

BAVARIAN HILLS ORCHARD
3100 NORTH CANYON RD
CAMINO, CA

June 13, 2007

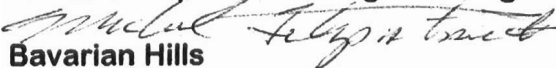
Supervisor Baumann
330 Fair Lane
Placerville, CA 95667

Re: Bavarian Hills

Dear Supervisor Baumann,

Enclosed in the accompanying envelope please find documentation and history of the issue that involves Bavarian Hills which is due to come up at the Board Meeting on June 19th. Although you probably have received a package for the meeting I just wanted to make sure that you have the information you need to make a decision on this matter. I appreciate your time and effort on this issue.

Sincerely,
Michael Fitzpatrick for Inge Bunting


Bavarian Hills

RECEIVED
BOARD OF SUPERVISORS
PLACERVILLE, CALIFORNIA

2007 JUN 14 PM 2:45

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

CODE
ENFORCEMENT



PLACERVILLE OFFICE:

2850 FAIRLANE COURT
PLACERVILLE, CA 95687
BUILDING (530) 621-5315
(530) 622-1708 Fax
PLANNING (530) 621-5355
Counter Hours: 7:30 AM to 4:30PM
bldgdept@co.el-dorado.ca.us
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:

3368 LAKE TAHOE BLVD, SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
Counter Hours: 7:30 AM to 4:30PM
tahoebuild@co.el-dorado.ca.us

EL DORADO HILLS OFFICE:

4950 HILLSDALE CIRCLE, SUITE 100
EL DORADO HILLS, CA 95762
(916) 941-4967 & (530) 621-5582
(916) 941-0269 Fax
Counter Hours: 7:30 AM to 4:30PM
bldgdept@co.el-dorado.ca.us
planning@co.el-dorado.ca.us

May 24, 2006

INGEBORG H BUNTING TR
3100 NO CANYON RD
CAMINO CA 95709

RE: C# 173921
NORTH CANYON RD
APN: 048-080-55-1

Dear Property Owners;

COURTESY NOTICE

The Code Enforcement Unit is required to investigate complaints regarding possible violations of county ordinances and/or state codes and laws. This courtesy notice is a request for your cooperation in determining the validity of a complaint regarding your property.

Nature of the Complaint:

1. A Restaurant is not allowed in SA-10 zoning, or with a Ranch Marketing operation.
2. Contact the Ag department to verify you have a minimum of 5 acres of viable crop to qualify for a ranch marketing operation.

A site visit has been scheduled on or about (June 13, 2006). If you would like to schedule a more convenient date/time, contact the Code Enforcement Unit at (530) 621-5999. If the complaint is unsubstantiated we will document our findings, thank you for your cooperation, and close the case.

If the complaint is valid you have the following options:

1. Abate the violations prior to the scheduled inspection. After verification by the Code Enforcement Unit the case will be closed and no fines or penalties will be assessed.
2. Contact the Code Enforcement Unit prior to the scheduled site visit and arrange an inspection. You may propose an abatement schedule in writing for consideration. As long as an approved schedule is followed, enforcement action will be stayed. Potential fines and/or penalties will be discussed as part of the abatement schedule agreement.

Failure to voluntarily abate the violation(s) or comply with an abatement schedule agreement may subject you to the issuance of an administrative and/or criminal citation with associated fees and/or fines.

Permit information is available at the Development Services Department web site at <http://www.co.el-dorado.ca.us/devservices/>. The permit center is open from 7:30 a.m. to 4:30 p.m. daily at (530) 621-5775 for permit issuance and assistance. You may contact Code Compliance at (530) 621-5999 if you have questions or would like to set up a specific date for the inspection. Thank you for your prompt attention to this matter.

Sincerely,



JIM SILVEIRA
Sr. Code Enforcement Officer
Code Enforcement Unit

Attachments: Zoning ordinance 17.14.180(B)

BAVARIAN HILLS ORCHARD
3100 NORTH CANYON RD
CAMINO, CA

July 6, 2006

Ref: Bavarian Hills Orchard possible code violations.

