and the surrounding areas are strictly rural residential properties. Allowing the applicant to install an animal boarding facility within the rural residential area is not compatible with existing land use, or foreseeable existing land use. The properties in the immediate vicinity share a private road such that the properties are not open to the public and cannot possibly be considered for business purposes if the public does not have permission to access the private properties.

The topography of the surrounding land is such that sound carries significant distances. A kennel adjacent to the other residential properties with multiple dogs would be a major noise and visual nuisance. Thus, the condition that the applicant comply with Calaveras County Code §9.02.010 is not enough to prevent the noise from occurring as the dogs will be housed in an outdoor kennel which will do nothing to decrease the noise.

A dog boarding facility with close vicinity to residential properties would materially and negatively impact adjacent property values and would be a necessary disclosure for any future buyer of any of the surrounding properties.

The Conditions of Approval Fail to Take Into Account The Liability to the Neighbors and the Nuisance Caused by an Animal Boarding Facility

In providing conditional approval, this county has failed to take into account the fact that because there is only a private road easement that prevents the general public from utilizing the road, the applicant cannot be allowed to utilize the road for anything other than private use. The applicant's choice to move forward with an animal boarding facility negatively impacts all of the

neighbors by putting each and every one of them subject to the private road easement at risk of liability for any accidents or issues related to the private road. The neighbors should not bear this burden. For all of the reasons mentioned above, Dr. Niven requests that the Application be denied in its entirety.

DATED: FEBRUARY 21, 2025

BERLINER COHEN, LLP



BY: _____

MAKAYLA A. WHITNEY
ATTORNEY FOR RALPH NIVEN

Attachment 2

AUP 2024-082



County of Calaveras Planning Department

Bret Sampson, Planning Director
Phone (209) 754-6394 Fax (209) 754-6540
Website: planning.calaverasgov.us/

2024-082 AUP Animal Boarding Facility

Date: **February 10th, 2025**

Assessor Parcel No.: **034-003-137** and **068-010-126**

Address: **1298 Apple Blossom Drive, Murphys**

Land Use Application No.: **2024-082**

General Plan Designation: **Rural Transition A and Working Lands**

Zoning: **General Agriculture (A1-40)**

Environmental:

Categorically Exempt per CEQA Guidelines §15303 (c) which allows for a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area.

APPLICANT:
Noah and Amber Glanville
1298 Apple Blossom Drive
Murphys, CA 95247

ACTION: Approval of an Administrative Use Permit (AUP) to construct a 20'x25' dog kennel and operate a 5-run dog boarding facility.

The subject parcel is located at APN: 034-003-137 and 068-010-126, off Apple Blossom Drive, a private road. The project parcel is approximately 40.83-acres in size, zoned General Agriculture with a 40-acre minimum (A1-40), and is on land designated by the General Plan as Rural Transition A (RTA) and Working Lands. Natural features of the property include rocky hills and heavy vegetation.

The Planning Department has reviewed and APPROVES the Administrative Use Permit as set forth in the application, based on the Findings below, and subject to the conditions herein.

PERMIT VALIDATION: For the permit to be valid, all conditions must be satisfied.


Bret Sampson, Planning Director

2-10-2025
Date

FINDINGS:

To approve this use permit, the Planning Director makes the following findings:

- A. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Title and all other titles of the Calaveras County Municipal Code.

EVIDENCE: The project site is in the General Agriculture (A1) zone with a 40-acre minimum. Pursuant to §17.04.020 Land Use Regulations- Resource Zones. Animal Boarding Facilities require an Administrative Use Permit in the A1 zone and require the operator or caretaker to reside full-time on site. The proposed use is therefore compatible with this zone.

- B. The proposed use is consistent with the General Plan and any applicable specific plan.

EVIDENCE: The project site is on land designated by the General Plan as Rural Transition A (RTA) and Working Lands. Pursuant to Table LU-1 of the General Plan, Rural Transition A identifies areas of existing rural neighborhoods. The primary use is residential. Pursuant to Table LU-1 of the General Plan, the Working Lands designation includes lands with a combination of residential and home-based businesses. These lands allow home-based business operations that are compatible with rural residential development. Typical uses include small-scale commercial/industrial uses secondary to the primary residence. This use is therefore compatible with this land use designation.

- C. The proposed use will not have the potential to adversely affect the public health, safety, or general welfare of the community, nor be unreasonably detrimental to surrounding properties or improvements

EVIDENCE: The project was circulated to County Departments, Local Public Agencies, and property owners within 300' of the project site. Comments were received from four of the neighboring parcels. Planning intends to adopt a Notice of Exemption per CEQA Guidelines, Article 19 Categorical Exemptions, §15303 New Construction or Conversion of Small Structures, (c) a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. Conditions of approval have been included to ensure the protection of public, health, safety, and general welfare of the community.

- D. The proposed use complies with any design or development standards applicable to the zone or the use in question, unless waived or modified pursuant to the provisions of this Title.

EVIDENCE: There are no design standards applied to this parcel or land use.

- E. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses and circulation in the vicinity

EVIDENCE: The project site is approximately 40.83-acres in size, with rocky hills and heavy vegetation surrounding the proposed development area. The proposed project will construct a 20'x25' dog kennel, with a maximum of 5 dogs at a time. Conditions of approval have been included to limit traffic as to not exceed the allowed average daily traffic (ADT) generated by a Single-Unit Dwelling, including both residential and nonresidential uses commutatively. The project has no associated employee trips. It is anticipated that a maximum of 5 dogs will be kenneled on site for multiple days at a time.

- F. The site is physically suitable for the type of the use being proposed, including access, utilities, and the absence of physical constraints.

EVIDENCE: The property is developed with a Single-Unit Dwelling with attached garage, an agricultural well, a pump house, a septic system, an asphalt driveway, and accessory structures. Access to the project parcel is primarily provided from Apple Blossom Drive, a portion of which is a private road. Road improvements include asphalt surface and gravel turnouts. Conditions of approval have been included to limit traffic as to not exceed the allowed average daily traffic (ADT) generated by a Single-Unit Dwelling, including both residential and nonresidential uses commutatively.

CONDITIONS:

Conditions of project approval are limited to those measures or requirements that are necessary to reduce or eliminate potential environmental effects or protect the public health, safety, and welfare. No conditions shall be imposed for which there is not a reasonable relationship between the condition and the direct effects of the project.

1. PLANNING DEPARTMENT

- 1-1. The performance of AUP 2024-082 shall be in conformance with the application and shall be confined to those areas delineated on the site maps as approved by the Planning Department and conditioned herein.
- 1-2. Pursuant to §17.27.110 of the County Zoning Code, this permit will expire if this permit is not validated or extended prior to the expiration date (two years after the date of the approval).
- 1-3. Pursuant to §17.27.040 of the County Zoning Code, the applicant will obtain any permit required to be in compliance with County regulations.
- 1-4. Pursuant to §9.02.010 of the County Code, operations must comply with noise requirements.
- 1-5. The nonresidential use plus the residential use shall not exceed the average daily traffic (ADT) generated by a Single-Unit Dwelling, currently seven and a half trips daily.

1-6. Planning staff may monitor conditions of approval for compliance.

2. ENVIRONMENTAL MANAGEMENT AGENCY

2-1. In order to prevent propagation, harborage, or attraction of flies, rodents, or other vectors, the owner or occupant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all solid waste, including manure or animal excrement.

3. ANIMAL SERVICES

3-1. Comply with kennel license requirements pursuant to Title 6 of the Calaveras County Ordinance section 6.18.010 et seq.

3-2. All enclosures and animal runs shall be constructed of nonabsorbent material (no wood or other porous materials) and sloped to facilitate drainage into an approved sewer or septic system.

NOTES:

All use permits issued by the Planning Director are subject to all applicable County regulations or plans whether or not such requirements are specified as a condition of project.

Pursuant to §17.13.170, the decision of the Planning Director may be appealed to the Planning Commission by following the appeal procedures in §17.27.140 and submitting a written request, accompanied by the appropriate fee, within fifteen calendar days from the date of the staff decision.

