

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Environmental Resources

BOARD AGENDA #: *B-3

AGENDA DATE: July 18, 2017

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 7500 Maze Boulevard, Modesto, California

BOARD ACTION AS FOLLOWS:

No. 2017-395

On motion of Supervisor Withrow, Seconded by Supervisor Olsen

and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: 
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

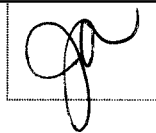
**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Environmental Resources
Urgent Routine

BOARD AGENDA #: *B-3

AGENDA DATE: July 18, 2017

CEO CONCURRENCE: *phx*



4/5 Vote Required: Yes No

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 7500 Maze Boulevard, Modesto, California

STAFF RECOMMENDATIONS:

1. Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding the property at 7500 Maze Boulevard, Modesto, California, CE No. 16-0026, as set forth in Attachment 1.

DISCUSSION:

The Code Enforcement Unit (CEU) responds to complaints throughout the unincorporated area of Stanislaus County and attempts to gain voluntary compliance through education and personal contact with property owners and those persons responsible for creating nuisances. Compliance efforts include issuing Notice and Orders to Abate, conducting inspections, granting extension requests, issuing Administrative Civil Citations, recording Notices of Non-compliance with the Clerk-Recorder's Office, presenting cases before the Nuisance Abatement Hearing Board and the Board of Supervisors, obtaining inspection warrants, and conducting abatement actions.

On January 12, 2016, in response to a complaint regarding a non-permitted business (selling milk directly to the consumer on the property), CEU staff conducted an inspection at 7500 Maze Boulevard, Modesto, California, and verified the complaint. Subsequently, it was determined that there were zoning code violations for conducting retail sales on the property zoned A-2, and a Notice and Order to Abate was issued on March 1, 2016, for the following alleged violations:

- §21.20.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (selling milk directly to the consumer on the property).

On April 12, 2016, CEU staff received a letter from Charles A. Stoner, Attorney-At-Law representing the property owner, requesting an extension on the compliance date due to financial hardship the property owner has experienced. CEU staff agreed to the new proposed compliance date of May 15, 2016. Several compliance inspections were conducted between July 14, 2016 and June 22, 2017. These compliance inspections revealed that the property remained in violation and no compliance efforts had been initiated. Failure to comply with the Notice and Order to Abate resulted with a Notice of Non-compliance being recorded with the

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 7500 Maze Boulevard, Modesto, California

Clerk-Recorder's Office and five Administrative Civil Citations being issued on August 22, 2016, September 29, 2016, November 7, 2016, February 2, 2017, and March 1, 2017.

Luis Teixeira Bento and Maria Da Conceicao Bento are the current owners of record according to the County Assessor's Office, the County Clerk-Recorder's Office, and a title report obtained from Stewart Title Company. Mr. and Ms. Bento are the persons with a recorded interest in the subject property and were notified of this action but have refused to comply with the Notice and Order to Abate.

On March 22, 2017, the property owner requested an administrative hearing to contest the administrative civil citations, through their attorney Charles A. Stoner. In accordance with Stanislaus County Code section 2.92.060, the hearing was scheduled for April 27, 2017. Prior to the Nuisance Abatement Hearing Board meeting, CEU staff received a letter from Charles A. Stoner requesting an extension for the hearing. Staff and Charles A. Stoner agreed to continue the hearing to June 22, 2017, and the Nuisance Abatement Hearing Board approved that agreement. On June 19, 2017, Charles A. Stoner submitted a request to CEU staff for an additional 90-day extension for the hearing because the owners planned to bring the property into compliance within that time. Prior to presentation to the Nuisance Abatement Hearing Board on June 22, 2017, the department was able to reach a conditional agreement with the property owner and the Nuisance Abatement Hearing Board approved this agreement during its June 22, 2017 meeting.