Supervisor James R. Sweeney
El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

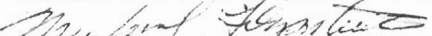
Dear Supervisor Sweeney:

On May 24th we were sent a "Courtesy Notice" from the Code Enforcement Unit of El Dorado County (copy enclosed). It is our contention that this notice is without validity. Enclosed, please find documentation that will confirm the invalidity of the Notice.

Currently the Bavarian Hills Orchard operations are open from Labor Day weekend until mid December with our busiest time being October. Our hours of operation during this period are from 11am until 5pm daily with the exception of November and December when we close two days a week. The baked goods and prepared food that we sell is ordered at a counter and taken to a table. The majority of the prepared food that we serve is also served with one of our baked goods. The number of employees varies from 1 to 4 during our season depending on the day and part of the season we are in. There is no unusual equipment to consider, nor will there be. All Building, Kitchen equipment and facilities, bathroom facilities, and septic concerns are build to code and permitted. We have had health inspections, fire inspections and business licenses the entire time we have been in operation.

Bavarian Hills Orchards has for fourteen years continuously operated a Bake Shop concurrently with the sale of on-site produced agricultural products and agricultural byproducts, and what is essentially a "prepared food stand" during what is known as the "Apple Hill Season" in Apple Hill". The terms restaurant, food stand, grill, café, caterer's, or "dining facility" are essentially anyone that serves food. The difference between "indoor seating or outdoor seating" is like "is it raining or is the sun to hot. Words made up.

Thank You For Your Consideration.



Michael Fitzpatrick for Inge Bunting

Inge Bunting
Bavarian Hills Orchard
3100 N. Canyon Rd
Camino, CA 95709
(530) 642-2714



EL DORADO COUNTY

COMMUNITY DEVELOPMENT DEPARTMENT
BUILDING DIVISION 621-5315
300 FAIR LANE, PLACERVILLE, CA 95667

BUILDING PERMIT
PERMIT NUMBER: 910762
APPL. 9/27/91

JOB ADDRESS: 3100 NORTH CANYON RD
SUB: LOT:
DRIVING: CARSON RD EAST TO NORTH CANYON RD
1 1/2 MILES TO SITE ON RT

DATE ISSUED: 5/18/92
DATE EXPIRES: 5/18/94
APN: 048-060-38 TAC#: 055-028
SEC.: 35 TWP: 11 RNG: 11
PARCEL MAP#: INSPECT. AREA: 407
ROAD? N/A
WATER SOURCE: EID
SEWER SERVICE: SEPTIC

SPECIFIC USE	TYPE	AREA	COST	VALUE	WORK CLASS:
RESTAURANT	VN	1139	\$61.20	\$ 69.707	REMODEL <i>Conversion</i>
RESTAURANT	VN	336	\$61.20	\$ 20.543	USE TYPE: COMM'L/IND'L
<i>L.A. / upstairs</i>	VN	140	\$50.70	\$ 7.098	OCCUP. GRP.: B2
STORE/RTL CR	VN	1139	\$36.00	\$ -41.004	CLIMATE ZONE:
COLD STRS CR				\$ -7.258	SNOW LOAD:
TOTAL:				\$ 49.106	HEATING TYPE:

REMARKS-
WITH ACTIVE PERMITS #63401 & 71031

LOT SIZE: 17.44 ZONE: SA-10
SETBACKS-F: 50 LS: 50 RS: 50 R: 50
SUPER. DIST.: 4 CT: 313.01
SCHOOL DIST.: CAMINO
FIRE DIST.: POLLOCK PINES/CAMO

BUNTING RUSSELL / INGBORG
3100 NORTH CANYON RD
CAMINO CA 95709
(916) 642-2714

BUNTING RUSSELL / INGBORG
3100 NORTH CANYON RD
CAMINO CA 95709
(916) 642-2714

BLDG. FEE	\$ 393
BMIP	\$ 9
LANDFILL	\$ 295
ENCROACHMENT	
HIGH SCHOOL	\$ 11
ELEMENTARY SCHOOL	\$ 25
FIRE	\$ 25
TOTAL FEE	\$ 758
PRE-PAID PLAN CHECK (T. I. M. (credit))	\$ 168
BALANCE PAID	\$ 590
RECEIPT NUMBER	027338
PREPAID RECEIPT:	921183

I hereby affirm that I am exempt from the Contractor's License Law for the following reason: I, as owner, am contracting with local contractors to construct the project (Section 7044).