Attachment 3

Comment Letters

From: [Don Padou](#)
To: [Lindsey Smith](#); [Bret Sampson](#)
Subject: Padou Response to AUP 2024-082
Date: Wednesday, December 18, 2024 2:29:17 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Dear Bret and Lindsey

I recently received notice from the planning department that my neighbor, Noah Glanville at 1298 Apple Blossom Drive, Murphys, is seeking planning permission to build a commercial dog boarding facility. The permit number is AUP 2024-082.

I own the property at 612 Apple Blossom Drive, Murphys. I oppose Mr. Glanville's request for a permit to operate a commercial dog boarding facility for the reasons stated below.

The Glanville property is located at the end of a very long driveway that is shared by at least 3 other property owners. The driveway is, at places, very narrow, particularly at the beginning where it comes off of Apple Blossom Drive. The driveway at this location is also steep, so that whenever a homeowner meets a customer of the dog kennel, one or the other will have to back up or down the hill to a wider spot.

In addition, there is a blind intersection where my driveway joins the main driveway. The homeowners who use the driveways know about this blind intersection so they exercise due care, but customers of the dog kennel will be coming fast down the hill, will be unaware of the blind intersection, and will therefore increase the chance of an accident.

Finally, there is no signage at any point along the driveway, so customers will drive onto my property and other properties seeking the Glanville property. Obviously, I do not look forward to trespassers driving onto my property. My driveway is also narrow, so once a customer is on my driveway, they will have to drive all the way to the end before they can turn around.

In short, the driveway used by all four properties is far too inadequate to support the commercial traffic that will result from building a dog boarding facility at the end of the driveway.

Sincerely,
Don Padou
202-664-4395

From: [Gary Benevento](#)
To: [Lindsey Smith](#); [Bret Sampson](#)
Subject: Benevento Response for AUP 2024-082 Pending Determination Letter
Date: Wednesday, December 18, 2024 4:52:49 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

To: Calaveras County Planning Department
Re: AUP 2024-082

Dear Bret and Lindsey,

We received a copy of the Notice of Pending Determination for AUP 2024-082 this afternoon from one of our neighbors. Needless to say, we were very surprised that the Planning Department did not notify us regarding this pending action which directly impacts our property and strongly oppose this proposed administrative use permit. Access for 1298 Apple Blossom Drive is by a non exclusive easement agreement via private road. We are the primary property owners for the easement agreement located at 600 Apple Blossom Drive. The easement agreement currently has 4 other properties which access their properties through our property.

We are opposed to the county issuing a permit for commercial activity through a relatively dense residential community (Apple Blossom Drive) onto a private residential road.

The possibility for overburdening our easement agreement is very high if you issue this permit and considering the possibility that the door would then be open for possible additional commercial activity on the private road which is our driveway. The road is narrow, winding, steep, with blind corners and not adequate for two way traffic. Frequently we have had to back up the length of our driveway to allow for other drivers to pass. We are also concerned about any potential liability for an accident and/or injury on our portion of the access road due to the nature of the road.

The private paved portion of the roadway is not safe for this additional use. Consultations with attorneys regarding the easement agreement over the years of our property ownership have resulted in recommendations to not allow any additional traffic other than normal residential use for the private road through and beyond our property. Additional use other than what the easement was intended for would legally be considered as overburdening the easement. We would not want to bring action against our neighbor nor the county, but will consider it if necessary. There is also the noise/nuisance component of allowing an animal boarding facility operation in proximity to our property. We are animal lovers, however barking dogs, which is likely to occur, are not what we want to listen to when we want to enjoy being outside on our property. Peaceful enjoyment of our property is what we have worked very hard toward and your decision to approve this permit would have a direct negative impact on our ability to accomplish that goal.

Sincerely,
Gary and Carol Benevento
PO Box 1514
Murphys, CA 95247
(209) 743-8113
(209) 743-4728
gcbente@sbcglobal.net

Sent from my iPad

From: [Ralph Niven](#)
To: [Bret Sampson](#); [Lindsey Smith](#)
Subject: Re: Regarding AUP 2024-082 for Animal Boarding Facility
Date: Thursday, December 19, 2024 7:52:15 AM
Attachments: [Grant_Deed_with_Easement_v1.pdf](#)

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Dear Lindsey and Bret,

Please find attached the recorded document attesting that the easement crossing my property is for private use.

Sincerely,

Ralph Niven

On Wednesday, December 18, 2024 at 03:46:27 PM PST, Ralph Niven <airosol1@yahoo.com> wrote:

Dear Lindsey and Bret,

It has come to my attention within the last hour via a neighbor, that Noah Glanville, whose property (1298 Apple Blossom Dr., Murphys) borders mine (768 Apple Blossom Dr), has submitted an application to operate and run a dog kennel. I am dismayed to learn about this at such late notice, a day before the hearing, where conditional approval may be given at 4pm tomorrow

I strongly urge the County to refrain from approving or conditionally approving the application at issue. First, I did not receive adequate or statutory notice. I only learned about this action today, December 18, 2024. I did not receive notice from the County or from the applicant. Second, the deficient notice has prevented me from accessing or reviewing the application or the project file at issue at the County offices. Third, the applicant accesses his property by an easement and road that runs directly through my property. The easement does not include access for business purposes. The use of the road for applicant's proposed business clients to drop off or pick up animals, or applicant to run a business through my property, cannot be construed in any way as consistent with the terms of the easement or the law.

This operation would materially and negatively impact adjacent property values and be a necessary disclosure for any future buyer of these properties. This is all the more galling given that Mr. Glanville is well aware that my specific property is currently for sale.

The fact that I was not notified of this proposed business operation or the application suggests an unwarranted attempt to bypass requisite procedures in the hopes of securing an unlawful permit.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Ralph

Ralph Niven
768 Apple Blossom Dr.
Murphys, CA 95247
airosol1@yahoo.com
650 703 5911



First American

**The Recorded Document images are displayed in the subsequent
pages for following request:**

State
CA

County
CALAVERAS

Document Number
2008.3154

Limitation of Liability for Informational Report

IMPORTANT – READ CAREFULLY: THIS REPORT IS NOT AN INSURED PRODUCT OR SERVICE OR A REPRESENTATION OF THE CONDITION OF TITLE TO REAL PROPERTY. IT IS NOT AN ABSTRACT, LEGAL OPINION, OPINION OF TITLE, TITLE INSURANCE COMMITMENT OR PRELIMINARY REPORT, OR ANY FORM OF TITLE INSURANCE OR GUARANTY. THIS REPORT IS ISSUED EXCLUSIVELY FOR THE BENEFIT OF THE APPLICANT THEREFOR, AND MAY NOT BE USED OR RELIED UPON BY ANY OTHER PERSON. THIS REPORT MAY NOT BE REPRODUCED IN ANY MANNER WITHOUT FIRST AMERICAN'S PRIOR WRITTEN CONSENT. FIRST AMERICAN DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION HEREIN IS COMPLETE OR FREE FROM ERROR, AND THE INFORMATION HEREIN IS PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, AS-IS, AND WITH ALL FAULTS. AS A MATERIAL PART OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE ISSUANCE OF THIS REPORT, RECIPIENT AGREES THAT FIRST AMERICAN'S SOLE LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY AN ERROR OR OMISSION DUE TO INACCURATE INFORMATION OR NEGLIGENCE IN PREPARING THIS REPORT SHALL BE LIMITED TO THE FEE CHARGED FOR THE REPORT. RECIPIENT ACCEPTS THIS REPORT WITH THIS LIMITATION AND AGREES THAT FIRST AMERICAN WOULD NOT HAVE ISSUED THIS REPORT BUT FOR THE LIMITATION OF LIABILITY DESCRIBED ABOVE. FIRST AMERICAN MAKES NO REPRESENTATION OR WARRANTY AS TO THE LEGALITY OR PROPRIETY OF RECIPIENT'S USE OF THE INFORMATION HEREIN.