The principal terms of the agreement as stated at the June 22, 2017 hearing included: (1) The property owner will abate the Nuisance and return the property to its permitted use as defined in Stanislaus County Code within 90 days after the hearing (September 20, 2017), (2) All administrative citations to date are authorized, (3) Continued enforcement and abatement actions regarding this Nuisance are authorized, (4) The property owners shall pay all fines, penalties, and costs associated with abatement of this Nuisance, (5) the County shall order a lien to be recorded against the property if the owner fails to pay any fines, penalties, or costs associated with the Nuisance, (6) Code Enforcement will not take any enforcement action during the 90 day period between June 22, 2017 and September 20, 2017 related to the Nuisance, (7) Code Enforcement staff will have access during normal business hours for the 90 day period to monitor progress towards abatement of the Nuisance. The terms of this agreement are included as Attachment 1.

On June 22, 2017, the Nuisance Abatement Hearing Board supported staff's recommendation to accept the agreement and declare the property a nuisance. This matter is forwarded to the Board of Supervisors for recommended approval. The Board may adopt, modify, or reject the recommendations, and, if adopted, the property owners will be required to abate the nuisance by September 20, 2017. Should the property owners fail to comply by September 20, 2017, CEU staff will continue the enforcement action through the administrative process outlined in Stanislaus County Code chapter 2.92.

The cost incurred during this abatement will be charged to the property owners and, if the responsible persons fail to pay the cost of abatement, a Notice of Abatement Lien will be recorded against the property. Additionally, the Notice of Non-compliance will remain filed in the Clerk-Recorder's Office until the property has been brought into compliance.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 7500 Maze Boulevard, Modesto, California

POLICY ISSUE:

According to Stanislaus County Code section 2.92.060, the decision of the Nuisance Abatement Hearing Board must be reviewed by Board of Supervisors, and the Board of Supervisors may adopt the decision, with or without modification.

FISCAL IMPACT:

There is a no immediate fiscal impact associated with this item. The Department of Environmental Resources Fiscal Year 2017-2018 Proposed Budget includes sufficient funding to cover the implementation of the recommended decision.

BOARD OF SUPERVISORS' PRIORITY:

The recommended action supports the Board's priorities of A Safe Community, A Healthy Community, and the Efficient Delivery of Public Services by improving the quality of life and protecting the health and safety of the community.

STAFFING IMPACT:

Existing staff will continue to conduct inspections according to the conditions set in the recommended decision of the Nuisance Abatement Hearing Board.

CONTACT PERSON:

Jami Aggers, Director of Environmental Resources

Telephone: 209-525-6770

ATTACHMENT(S):

1. Nuisance Abatement Hearing Board, Recommended Decision dated June 22, 2017 (2 pages)
2. Site Map
3. Photographs of 7500 Maze Boulevard, Modesto, California (APN 012-050-002) (16 photographs)

ATTACHMENT 1



NUISANCE ABATEMENT HEARING BOARD

RECOMMENDED DECISION

IN RE: 7500 Maze Boulevard, Modesto, CA Abatement Hearing No. CE# 16-0026

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on June 22, 2017, at the request of the Property Owner. Upon consideration of oral testimony and documentary evidence presented at the hearing, the Nuisance Abatement Board makes the following findings of fact and conclusions:

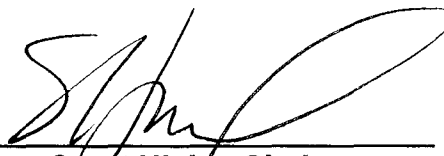
1. The property located at 7500 Maze Boulevard, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 012-050-002, is zoned A-2, General Agriculture District.
2. County Staff confirmed the existence of and presented evidence of violations of Stanislaus County Codes, (as listed in the County Code(s) or interpreted or determined to violate County Code(s)) occurring on the property, by violating §21.20.020 and §21.16.040 of Stanislaus County Code (retail sales on the property: raw milk directly to consumers)
3. All interested parties were served a Notice and Order to Abate pursuant to Stanislaus County Code Section 2.92.030, describing the conditions or use of the property that constitutes the violations and ordering abatement of those conditions.
4. County staff has attempted to obtain voluntary compliance by the interested parties, and the interested parties have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by Notice.
5. The owners have the legal responsibility for maintenance of the property in conformance with the applicable law, ordinance and rules, including abatement of all violations and compliance with all orders of the County.
6. The interested parties were served proper Notice of Hearing to Abate Nuisance pursuant to Stanislaus County Code Section 2.92.070.
7. Based on the evidence and testimony presented at the hearing, which is incorporated herein by reference, there is substantial evidence that violations of the Stanislaus County Code, as set forth in the staff report for the matter, still exists on the property.
8. Pursuant to Stanislaus County Code Section 2.92.010, the continuing violations that exist on the property constitute a public nuisance.