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Worker's Compensation Laws of California.

I certify that I have read this document and state that the above information is correct. I agree to comply with all local ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes.

* PERMIT WILL BE VOIDED IF NO INSPECTION FOR 180 DAYS

FOR SIGNATURE ON APPL.

ISSUED BY Building Official



CERTIFICATE OF OCCUPANCY

County of El Dorado
Community Development Department
BUILDING DIVISION

This certificate issued pursuant to the requirements of Section 307 of the Uniform Building Code certifying that at the time of issuance this structure, described below, was in compliance with the ordinances of the County regulating building construction or use.

Comm'l/Ind'l Building Permit # 91076260 Group B2

Type Construction VN Owner Russell & Ingeborg Bunting

Building Address 3100 North Canyon Rd. APNs 048-080-38

Building Official Bill Carey

Inspector Billy B.

Date 11-12-93

POST IN A CONSPICUOUS PLACE

BUS NAME: BAVARIAN HILLS ORCHARDS

B.L # 012767

ID: X PRTRSP: CORP: STATUS: ACTIVE

OWNER FIRST NAME	OWNER INITIAL	OWNER LAST NAME
.NAME: INGE	M.INIT:	L.NAME: BUNTING
.NAME:	M.INIT:	L.NAME:
.NAME:	M.INIT:	L.NAME:

BUSINESS LOCATION: 3100 NORTH CANYON RD, CAMINO

ADDRESS: 3100 NORTH CANYON RD	ISSUE DATE: 08/31/1992
CITY: CAMINO	RENEWAL DATE: 10/01/2006
STATE: CA ZIP: 95709	PAYMENT AMOUNT: 32.00
BUS.PHONE: 530 642-2714	PAYMENT DATE: 10/03/2005 CLERK: 107
PARCEL NUMBER: 048-080-55-100	CONTRACTOR LIC #:

BUS.TYPE1: 555 DESC: RESTAURANTS/COFFEE SHOPS/CATERERS/DRIVE-INS/FOOD PREP/E

BUS.TYPE2: DESC:

BUS.TYPE3: DESC:

ALL BUSINESSES WITH B.L # 012767 HAVE BEEN DISPLAYED

F3=QUIT F4=MENU

UTM070A



DEPARTMENT OF AGRICULTURE WEIGHTS AND MEASURES

William J. Stephans
Agricultural Commissioner
Sealer of Weights and Measures

311 Fair Lane
Placerville, CA 95667
(530) 621-5520
(530) 626-4756 FAX
eldcag@co.el-dorado.ca.us

June 14, 2006

Inge Bunting
Bavarian Hills Orchards
3100 North Canyon Road
Camino, CA 95709

LETTER BENT
JUNE 29TH

621-5502

Dear Ms. Bunting:

On June 9, 2006, this office measured your apple and pear acreage using newly acquired GPS equipment. The measurement of your crop acreage was requested through El Dorado County Code Enforcement for the purpose of ascertaining compliance with the Ranch Marketing Ordinance which allows associated accessory uses such as a bake shop, etc.

The planted area amounted to 5.035 acres with the actual net "planted" acreage being somewhat below this because of dead or missing trees throughout the normal orchard spacing. Although the current Ranch Marketing Ordinance does not address gross versus net planted acres, or spacing, it does state however:

"...properly maintained and cared for to produce a commercial crop. Should the proper maintenance and care of the required minimum agricultural crop acreage cease, as determined by the El Dorado County Agricultural Commissioner, the right to operate any of the following accessory uses becomes void."

It is the interpretation of this office that proper maintenance and care includes replanting trees where needed to produce a commercial crop.

Please call me concerning your plans to replant the areas devoid of fruit trees and the associated schedule for completion.