RECORDING REQUESTED BY

Placer Title Company

Escrow Number: 1102-1082

AND WHEN RECORDED MAIL TO

RALPH W. NIVEN
51 TURNBERRY ROAD
HALF MOON BAY, CA 94019

CALAVERAS COUNTY, CA
KAREN VARNI, COUNTY CLERK-RECORDER

03/12/2008 09:09:00AM
PAGE 1 OF 2



2008 3154

MONUMENT FUND

7-1-2-1

PLACER TITLE COMPANY

**SPACE ABOVE THIS LINE FOR RECORDER'S USE
GRANT DEED**

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$544.50 City Transfer Tax: \$0.00

(X) computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **WILLIAM C. REISIG AND M. VALLORIE REISIG, AS TRUSTEES OF THE REISIG FAMILY TRUST DATED AUGUST 9, 1999**

Hereby GRANT(S) to **RALPH W. NIVEN, AN UNMARRIED MAN**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF CALAVERAS, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL B, ADJUSTED ON THE MAP FILED FOR RECORD AUGUST 13, 1991 IN BOOK 16 OF RECORD OF SURVEYS, PAGE 128, CALVERAS COUNTY RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR PRIVATE ROAD AND PUBLIC UTILITIES, 50 FEET IN WIDTH OVER AND ACROSS A PORTION OF PARCEL "A" AS THE SAME IS SHOWN ON THAT CERTAIN RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT MAP FILED FOR RECORD AUGUST 13, 1991 IN BOOK 16 OF RECORD OF SURVEYS, AT PAGE 128 IN THE OFFICE OF THE CALAVERAS COUNTY RECORDER AND ALSO BEING WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 14 EAST, AND A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 14 EAST, M.D.B. & M., CALAVERAS COUNTY CALIFORNIA. THE CENTERLINE OF SAID EASEMENT IS SET FORTH IN THE DEED RECORDED MAY 8, 1992 CALAVERAS COUNTY RECORDS, AS INSTRUMENT NO. 992 007968.

APN: 034-003-102-000 AND 068-010-086-000

Dated: March 05, 2008

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE, IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

SAME AS ABOVE

Name

Street Address

City & State

slrptr.doc

SIGNATURE PAGE FOR GRANT DEED

CALAVERAS COUNTY, CA
KAREN VARNI, COUNTY CLERK-RECORDER

03/12/2008 08:00:00AM
PAGE 2 OF 2

2008 3154

THE REISIG FAMILY TRUST DATED 8/9/1990

By: *William C. Reisig*
WILLIAM C. REISIG, TRUSTEE

By: *M. Vallorie Reisig*
M. VALLORIE REISIG, TRUSTEE

STATE OF CALIFORNIA
COUNTY OF Calaveras

On March 10, 2008 before me, D. Bruneau, Notary Public,
personally appeared William C. Reisig and M. Vallorie Reisig

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: *D. Bruneau*
Commission Expiration Date: 10-12-2011



MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE, IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

SAME AS ABOVE

Name

Street Address

City & State

Shptr doc

From: [Terri Bowman](#)
To: [Bret Sampson](#); [Lindsey Smith](#)
Cc: [Terri Bowman](#)
Subject: Objection to AUP 2024-082 Dog Boarding Facility at 1298 Appleblossom
Date: Thursday, December 19, 2024 1:13:32 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Dear Bret and Lindsey,

I am writing in strong opposition to the proposed commercial dog boarding kennel at 1298 Apple Blossom Road in Murphys. My residence, 900 Sheep Ranch Road, APN #068-011-006, 043 directly borders Mr. Glanvilles property. My home of approximately 35 years is constructed on the ridge directly above Mr Glanvilles newly built home and our homes are geographically very close if you look on google maps. Audible noises such as speaking voices, music, his dog barking, and his children on motorcycles travel right up the hill to my home, and in the spirit of good neighborly relations, this is acceptable. A new home built on an adjoining lot is something that an owner of a property has the right to do, however disturbing my right of peace, enjoyment and quiet of my property should not be allowed. The creation of this kennel will cause an enormous amount of noise nuisance for myself, as well as the other contiguous neighbors. This will directly impede upon our rights to peacefully enjoy our own properties. I work full time from home and the untenable noise pollution from this kennel will prevent me from being able to work in a professional, quiet manner. Having just heard about this AUP yesterday from a neighbor, I immediately left a voice message at the Calaveras Planning dept yesterday, but have not received a returned call and I understand the hearing is today? How can the county consider this proposal for dog boarding usage in a residential neighborhood and obtain a permit to run a business that allows commercial traffic, clients and their animals, not to mention the noise pollution of multiple barking dogs?

As a real estate broker, I can assure you that the private road used to access his residence is not sufficiently wide to allow multiple guests or clients to efficiently access the property. I understand that notices were sent to properties within 300 feet of the proposed kennel. I did **not** receive one, and nor did my neighbors, Keith and Sandra Maurer, who also border this property. Both of our properties are a safe haven for deer, bird watching and much other wildlife. The erection of a dog kennel will be enormously disruptive to us residents and the local wildlife. With another neighbor only receiving this notice several days ago, there simply wasn't ample time for us to prepare our opposition to this poorly crafted proposal, nor time to travel to San Andreas to get a copy of what was submitted by Mr Glanville.

Thank you in advance for denying this application and helping all of us neighbors to maintain the peace in our neighborhood.

Regards,

Terri Bowman

--

Terri R Bowman, Broker

Premier Properties
Direct 209-559-1368
Office 209-728-2888
#00702092



From: [Gary Benevento](#)
To: [Lindsey Smith](#); [Bret Sampson](#)
Subject: Benevento Response for AUP 2024-082 Conditional Approval Letter
Date: Tuesday, February 4, 2025 3:14:02 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Hi Bret & Lindsey,

We received the conditional approval letter for AUP 2024-082 from the Planning Department scheduled for February 10th. We're shocked that the county would grant conditional approval to this commercial enterprise regardless of strong opposition from all surrounding parcel owners. This involves several complex issues regarding access to the property, easement & road maintenance agreements, safety issues, noise components, negative impact issues, and property values. If the conditional approval is granted on the 10th, all surrounding parcel owners are committed to appealing the decision and to taking any legal action necessary to block this decision. We urge you to deny or at least delay the decision for this application until you explore all ramifications involved in the decision.

The applicant has already expressed to us planned further expansion of the dog boarding business once it's approved along with plans for an Airbnb & hunting lodge (with dog boarding option) and a possible wedding/special event venue for up to 400 guests. If the Planning Department approves this application you will be opening a door that will have a lasting negative impact for all surrounding properties.

We have included the original email correspondence sent to you in December during the open comment period for this AUP.

Sincerely,

Gary & Carol Benevento

PO Box 1514

Murphys, CA 95247

(209) 743-8113

(209) 743-4728

gcbente@sbcglobal.net

From: Gary Benevento <gcbente@sbcglobal.net>

Date: December 18, 2024 at 4:52:22 PM PST

To: lsmith@calaverascounty.gov, bsampson@calaverascounty.gov

Subject: Benevento Response for AUP 2024-082 Pending Determination Letter

To: Calaveras County Planning Department

Re: AUP 2024-082

Dear Bret and Lindsey,

We received a copy of the Notice of Pending Determination for AUP 2024-082 this afternoon from one of our neighbors. Needless to say, we were very surprised that the Planning Department did not notify us regarding this pending action which directly impacts our property and strongly oppose this proposed

administrative use permit. Access for 1298 Apple Blossom Drive is by a non exclusive easement agreement via private road. We are the primary property owners for the easement agreement located at 600 Apple Blossom Drive. The easement agreement currently has 4 other properties which access their properties through our property.

We are opposed to the county issuing a permit for commercial activity through a relatively dense residential community (Apple Blossom Drive) onto a private residential road.

The possibility for overburdening our easement agreement is very high if you issue this permit and considering the possibility that the door would then be open for possible additional commercial activity on the private road which is our driveway. The road is narrow, winding, steep, with blind corners and not adequate for two way traffic. Frequently we have had to back up the length of our driveway to allow for other drivers to pass. We are also concerned about any potential liability for an accident and/or injury on our portion of the access road due to the nature of the road.

The private paved portion of the roadway is not safe for this additional use.