The Nuisance Abatement Hearing Board further recommends the Board of Supervisors adopt the following decision:

- Approve Staff's recommendation to accept the agreement between County Counsel and the Property Owner (as stated below) and determine the use of the property described as a "Non-Permitted Land Use (retail sales on the property: raw milk directly to consumers)" is a violation of Stanislaus County Code Section 21.20.020, and Section 21.16.040 ("the Nuisance").
1. Order the interested parties to abate the nuisance and return the property to its permitted use as defined in Stanislaus County Code by September 20, 2017 (90 days after June 22, 2017)
 2. Authorize all administrative citations to date.
 3. Authorize continued enforcement and abatement actions in accordance with Stanislaus County Code regarding this Nuisance.
 4. Order the property owners to pay all fines, penalties, and costs associated with abatement of this Nuisance.
 5. Order a lien to be recorded against the property if the owner fails to pay any fines, penalties, or cost associated with the Nuisance.
 6. Order Code Enforcement not to take enforcement action for the 90 day period between June 22, 2017 and September 20, 2017 regarding the Nuisance.
 7. Order that Code Enforcement staff have access during normal business hours for that 90 day period, to monitor progress toward abatement of the Nuisance.

NOW THEREFORE, the Nuisance Abatement Hearing Board orders the Director to forward these findings and conclusions and its recommended decision to the Stanislaus County Board of Supervisors within 30 days.