Sincerely,

Steven G. Burton
Assistant Agricultural Commissioner/Sealer

Cc: Jim Wassner, Code Enforcement
Pierre Rivas, Planning
Peter Maurer, Planning

Bavarian Hills

Acreage

- 1.096 Acres
- 0.903 Acres
- 3.036 Acres

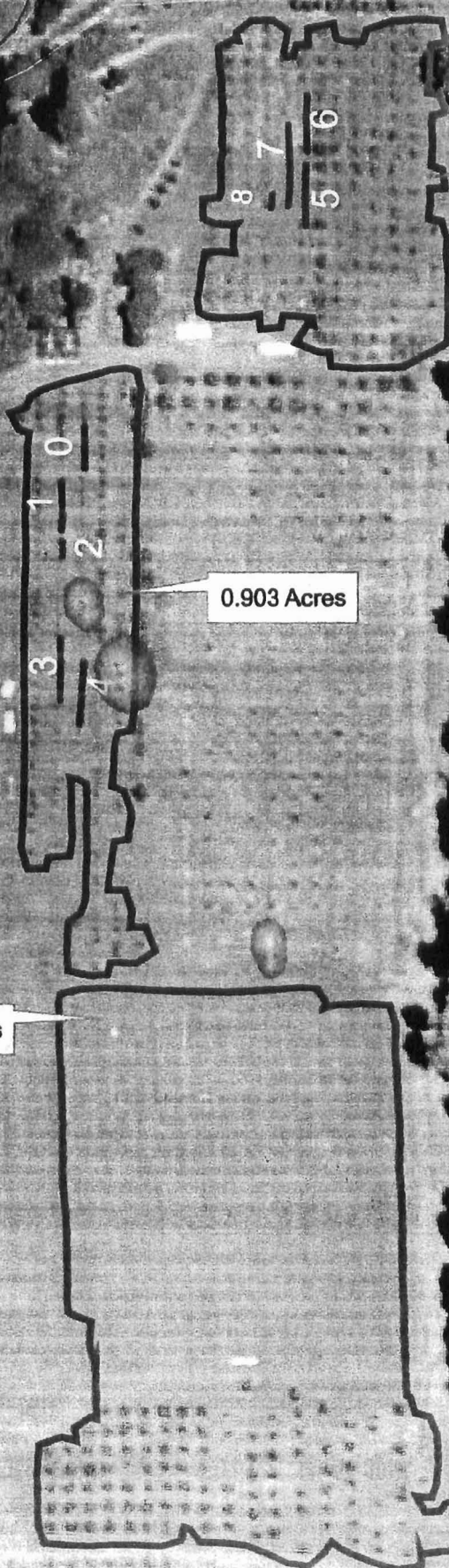
Total Acreage

5.035 Acres

1.096 Acres

0.903 Acres

3.036 Acres



**BAVARIAN HILLS ORCHARD
3100 NORTH CANYON RD
CAMINO, CA**

June 29, 2006

**Mr. Steven G. Burton
Assistant Agricultural Commissioner
Dept. Of Agriculture
Weights & Measures
311 Fair Lane
Placerville, CA 95667**

Ref: Bavarian Hills Orchard

Dear Mr. Burton:

As per our conversation recently at your office and in response to your letter June 14, 2006, concerning plans to replant the areas devoid of fruit trees.


It is our intention to replant in January or February of 2007. Of course this is subject to weather conditions and availability of suitable trees. I hope this note will satisfy your concerns as addressed in you letter. Please let us know if there are future concerns.

**Sincerely,
Mike Fitzpatrick for Inge Bunting.**

**Inge Bunting
Bavarian Hills Orchard
3100 North Canyon RD
Camino, CA 95709
(530) 642-2714**



Gregory L Fuz/PV/EDC
07/26/2006 04:55 PM

To The BOSTHREE/PV/EDC@TCP
cc Julianne Van Leeuwen/PV/EDC@TCP, Larry S
Lohman/PV/EDC@TCP, Peter N Maurer/PV/EDC@TCP,
Pierre Rivas/PV/EDC@TCP, Edward L
bcc
Subject Re: Bavarian Hills 

Jack/Julianne,

Staff has been working on this issue with counsel... Peter and Pierre are in training sessions this week..... I'll check where this stands. The issue seems to revolve around the meaning of the term "Dining Facility".... per the Ranch Marketing Ordinance. Since this use is regulated by special use permit, if there is a question re: the meaning of "dining facility," it could be resolved by the Planning Commission at the request of the property owner. I'm told that the intent of dining facility was to limit the scope of food service operations in ag districts to less than a full service restaurant.