Consultations with attorneys regarding the easement agreement over the years of our property ownership have resulted in recommendations to not allow any additional traffic other than normal residential use for the private road through and beyond our property. Additional use other than what the easement was intended for would legally be considered as overburdening the easement. We would not want to bring action against our neighbor nor the county, but will consider it if necessary.

There is also the noise/nuisance component of allowing an animal boarding facility operation in proximity to our property. We are animal lovers, however barking dogs, which is likely to occur, are not what we want to listen to when we want to enjoy being outside on our property. Peaceful enjoyment of our property is what we have worked very hard toward and your decision to approve this permit would have a direct negative impact on our ability to accomplish that goal.

Sincerely,
Gary and Carol Benevento
PO Box 1514
Murphys, CA 95247
(209) 743-8113
(209) 743-4728
gcbente@sbcglobal.net

Sent from my iPad

From: [Ralph Niven](#)
To: [Bret Sampson](#); [Lindsey Smith](#)
Cc: [Gina Kathan](#)
Subject: Concerning AUP 2024-082
Date: Wednesday, February 5, 2025 1:32:01 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Dear Bret and Lindsey,

A second notice has been received regarding AUP 2024-082, an application of Noah Glanville to operate and run a dog kennel on his property located at 1298 Apple Blossom Drive in Murphys. It is unclear why this application is undergoing further review and has not been dismissed, but my position, consistent with many other neighbors, has not changed and I vociferously oppose any such proposal.

I strongly urge the County to refrain from approving or conditionally approving the application for numerous reasons.

- 1) The applicant accesses his property by a private road easement that has only ever been used for strictly residential purpose with very few cars utilizing it and approximately $\frac{3}{4}$'s of a mile of newly paved, narrow road that runs directly through my property and at least 2 other neighbors' properties before reaching the applicant's. Not one foot is accessed through his own property.
- 2) As far as I understand, the easement does not include access for business purposes and is for private residential use except for utilities. The use of the road for the applicant's proposed business clients to drop off or pick up animals, or applicant to run any business through my property, surely cannot be construed in any way as consistent with the terms of the easement or the law? This road has never been intended for commercial use and thus the public does not have permission to cross my property to access his.
- 3) The paved easement itself is narrow, steep and contains many blind spots. Thus, creating a safety problem with increased vehicular traffic. It was never construed or designed to carry significant traffic. There have been several close calls with Glanville's contractor vehicles as it is. Further, if anyone was injured from using the easement, that would put all of the neighbors responsible for maintaining the easement at risk of liability.
- 4) Any increased traffic also poses an exposure and security risk to the surrounding properties which otherwise are secure because of their private and 'hard-to-find' location.
- 5). Importantly, the topography of the surrounding land is such that sound carries significant distances. Dogs barking in properties beyond Glanville can be heard. A kennel adjacent to my property, containing multiple dogs would be a major noise and visual nuisance.

6) Clearly, this operation would materially and negatively impact adjacent property values and would be a necessary disclosure for any future buyer of any of the surrounding properties. This is all the more galling given that Mr. Glanville is well aware that my specific property is currently for sale.

Please do not hesitate to contact me should you require additional information or need any points clarified or elaborated.

Sincerely,

Ralph Niven

Ralph Niven
768 Apple Blossom Dr.
Murphys, CA 95247
airosoll@yahoo.com
650 703 5911

From: [Don Padou](#)
To: [Lindsey Smith](#); [Bret Sampson](#)
Subject: Resubmission of Padou Response to AUP 2024-082
Date: Friday, February 7, 2025 9:24:09 AM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Dear Bret and Lindsey

I recently received a second notice from the planning department regarding the plans of my neighbor, Noah Glanville at 1298 Apple Blossom Drive, to seek planning permission to build a commercial dog boarding facility. The permit number is AUP 2024-082. It is unclear whether or not I need to renew my objection.

I own the property at 612 Apple Blossom Drive, Murphys. I oppose Mr. Glanville's request for a permit to operate a commercial dog boarding facility for the reasons stated below.

The Glanville property is located at the end of a very long driveway that is shared by at least 3 other property owners. The driveway is, at places, very narrow, particularly at the beginning where it comes off of Apple Blossom Drive. The driveway at this location is also steep, so that whenever a homeowner meets a customer of the dog kennel, one or the other will have to back up or down the hill to a wider spot.

In addition, there is a blind intersection where my driveway joins the main driveway. The homeowners who use the driveways know about this blind intersection so they exercise due care, but customers of the dog kennel will be coming fast down the hill, will be unaware of the blind intersection, and will therefore increase the chance of an accident.

Finally, there is no signage at any point along the driveway, so customers will drive onto my property and other properties seeking the Glanville property. Obviously, I do not look forward to trespassers driving onto my property. My driveway is also narrow, so once a customer is on my driveway, they will have to drive all the way to the end before they can turn around.

Bret suggested that approval of the commercial dog kennel could be conditioned on a limitation to the number of customers. Such a limitation does not change my position because such a limitation is unenforceable on a practical basis.

In short, the driveway used by all four properties is far too inadequate to support the commercial traffic that will result from building a dog boarding facility at the end of the driveway.

Sincerely,
Don Padou
202-664-4395

Attachment 4

Parcel Map 8-69b

BASIS OF BEARINGS

BASIS OF BEARINGS OF THIS SURVEY IS THE LINE BETWEEN FOUND MONUMENTS SHOWN HEREON AS N. 89° 42' 08" W. AND IS THE SAME AS SHOWN ON PARCEL MAP FILED IN BOOK 3 OF PARCEL MAPS AT PAGE 93, CALAVERAS COUNTY RECORDS. ORIGIN OF SAID BASIS IS UNKNOWN.