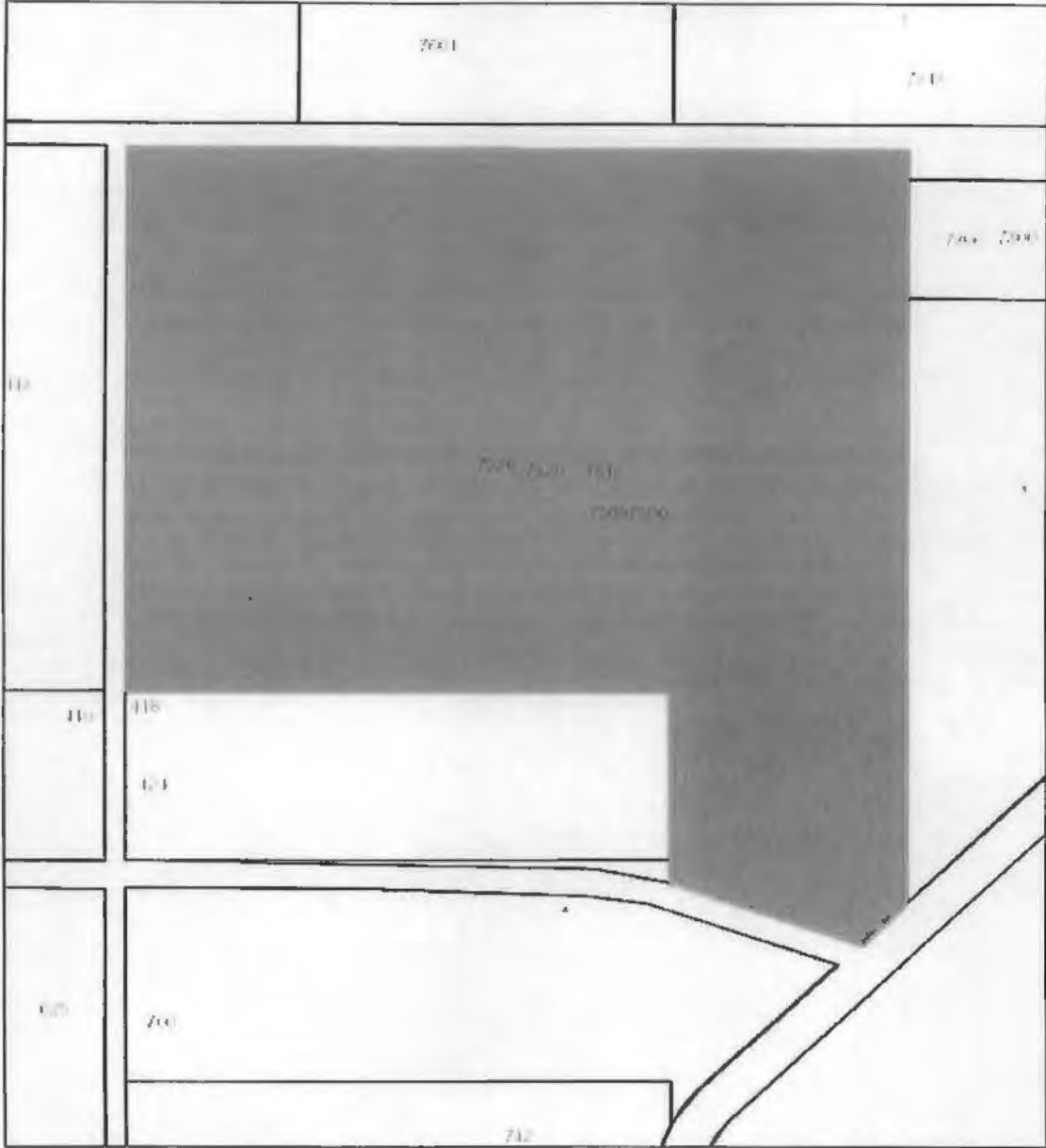
Dated: June 22, 2017



Scott Hicks, Chair
Stanislaus County Nuisance Abatement Hearing Board

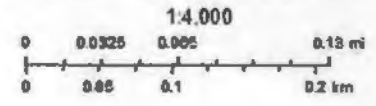
It should be noted that on **July 18, 2017** the Board of Supervisors will hear this matter as a consent item.

ATTACHMENT 2



April 19, 2017

- T9b14de292f5441c1adc4dbd3b0506ed4
- FeatureLayer32
- Address
- RailRoads
- City Limits**
 - CERES
 - HUGHSON



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ATTACHMENT 3

1

VALLEY MILK SIMPLY BOTTLED

ALL NATURAL



OPEN 7 DAYS A WEEK 6am - 8pm

01/12/2016 16:09

2

VALLEY WALK SHOP & BOTTLES
←

01/12/2016 16:10

3

01/12/2016 16:10



4



07/14/2016 15:02

5



08/22/2016 10:27

6



09/29/2016 08:25

7

VALLEY MILK SIMPLY BOTTLED
ALL NATURAL
OPEN 7 DAYS A WEEK

09/29/2016 08:26

8

VALLEY MILK SIMPLY BOTTLED
ALL NATURAL
←

11/07/2016 15:43

9



02/01/2017 13:06

10



03/01/2017 10:40

11



04/12/2017 11:51

12



04/27/2017 10:14

13

VALLEY MILK SIMPLY BOTTLED
ALL NATURAL

04/27/2017 10:13

14



04/27/2017 10:13

15

FILE COPY



Valley Milk Simply Bottled
@ValleyMilkSimplyBottled

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BUSINESS INFO

Business Details

Price Range \$

ADDITIONAL CONTACT INFO

http://vmsb-coop.weebly.com/

MORE INFO

About

Natural whole milk straight from the dairy!
\$25 annual membership fee.
First gallon is FREE! (63 per gallon)
Open 7-days a week 6am-6pm

Farm Grocery Store

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Sign Up Log In

16

VALLEY MILK SIMPLY BOTTLED
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06/22/2017 13:39