Greg

Gregory L. Fuz, Director of Development Services
El Dorado County Development Services Department
2850 Fairlane Court
Placerville, CA 95667

530.621.5445 (w)
530.642.9025 (f)
Email: greg.fuz@co.el-dorado.ca.us

The BOSTHREE/PV/EDC



The BOSTHREE/PV/EDC
Sent by: Julianne Van
Leeuwen
07/26/2006 04:34 PM

To Gregory L Fuz/PV/EDC@TCP
cc Larry S Lohman/PV/EDC@TCP
Subject Bavarian Hills

Greg:

On May 18, 1992 Permit #91076260 was issued. Very specifically on its face it was issued as a "Restaurant."

It seems to me this is sufficient documentation to allow the parties to continue to use the facility as just that: a restaurant.

Planning staff is attempting to differentiate between a "restaurant" and a "dining area". This is preposterous!

In spite of the SA10 Zoning or Ranch Marketing not allowing a restaurant, we have issued a permit that has been in place for fourteen (14) years. I believe the law of estoppel would not allow us to shut down this operation.

If there are individuals in the county that insist that this operation be shut down, please provide me the specific ordinance code sections that differentiate between restaurant and dining area or whatever else convinces them that this facility should be shut down.

I need this information prior to Tuesday, August 8 so that in the event I need to place an item of the Board's agenda for August 15; we will have sufficient time to prepare it.

Jack Sweeney by/

Julianne van Leeuwen
Assistant to Supervisor James R. Sweeney
Chairman of the Board
El Dorado County Board of Supervisors
Phone: 530/621-5652
Fax: 530/622-3645

County of El Dorado

BOARD OF SUPERVISORS

RUSTY DUPRAY.....DISTRICT I
HELEN K. BAUMANN.....DISTRICT II
JAMES R. SWEENEY.....DISTRICT III
VACANT *Paul B. Roberts*.....DISTRICT IV
NORMA SANTIAGO.....DISTRICT V
CINDY KECK.....CLERK OF THE BOARD

330 FAIR LANE PLACERVILLE, CA 95667
TELEPHONE (530) 621-5390
FAX NO. (530) 622-3645



August 17, 2006

Ms. Ingeborg Bunting
Mr. Michael Fitzpatrick
Bavarian Hills
3100 North Canyon Road
Camino, CA 95709

Inge and Mike:

Thank you for your patience while I have been looking into this matter, working with staff, and determining a course of action to resolve the situation. After reviewing all the documentation, working with Planning and County Counsel and meeting with the two of you, it is my opinion that a Special Use Permit application should be filed for the Bavarian House Restaurant.

I would like to take this opportunity to share with you the following comments/observations:

1. In 1992, the property was zoned SA-10. This zoning did not allow a restaurant use. The building permit issued calls out a "restaurant" use. Apparently, one copy of that building permit includes a notation that it is a "dining facility" rather than a typical restaurant. However, other copies, including the one shown to me, do not include that notation. Since the use was not allowed in the zone district at that time, the use is not governed by the nonconforming use sections of the code, but rather by principles of equity and estoppel. The nonconforming use sections can give guidance for the application of the principles of equity and estoppel. Some cases hold that you can never vest to a permit that is inconsistent with the zoning and general plan, other cases hold to the contrary. All appear to base the conclusion on a balancing of the equities: is the public harm of not enforcing the ordinance greater than the harm to the applicant if the ordinance were enforced?
2. The zoning ordinance's definition of dining facility is: *an establishment where food, other than that produced on the premises, is prepared and served to the public in an established indoor seating area.* A dining facility, by this definition, appears LESS compatible with agricultural promotion than a restaurant where food is prepared on the premises—since it does not, by definition include food grown and prepared on site.
3. The Ranch Marketing Ordinance adopted in 2001 purports to sunset all food service that is not attributable to food grown on site within one year of adoption as follows: *Food items, where the principle ingredient of the food are not grown on the premises, may be made and/or sold for one (1) year following the implementation of this ordinance, except as otherwise provided for in this ordinance.* This, if meant to apply to legal non-conforming uses, is probably an unlawfully short period for amortization of those uses. However, as stated earlier, this is not a legal nonconforming use since it never complied with the zoning.