LEGEND

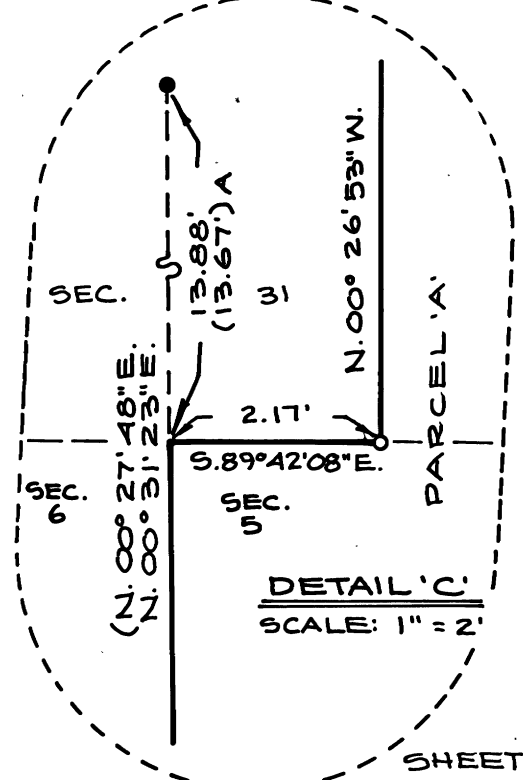
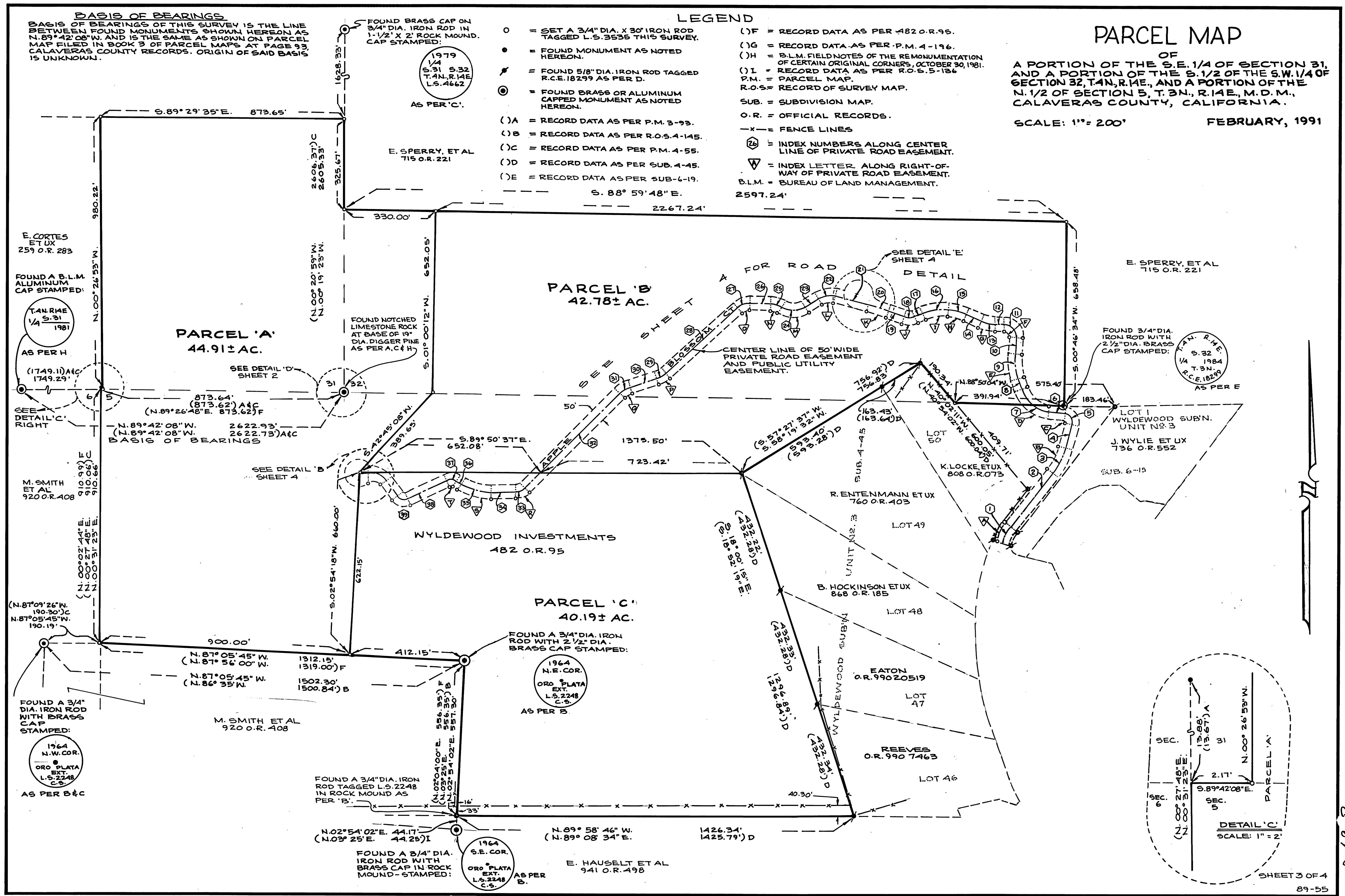
- = SET A 3/4" DIA. X 30" IRON ROD TAGGED L.S. 3535 THIS SURVEY.
- = FOUND MONUMENT AS NOTED HEREON.
- ⊕ = FOUND 5/8" DIA. IRON ROD TAGGED R.C.E. 18299 AS PER D.
- ⊙ = FOUND BRASS OR ALUMINUM CAPPED MONUMENT AS NOTED HEREON.
- () A = RECORD DATA AS PER P.M. 3-93.
- () B = RECORD DATA AS PER R.O.S. 4-145.
- () C = RECORD DATA AS PER P.M. 4-55.
- () D = RECORD DATA AS PER SUB. 4-45.
- () E = RECORD DATA AS PER SUB. 6-19.
- () F = RECORD DATA AS PER 482 O.R. 95.
- () G = RECORD DATA AS PER P.M. 4-196.
- () H = B.L.M. FIELD NOTES OF THE REMONUMENTATION OF CERTAIN ORIGINAL CORNERS, OCTOBER 30, 1981.
- () I = RECORD DATA AS PER R.O.S. 5-126.
- P.M. = PARCEL MAP.
- R.O.S. = RECORD OF SURVEY MAP.
- SUB. = SUBDIVISION MAP.
- O.R. = OFFICIAL RECORDS.
- x- = FENCE LINES
- ⬢ = INDEX NUMBERS ALONG CENTER LINE OF PRIVATE ROAD EASEMENT.
- ▽ = INDEX LETTER ALONG RIGHT-OF-WAY OF PRIVATE ROAD EASEMENT.
- B.L.M. = BUREAU OF LAND MANAGEMENT.

PARCEL MAP

OF
A PORTION OF THE S.E. 1/4 OF SECTION 31,
AND A PORTION OF THE S. 1/2 OF THE S.W. 1/4 OF
SECTION 32, T.4N, R.14E., AND A PORTION OF THE
N. 1/2 OF SECTION 5, T. 3N., R. 14E., M. D. M.,
CALAVERAS COUNTY, CALIFORNIA.

SCALE: 1" = 200'

FEBRUARY, 1991



8-69-B

Attachment 5

Grant Deed (1991)



First American

**The Recorded Document images are displayed in the subsequent
pages for following request:**

State
CA

County
CALAVERAS

Document Number
2008.3154

Limitation of Liability for Informational Report

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RECORDING REQUESTED BY

Placer Title Company

Escrow Number: 1102-1082

AND WHEN RECORDED MAIL TO

RALPH W. NIVEN
51 TURNBERRY ROAD
HALF MOON BAY, CA 94019

CALAVERAS COUNTY, CA
KAREN VARNI, COUNTY CLERK-RECORDER

03/12/2008 09:09:08AM
PAGE 1 OF 2



2008 3154

MONUMENT FUND

7-1-2-1

PLACER TITLE COMPANY

**SPACE ABOVE THIS LINE FOR RECORDER'S USE
GRANT DEED**

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$544.50 City Transfer Tax: \$0.00

(X) computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **WILLIAM C. REISIG AND M. VALLORIE REISIG, AS TRUSTEES OF THE REISIG FAMILY TRUST DATED AUGUST 9, 1999**

Hereby GRANT(S) to **RALPH W. NIVEN, AN UNMARRIED MAN**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF CALAVERAS, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL B, ADJUSTED ON THE MAP FILED FOR RECORD AUGUST 13, 1991 IN BOOK 16 OF RECORD OF SURVEYS, PAGE 128, CALVERAS COUNTY RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR PRIVATE ROAD AND PUBLIC UTILITIES, 50 FEET IN WIDTH OVER AND ACROSS A PORTION OF PARCEL "A" AS THE SAME IS SHOWN ON THAT CERTAIN RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT MAP FILED FOR RECORD AUGUST 13, 1991 IN BOOK 16 OF RECORD OF SURVEYS, AT PAGE 128 IN THE OFFICE OF THE CALAVERAS COUNTY RECORDER AND ALSO BEING WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 14 EAST, AND A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 14 EAST, M.D.B. & M., CALAVERAS COUNTY CALIFORNIA. THE CENTERLINE OF SAID EASEMENT IS SET FORTH IN THE DEED RECORDED MAY 8, 1992 CALAVERAS COUNTY RECORDS, AS INSTRUMENT NO. 992 007968.

APN: 034-003-102-000 AND 068-010-086-000

Dated: March 05, 2008

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE, IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

SAME AS ABOVE

Name

Street Address

City & State

slrptr.doc

SIGNATURE PAGE FOR GRANT DEED

CALAVERAS COUNTY, CA
KAREN VARNI, COUNTY CLERK-RECORDER

03/12/2008 08:00:00AM
PAGE 2 OF 2

2008 3154

THE REISIG FAMILY TRUST DATED 8/9/1990

By: *William C. Reisig*
WILLIAM C. REISIG, TRUSTEE

By: *M. Vallorie Reisig*
M. VALLORIE REISIG, TRUSTEE

STATE OF CALIFORNIA
COUNTY OF Calaveras

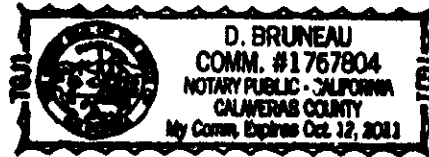
On March 10, 2008 before me, D. Bruneau, Notary Public,
personally appeared William C. Reisig and M. Vallorie Reisig

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: *D. Bruneau*
Commission Expiration Date: 10-12-2011



MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE, IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

SAME AS ABOVE

Name

Street Address

City & State

Shptr doc

Attachment 6

AUP 2024-082 Applicant Letter

March 14, 2025

VIA EMAIL

Mr. Bret Sampson – Planning Director
Ms. Lindsey Smith – Planner I
Calaveras County Planning Department
891 Mountain Ranch Rd.
San Andreas, CA 95249
bsampson@calaverascounty.gov
lsmith@calaverascounty.gov
planningweb@co.calaveras.ca.us

RE: Opposition to Appeal of 2024-082 AUP Animal Boarding Facility

Dear Mr. Sampson and Ms. Smith:

We represent the applicants Noah and Amber Glanville (the “Applicants”), the owners of 1298 Apple Blossom Dr., Murphys, CA 95247 (the “Property”). On February 10th, 2025, the Planning Department granted **Administrative Use Permit (“AUP”) 2024-082**, approving a five (5) run dog boarding facility (the “Project”) at the Property. (AUP 2024-082 is attached hereto as Exhibit “A”.) On February 24th, 2025, Mr. Ralph Niven (the “Appellant”) submitted an appeal (the “Appeal”) to the Department’s approval of the Project. (The Appeal is attached hereto as Exhibit “B”.) We submit this letter to contest the Appeal and to support the Department’s approval of **AUP 2024-082**.

a. *The Project is Compatible with Existing Zoning.*

The Property is zoned as General Agriculture (A1) with a 40-acre minimum. As shown in §17.04.020 of the Municipal Code, animal boarding facilities such as the Project are allowed with: (1) an approved AUP, and (2) a full-time, on-site caretaker. The Project will have a full-time, on-site caretaker. Further, as discussed below, the Project satisfies all of the requirements for AUP approval. Therefore, the Project is allowed on the Property.

b. *The Project is Compatible with Existing and Reasonably Foreseeable Future Land Uses.*

The Property’s land use designation is Rural Transaction A (RTA) and Working Lands. The RTA and Working Lands land use designations both allow for home-based businesses that are compatible with residential uses. The Working Lands designation, “allow[s] [for] the continuation of small scale resource production and other rural home-based business operations that are

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Page 2

compatible with rural residential development. Typical uses include [...] animal husbandry, livestock [...] public or quasi-public uses, and other similar or compatible uses.”¹ The RTA similarly has, “[t]he primary use [as] residential but may include [...] small scale commercial use with minimal potential for conflicts with more intensely developed areas. Typical activities include [...] animals for personal or small scale commercial use.”² Both the Working Lands and RTA designations allow for commercial businesses that involve animals. Thus, the Project is allowable under the land use designation of the Property.

c. *The Project is Not Unreasonably Detrimental to the Surrounding Properties.*

Under the Municipal Code § 17.30.050, a proposed use must, “not have the potential to adversely affect the public health, safety, or general welfare of the community nor be unreasonably detrimental to surrounding properties or improvements.”³ Here, the Appellant argues that the project will have a detrimental effect on surrounding properties or improvements. Contrary to the concerns listed in the Appeal, the Project will not create excessive noise, traffic, or be otherwise detrimental to surrounding properties.

i. *The Project Will Not Create Excessive Noise.*

The Applicants agree that excessive noise, “is a serious hazard to the public health, welfare and safety of the people of [...] County of Calaveras...”⁴ The Municipal Code defines “noise” as, “any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the unincorporated area of the county or in any portions thereof...”⁵

The Project will not generate sound that is, “injurious to human health or welfare or which would unreasonably interfere with the enjoyment of life...”. The Project will house a maximum of five dogs at a time, which will not generate much sound. The Project will be operated on the Property, which is 40.83-acres in size and surrounded by heavy vegetation. As shown in the aerial map, there is a significant distance between the Property and the nearest residential areas. (The aerial map is attached hereto as Exhibit “C”.) This distance and the vegetation will further cushion surrounding properties from any sound that will be created by the dogs housed at the Project. The Project will not generate sound, “of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the unincorporated area of the county.” Thus, the Project will not generate “noise,” let alone “excessive noise” as defined by the Municipal Code.

¹ Calaveras County General Plan, Table LU-1.

² *Id.*

³ Calaveras County Zoning Code, § 17.30.050

⁴ Calaveras County Municipal Code, § 9.02.010

⁵ Calaveras County Municipal Code, § 9.02.020(L)

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ii. *The Project Will Not Increase Traffic or Cause Damage to Apple Blossom Drive.*

The Appellant argues that the County fails to consider the private road easement, and that the Project will put the neighbors subject to the private road easement, “at risk of liability of any accidents or issues related to the private road.”⁶ However, the Appellant does not explain what potential liabilities the Project would have on people who are subject to the private road easement. As discussed in the Project Approval, conditions of approval have “been included to limit traffic as to not exceed the allowed average daily traffic generated by a Single-Unit Dwelling, including both residential and nonresidential uses [cumulatively].”⁷ One of the conditions of approval for the AUP is that the, “residential use shall not exceed the average daily traffic (ADT) generated by a Single-Unit Dwelling, currently seven and a half trips daily.”⁸ Thus, the conditions of approval already ensure the Project would not generate more traffic than what would already be expected for a Single-Unit Dwelling. Thus, the commercial traffic will have no greater effect on the road than if the road was restricted to only residential traffic.

The Project will only accept five dogs maximum for several days on end. Thus, it is unlikely that even with the Project’s operations, the traffic on the road will not significantly increase. In addition to the Project having little to no impact on the condition of Apple Blossom Dr., the Fire Department has reviewed the road and has approved it for emergency uses. The road was only recently re-paved in 2024. In conjunction with that re-pavement project, the road was deemed to have proper turnouts and satisfied all requirements for fire engines and trucks to be able to pass as needed in an emergency. Therefore, the Project will have no effect on the Fire Department’s or other emergency services’ abilities to access the surrounding properties and, if the road is safe for large emergency vehicles, it is certainly safe for the use at issue in the AUP. Therefore, the Project will not increase liability to neighbors subject to the easement, or any other members of the community.

d. *The Design, Location, Size, and Operating Characteristics of the Proposed Activity are Compatible with the Existing and Reasonably Foreseeable Land Uses and Circulation in the Vicinity.*

The Appellant argues that the Project is incompatible with the current residential uses of the surrounding properties.⁹ However, the Project is compatible with the zoning and land use of the Property and the design standards for the Project’s use.

⁶ Appeal of AUP 2024-082, page 2-3.

⁷ AUP-2024-082 Approval, page 3.

⁸ *Id.*

⁹ Appeal of AUP 2024-082, page 2.

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- i. *The Project is Compatible with the Property's Zoning and Land Use Designations.*

As discussed above, the Project is compatible with the zoning and land use designations for the Property.

- ii. *The Project's Design is Compatible with the Design Standards Required for the Project Use.*

The Applicants understand the Appellant's concerns with potential impacts to the surrounding properties. However, the Appeal does not expressly state what design issues the Appellant is concerned about regarding the Project's design. There are no design standards for the Project's use. Even so, the design of the Project will not have any impact on surrounding properties. The Project will be located on the Property, which is approximately 40.83 acres in size. Because the Project will only house five (5) dogs, at maximum, it will not encompass a large area. Further, the Property is surrounded by heavy vegetation, which will further shield the Project from view of surrounding neighbors. Thus, the design of the Project is compatible with required design standards and will not have a negative impact on surrounding properties.

e. Conclusion

The concerns listed in the Appeal have already been addressed in the AUP and associated conditions of approval. The Project is fully compatible with the County's land use requirements. The Project is allowed within the zone and land use designations of the Property. Further, the Project will not have any detrimental effects on the surrounding properties. The Project's design is also compatible with the design standards required for the Project. The Project meets all other requirements for AUP approval, as discussed in Municipal Code § 17.30.050. As such, the Applicants respectfully request that the County dismiss the Appeal and uphold the AUP permitting the Project.

We are happy to discuss any additional concerns.