4. You have relied upon the issuance of a building permit for a "restaurant" and have operated the business as a restaurant for 14 years. There is no evidence presented that the use is harming the neighborhood; however, allowing these types of uses permanently potentially harms the public by converting agricultural lands to other uses.

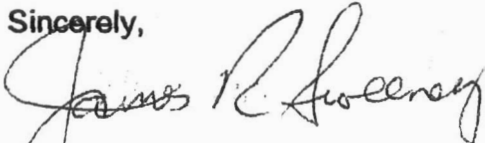
5. Legal nonconforming uses are ordinarily not allowed to expand. This use, as an illegal, nonconforming use, has no greater right to expand.

6. I believe that the simplest way to legalize the existing use, but to prevent any future expansion that is inconsistent with the zoning, would be to have you submit an application for a Special Use Permit. I believe that the Special Use Permit should be heard by the Planning Commission, with appeal, if needed, to the Board of Supervisors. The Planning Commission will determine, based on the evidence presented at the hearing, whether the use operated by Bavarian House Restaurant fits in to the category of a dining facility.

I encourage you to apply for a Special Use Permit; this process will allow you the benefit of having a legal, conforming use which no one can question or take away. While your application for a Special Use Permit is being processed, it has been the county's practice to allow continued use as had been made in the past.

Please call or come by should you have questions or comments.

Sincerely,



James R. "Jack" Sweeney
Supervisor, District III
El Dorado County Board of Supervisors

cc: County Counsel
Development Services

**BAVARIAN HILLS ORCHARD
3100 NORTH CANYON RD
CAMINO, CA**

August 29, 2006

**Supervisor James R."Jack" Sweeney
El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667**

Supervisor Jack Sweeney:

We want to thank you for your letter of August 17,2006 regarding the matter at Bavarian Hills Orchard. Also ,to thank you for the time and input on this matter. With respect to your comments/observations we will go through the process of obtaining a Special Use Permit, although with reservations.

I would also like to comment on your comments/observations. As you have numbered them, my observations will correspond to your numbers:

- 1. In 1992 the property was indeed zoned SA-10. As you say this zoning did not allow for a restaurant use. My question is why did the counties Building Dept. and Planning Dept. allow it to be constructed in the first place fourteen years ago? I have not seen any permit that says that we are a "dining facility instead of a restaurant. If it exists I would like to see it. We did not alter the zoning regulations nor have done anything that was not permitted by your own Departments.**
- 2. There are a number of establishments in the Apple Hill area that have indoor seating and what you what to call them doesn't really matter. They all serve food not produced on the property. I don't see any chicken, beef or hog ranches in the area.**
- 3. The Ranch Marketing Ordinance adopted in 2001 did not take in the reality of existing businesses in the area**
- 4. We have not relied on issuance of building permit for "restaurant". It was issued. We have in fact not harmed the neighborhood . In fact we have enhanced it. The restaurant has never been opened for more then the 3 month season and has no intention of doing so, although, by the counties permits we would be allowed to. This land will not be converted to any use besides the intended zoning.**
- 5. We are not expanding.**
- 6. We have a legal existing use as permitted.**

Again, thank you for your time and consideration. We will pursue a Special Use permit with Counsel.

**Sincerely,
Michael Fitzpatrick for Inge Bunting**

Law Office
Of
ROBERT A. LAURIE

3161 Cameron Park Dr.
Suite 215
Cameron Park, CA 95682
Tel: 530.672.1566
ralaurie@sbcglobal.net

March 10, 2007

The Honorable Jack Sweeney
Supervisor
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Re: Bavarian Hills

Dear Supervisor Sweeney:

I represent Ms Inge Bunting, the owner of Bavarian Hills Orchards. I understand Ms Bunting and Mike Fitzpatrick have a meeting set up with you for Wednesday, March 14, to discuss the issue of zoning code enforcement. This letter is submitted in anticipation of that meeting.

From reviewing the documents, it appears that a building permit to construct a "restaurant" was issued in 1992. At the time the property was zoned SA-10. It is now zoned AE. Staff now claims that the use is an illegal non-conforming use as "restaurants" are not permitted by right in either the SA-10 or AE zone districts. However, ranch marketing activities as permitted under the Ranch Marketing Ordinance are permitted.

The Ranch Marketing Ordinance (Chapter 17.14) permits by right a "Prepared food stand operated concurrently with the sale of on-site produced agricultural products...". A prepared food stand" is defined as a "facility for serving prepared food for consumption on the premises where indoor seating and dining facilities do not exist" while a "dining facility means "an establishment where food, other than that produced on the premises, is prepared and served to the public in an established indoor seating area...". Bavarian Hills serves "prepared foods" in an indoor facility which would appear to be within the intent of a "prepared food stand" more so than a "dining facility". The Planning Director has the delegated authority to make such a determination.

In your letter to Ms Bunting of August 17, 2006 you cite Section 17.14 180 B(1)(d) which provides, in part that "...Food items, where the principle ingredient of the food are (sic)

Page 2
March 10, 2007
Mr. Sweeney

not grown on the premises, may be made and/or sold for one (1) year following the implementation of this ordinance, except as otherwise provided...". I would respectfully note however that this subsection refers to a "Bake shop" where the ingredients are made on-site. A "prepared food stand" as permitted under Section 17.14.180 B(1)(e) does not contain any such one year limitation.

Accordingly, it would appear that:

1. A building permit was lawfully applied for and issued in 1992.
2. The facility has been operating without complaint for 14 years.
3. The County now claims the facility to be a dining facility.
4. The operation in actuality more easily fits the definition of a "prepared food stand"; however, it is acknowledged that the facility is somewhat "indoors".
5. The Planning Director appears to have the discretion of determining whether a facility is a "dining facility" or a "prepared food stand".
6. The owner of this facility simply wishes to be treated in a manner consistent with other facilities. Accordingly, if the Planning Department insists on pursuing a code violation against this facility, it would be most appropriate and the owner would insist that other facilities similarly situated likewise be held in violation.

I look forward to discussing this matter further and reaching some common sense solution to this matter. Thank you for your consideration.

Very truly yours,



ROBERT A. LAURIE

BECKER RUNKLE & LAURIE
ATTORNEYS AT LAW

263 MAIN STREET, LEVEL 2
PLACERVILLE, CALIFORNIA 95667
(530)295-6400

FAX (530) 295-6408

ROBERT A. LAURIE

March 28, 2007

Mr. Greg Fuz
Director
Development Services Director
County of El Dorado
2850 Fairlane Court
Placerville, CA 95667

Re: **Inge Bunting; Bavarian Hills Orchards**

Dear Mr. Fuz:

This office represents Inge Bunting and Bavarian Hills Orchards in regards to the action initiated by the County's Code Enforcement Unit. On behalf of my clients, I offer strong objection to such action as being without legal foundation. Further, I would request that the matter be sent to the Board of Supervisors for resolution as may be necessary.

In 1992, Ms Bunting applied for and was issued a building permit for a "restaurant". At the time, the subject parcel was zoned SA-10. The SA-10 zone permits, by right, "Ranch marketing activities pursuant to the provisions of Section 17.14.180". By issuance of the building permit, the County authorized construction of the "restaurant" facility as being consistent with the SA-10 zoning regulations and impliedly, the Ranch Marketing Ordinance. The County is not free to reinterpret the Ordinance fifteen years later and find the use unlawful.

In addition, the Ranch Marketing Ordinance is ambiguous, at best, in regards to the nature of food facilities that are permitted. The Ordinance seeks to distinguish between "prepared foods" and "dining facilities" and "food items". The Planning Director appears to have broad discretion in determining in which category a specific use most properly fits. In this case, to my knowledge, the Planning Director has made no such finding.