Sincerely,

FENNEMORE LLP



Mario C. Vasta

/s/ Christina Suarez

Christina Suarez

Exhibit A



County of Calaveras Planning Department

Bret Sampson, Planning Director
Phone (209) 754-6394 Fax (209) 754-6540
Website: planning.calaverasgov.us/

2024-082 AUP Animal Boarding Facility

Date: February 10th, 2025

Assessor Parcel No.: 034-003-137 and 068-010-126

Address: 1298 Apple Blossom Drive, Murphys

Land Use Application No.: 2024-082

General Plan Designation: Rural Transition A and Working Lands

Zoning: General Agriculture (A1-40)

Environmental:

Categorically Exempt per CEQA Guidelines §15303 (c) which allows for a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area.

APPLICANT:
Noah and Amber Glanville
1298 Apple Blossom Drive
Murphys, CA 95247

ACTION: Approval of an Administrative Use Permit (AUP) to construct a 20'x25' dog kennel and operate a 5-run dog boarding facility.

The subject parcel is located at APN: 034-003-137 and 068-010-126, off Apple Blossom Drive, a private road. The project parcel is approximately 40.83-acres in size, zoned General Agriculture with a 40-acre minimum (A1-40), and is on land designated by the General Plan as Rural Transition A (RTA) and Working Lands. Natural features of the property include rocky hills and heavy vegetation.

The Planning Department has reviewed and APPROVES the Administrative Use Permit as set forth in the application, based on the Findings below, and subject to the conditions herein.

PERMIT VALIDATION: For the permit to be valid, all conditions must be satisfied.


Bret Sampson, Planning Director

2-10-2025
Date

FINDINGS:

To approve this use permit, the Planning Director makes the following findings:

- A. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Title and all other titles of the Calaveras County Municipal Code.

EVIDENCE: The project site is in the General Agriculture (A1) zone with a 40-acre minimum. Pursuant to §17.04.020 Land Use Regulations- Resource Zones. Animal Boarding Facilities require an Administrative Use Permit in the A1 zone and require the operator or caretaker to reside full-time on site. The proposed use is therefore compatible with this zone.

- B. The proposed use is consistent with the General Plan and any applicable specific plan.

EVIDENCE: The project site is on land designated by the General Plan as Rural Transition A (RTA) and Working Lands. Pursuant to Table LU-1 of the General Plan, Rural Transition A identifies areas of existing rural neighborhoods. The primary use is residential. Pursuant to Table LU-1 of the General Plan, the Working Lands designation includes lands with a combination of residential and home-based businesses. These lands allow home-based business operations that are compatible with rural residential development. Typical uses include small-scale commercial/industrial uses secondary to the primary residence. This use is therefore compatible with this land use designation.

- C. The proposed use will not have the potential to adversely affect the public health, safety, or general welfare of the community, nor be unreasonably detrimental to surrounding properties or improvements

EVIDENCE: The project was circulated to County Departments, Local Public Agencies, and property owners within 300' of the project site. Comments were received from four of the neighboring parcels. Planning intends to adopt a Notice of Exemption per CEQA Guidelines, Article 19 Categorical Exemptions, §15303 New Construction or Conversion of Small Structures, (c) a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. Conditions of approval have been included to ensure the protection of public, health, safety, and general welfare of the community.

- D. The proposed use complies with any design or development standards applicable to the zone or the use in question, unless waived or modified pursuant to the provisions of this Title.

EVIDENCE: There are no design standards applied to this parcel or land use.

- E. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses and circulation in the vicinity

EVIDENCE: The project site is approximately 40.83-acres in size, with rocky hills and heavy vegetation surrounding the proposed development area. The proposed project will construct a 20'x25' dog kennel, with a maximum of 5 dogs at a time. Conditions of approval have been included to limit traffic as to not exceed the allowed average daily traffic (ADT) generated by a Single-Unit Dwelling, including both residential and nonresidential uses commutatively. The project has no associated employee trips. It is anticipated that a maximum of 5 dogs will be kenneled on site for multiple days at a time.

- F. The site is physically suitable for the type of the use being proposed, including access, utilities, and the absence of physical constraints.

EVIDENCE: The property is developed with a Single-Unit Dwelling with attached garage, an agricultural well, a pump house, a septic system, an asphalt driveway, and accessory structures. Access to the project parcel is primarily provided from Apple Blossom Drive, a portion of which is a private road. Road improvements include asphalt surface and gravel turnouts. Conditions of approval have been included to limit traffic as to not exceed the allowed average daily traffic (ADT) generated by a Single-Unit Dwelling, including both residential and nonresidential uses commutatively.

CONDITIONS:

Conditions of project approval are limited to those measures or requirements that are necessary to reduce or eliminate potential environmental effects or protect the public health, safety, and welfare. No conditions shall be imposed for which there is not a reasonable relationship between the condition and the direct effects of the project.

1. PLANNING DEPARTMENT

- 1-1. The performance of AUP 2024-082 shall be in conformance with the application and shall be confined to those areas delineated on the site maps as approved by the Planning Department and conditioned herein.
- 1-2. Pursuant to §17.27.110 of the County Zoning Code, this permit will expire if this permit is not validated or extended prior to the expiration date (two years after the date of the approval).
- 1-3. Pursuant to §17.27.040 of the County Zoning Code, the applicant will obtain any permit required to be in compliance with County regulations.
- 1-4. Pursuant to §9.02.010 of the County Code, operations must comply with noise requirements.
- 1-5. The nonresidential use plus the residential use shall not exceed the average daily traffic (ADT) generated by a Single-Unit Dwelling, currently seven and a half trips daily.

1-6. Planning staff may monitor conditions of approval for compliance.

2. ENVIRONMENTAL MANAGEMENT AGENCY

2-1. In order to prevent propagation, harborage, or attraction of flies, rodents, or other vectors, the owner or occupant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all solid waste, including manure or animal excrement.

3. ANIMAL SERVICES

3-1. Comply with kennel license requirements pursuant to Title 6 of the Calaveras County Ordinance section 6.18.010 et seq.

3-2. All enclosures and animal runs shall be constructed of nonabsorbent material (no wood or other porous materials) and sloped to facilitate drainage into an approved sewer or septic system.

NOTES:

All use permits issued by the Planning Director are subject to all applicable County regulations or plans whether or not such requirements are specified as a condition of project.

Pursuant to §17.13.170, the decision of the Planning Director may be appealed to the Planning Commission by following the appeal procedures in §17.27.140 and submitting a written request, accompanied by the appropriate fee, within fifteen calendar days from the date of the staff decision.

Exhibit B



**CALAVERAS COUNTY
PLANNING DEPARTMENT**

GOVERNMENT CENTER
891 MOUNTAIN RANCH RD
SAN ANDREAS, CA 95249
Phone (209)754-6394 / Fax (209)754-6540
email: planningweb@co.calaveras.ca.us

APPEAL FORM

Appellant(s):

Name Ralph Niven

Mailing Address [REDACTED]

Phone (Business) [REDACTED] (Home) _____

Email Address [REDACTED]

Agent:

Name Makayla Whitney of Berliner Cohen LLP

Mailing Address [REDACTED]

Phone (Business) [REDACTED] (Home) _____

Email Address [REDACTED]

Project or Action Being Appealed AUP 2024-082

Please attach written description or reason(s) for appeal.

FOR OFFICIAL USE ONLY

Date Stamp

Receipt Number

PLNG 534

Application Number

PLNG 2025-00011

Method of Payment,

Cash Check # 203523

Amount

\$500 -

RECEIVED

FEB 24 2025

Revised 5-8-23

**Calaveras County
Planning Department**

WRITTEN DESCRIPTION OF APPEAL

Dr. Niven formally Appeals the Calaveras County Planning Department's conditional approval of application AUP 2024-082 for Animal Boarding Facility ("Application").

The Property Does Not Have Permission to Utilize The Private Road Easement to Access the Applicable Property For an Animal Board Facility Open to the Public.