Page 2
Mr. Fuz

Most importantly, it is essential that my client be treated in a manner equal to other properties similarly situated. My client will defend this right as may be necessary.

It is my understanding that the County intends to engage in an update of the Ranch Marketing Ordinance. It is appropriate that it do so. In the interim, I would reiterate my request that: the Planning Director make a formal decision regarding this matter so such can be presented to the Board for further action as necessary.

Thank you for your courtesy.

Sincerely,
BECKER RUNKLE & LAURIE

ROBERT A. LAURIE
RAL:ls

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

PLANNING
SERVICES



PLACERVILLE OFFICE:
2850 FAIRLANE COURT
PLACERVILLE, CA. 95667
(530) 621-5355
(530) 642-0508 Fax
Counter Hours: 8:00 AM to 4:00 PM
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:
3368 LAKE TAHOE BLVD. SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
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lthoebuid@co.el-dorado.ca.us

EL DORADO HILLS OFFICE:
4950 HILLSDALE CIRCLE, SUITE 100
EL DORADO HILLS, CA 95782
(916) 941-4967 and (530) 621-5582
(916) 941-0269 Fax
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planning@co.el-dorado.ca.us

May 11, 2007

Robert Laurie, Esq.
Becker, Runkle & Laurie
263 Main Street, Level 2
Placerville CA 95667

Re: Bavarian Hills

Dear Bob:

This is in response to your inquiry about options for resolving the status of dining activities at Bavarian Hills. This matter came to the County's attention last year and, as I understand it, involves the need to determine the extent and intensity of allowable dining facilities at Bavarian Hills in light of potentially conflicting understandings of allowable use based on the historic use of the site, past permits issued, and interpretations of County ordinances.

This situation was reviewed in some depth in correspondence from Supervisor Sweeney to Bavarian Hills in August 2006. I concur with the conclusions in Supervisor Sweeney's letter and recommend that your client apply for a special use permit to seek the Planning Commission's determination on these issues. I would also suggest that your client participate in the upcoming update of the Ranch Marketing Ordinance to ensure that their comments and recommendations are made known to staff and the Planning Commission.

If you need any further information or assistance, please work directly with Deputy Director Larry Appel. We will make every effort to expedite processing your application in light of the long standing need to clarify this matter.

Sincerely,

**GREGORY L. FUZE, Director
Development Services**

- cc: Supervisor Sweeney
- Deputy County Counsel Frantz
- Deputy Director Appel
- Deputy Director Lohman
- Code Enforcement Supervisor Wassner

**BAVARIAN HILLS ORCHARD
3100 NORTH CANYON RD
CAMINO, CA**

May 31, 2007

**Supervisor James R. Sweeney
El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667**

Re: Bavarian Hills Request for appeal of Planning Departments decision.

Dear Supervisor Sweeney:

This is a formal request from Bavarian Hills to schedule an appeal hearing by the entire Board Of Supervisors.

As you are aware the Development Services Department has refused to admit that they issued permits to Bavarian Hills for a restaurant in 1992. Both the Building Dept. and Planning Dept. signed off on these permits and fourteen years later after changing the Ranch Marketing Plan in 2001 denies the original intent of the original Ranch Marketing Ordinance created in 1989, which the planning department doesn't even have a copy of. I had to go to your offices to get a copy of the original Ordinance. The original Ordinance contains certain inherit rights without any mention of "dining facilities, cafes, grills or restaurants. They mention "farm style meals " without any definition as to whether these meals will be served inside or outside.

The file that you have on Bavarian Hills has copies of all permits, business licenses, and correspondence so I will not be repetitive by sending again these things. I know that you have spent time on this issue and your time is appreciated. I would like this issued to be resolved and I feel that the best way is to come before the full Board of Supervisors.

As per my conversation with your Assistant Julianne van Leeuwen a possible agenda date could be arranged on June 14th. That would be satisfactory. Please inform me if there is a change of this date.

Again, Thank You, for your efforts on this issue.

Respectfully,

**Michael Fitzpatrick for Inge Bunting
Bavarian Hills
3100 N. Canyon RD
Camino, CA 95709
(530) 642-2714**