The only access to the applicant's property is by a private road easement that has only ever been used for strictly residential purposes. Approximately $\frac{3}{4}$'s of the newly paved, one-way narrow road runs directly through private properties before reaching the applicant's. It is a simple private road, but an easement with limited use over private property. The private road easement is attached hereto as **Exhibit 1** and does not provide the applicant with permission to use the road for public, business, or commercial use. This road has never been intended for commercial use and thus the public does not have permission to cross private property to access his. "An easement is a restricted right to specific, limited, definable use or activity upon another's property, which right must be less than the right of ownership." (*Mesnick v. Caton* (1986) 183 Cal.App.3d 1248, 1261.) "It is fundamental that the language of a grant of an easement determines the scope of the easement." (*County of Sacramento v. Pacific Gas & Elec. Co.* (1987) 193 Cal.App.3d 300, 313.) Where an easement is founded upon a grant, as here, only those interests expressed in the grant and those necessarily incident thereto pass from the owner of the fee.' (*Glass v. Gulf Oil Corp.* (1970) 12 Cal.App.3d 412, 428.) The easement is specifically limited to an "easement for private road and public utilities" and thus is limited to private use, and not use by the public for business purposes.

The paved easement itself is narrow, very steep, and contains many blind spots. Thus, creating a safety problem with increased vehicular traffic. It was never construed or designed to carry traffic. There have been several close calls with the applicant's contractor vehicles as it is. Further, if anyone was injured from using the easement, that would put all of the neighbors responsible for maintaining the easement at risk of liability. At multiple points along the road, only one car can use the road at a time which necessitates that one car must reverse and back up to reach a safe spot before the vehicles can maneuver around each other. It is a dangerous road for public use, especially where the neighbors currently share responsibility for the road maintenance.

Lastly, Calaveras County Code §17.04.040(3) Supplemental Standards require the applicant to provide proof that any proponents of uses having legal access over private roads not maintained by the County must prove they either have a road maintenance agreement for the use requested, have amended an existing road maintenance agreement to provide for an additional road maintenance fee for the use, or record a road maintenance agreement for the portion of the road located where the use is located.

The applicant has not done this. He does not have permission to use the private road for commercial use (and it is not safe for commercial use as it stands) and has not amended the current road maintenance agreement to cover the additional road maintenance fee the applicant would have to pay for the use. In short, the applicant cannot use the private road for commercial purposes. And if allowed to do so, should be required to cover a larger portion of the road maintenance fee and indemnify all property owners subject to the road maintenance agreement from any incident that occurs on their property as a result of the dog boarding facility.

The Applications Must Be Denied As it is Unreasonably Detrimental to the Surrounding Properties and is Not Compatible With the Existing and Reasonably Foreseeable Future Land Uses.

Pursuant to Ordinance 17.30.010, the administrative use permit review and approval process is intended to apply to uses that are consistent with objectives of the general plan, the purposes of the zone where they are proposed, and are generally limited in potential impacts to ensure that they can be designed, located, and operated in a manner that will be compatible with the surrounding area and uses. As it stands, this Application is not compatible with the surrounding area and uses.

As part of this approval process, the reviewing authority must make all of the required finding listed in Calaveras County Zoning Code 17.30.050 in order to approve the application, otherwise, the application must be denied. Of those required findings, at least two have not been met here. Specifically

1. The proposed use will not have the potential to adversely affect the public health, safety, or general welfare of the community, nor be unreasonably detrimental to surrounding properties or improvements; and
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses and circulation in the vicinity; and

The property subject to the Application and the surrounding areas are strictly rural residential properties. Allowing the applicant to install an animal boarding facility within the rural residential area is not compatible with existing land use, or foreseeable existing land use. The properties in the immediate vicinity share a private road such that the properties are not open to the public and cannot possibly be considered for business purposes if the public does not have permission to access the private properties.

The topography of the surrounding land is such that sound carries significant distances. A kennel adjacent to the other residential properties with multiple dogs would be a major noise and visual nuisance. Thus, the condition that the applicant comply with Calaveras County Code §9.02.010 is not enough to prevent the noise from occurring as the dogs will be housed in an outdoor kennel which will do nothing to decrease the noise.

A dog boarding facility with close vicinity to residential properties would materially and negatively impact adjacent property values and would be a necessary disclosure for any future buyer of any of the surrounding properties.

The Conditions of Approval Fail to Take Into Account The Liability to the Neighbors and the Nuisance Caused by an Animal Boarding Facility

In providing conditional approval, this county has failed to take into account the fact that because there is only a private road easement that prevents the general public from utilizing the road, the applicant cannot be allowed to utilize the road for anything other than private use. The applicant's choice to move forward with an animal boarding facility negatively impacts all of the

neighbors by putting each and every one of them subject to the private road easement at risk of liability for any accidents or issues related to the private road. The neighbors should not bear this burden. For all of the reasons mentioned above, Dr. Niven requests that the Application be denied in its entirety.

DATED: FEBRUARY 21, 2025

BERLINER COHEN, LLP

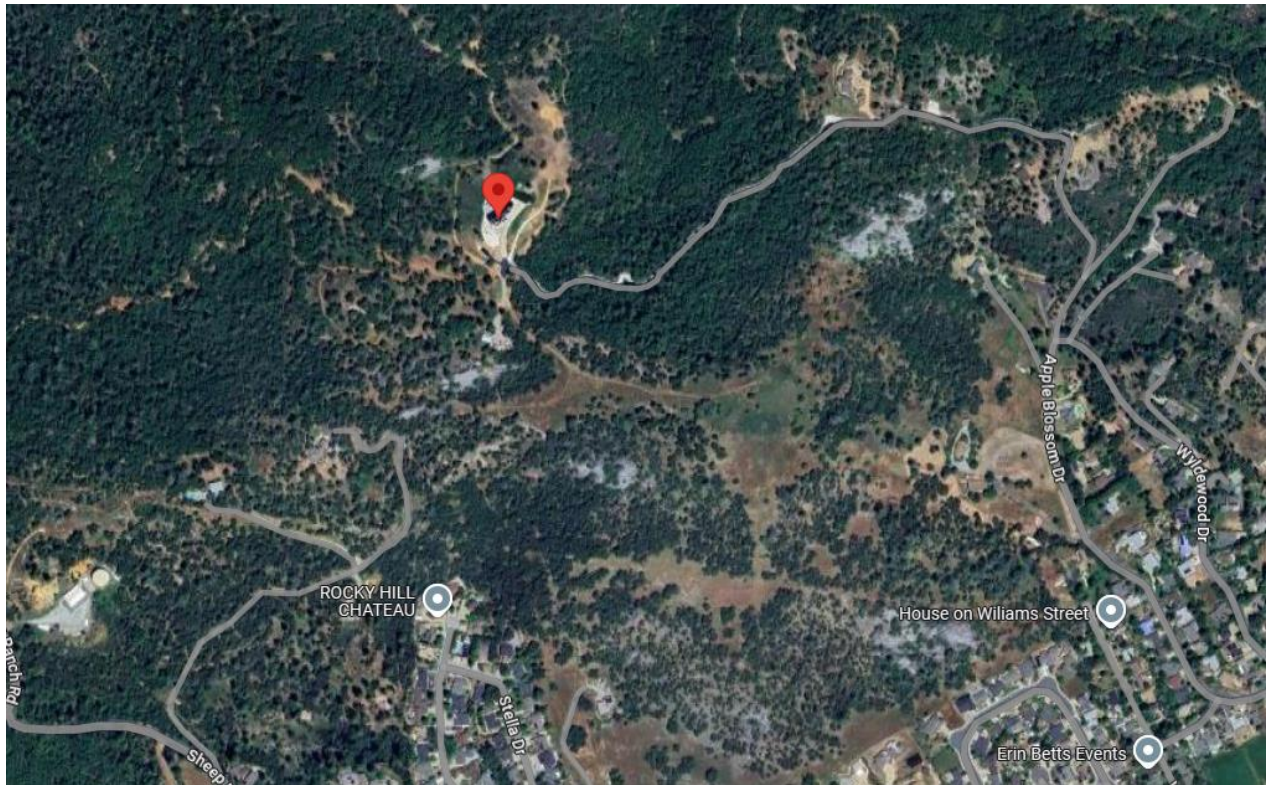


BY: _____

MAKAYLA A. WHITNEY
ATTORNEY FOR RALPH NIVEN

Exhibit C

EXHIBIT "C"



Aerial View of the Property Showing Proximity to Nearby Residential Properties