

# **EXHIBIT 8**

**Thuman Letter Dated 12/5/2014**

December 5, 2014

Dear Zoning Administrator,

We are the neighbors of 50 Camino Diablo in Brentwood California. That property has been known historically as Sand Hill Motocross Ranch and currently as Diablo MX Ranch. For purposes of this document we will identify it as Sand Hill/Diablo MX.

We have had an opportunity to read the Staff Report prepared by the Department of Conservation and Development and disagree with many of the items, most of which are identified as "In Compliance."

The items are as follows:

California Environmental Quality Act (CEQA) Status: It states "Exempt" and we would like to know know why. We have asked before and have not received a response. (See attached letter to Tomi Riley dated October 6, 2014)

Under "Recommendation 1" It states that the applicants are in compliance. They are not in compliance and have never been in compliance. These non-compliant Conditions of Approval (COA's) will be identified below.

Under "Recommendation 2" It states, "Approve revised site plan submitted October 31, 2014..." On the original permit COA #1, it states "subject to revised site plan dated/received October 21, 1996. On the original permit COA #5 states, "All activities approved by this permit shall be restricted to the existing track and motocross areas as indicated on the plan submitted with the application with the exception of minor changes subject to Zoning Administrator review and approval." A revised site plan submitted 16 years later is not a minor change. We have been told in person by Senior Planner Will Nelson that they had to adhere to the site plan dated October 21, 1996. Through Public Document Request we asked for the original application and any changes, addendum's or revisions. Suddenly we are presented with a map dated 1998 that is being presented as a site plan. No received date stamps from county on this previously unknown document. Again this is not a minor change. (See attached Request for Public Document)

Under "Recommendation 3" It states "Grant planning clearance for issuance of a business license..." As we brought up in the meeting in your presence on December 1, it is our opinion that Sand Hill has been closed for over two years. During that time there was occasional, very quiet motorcycle classes that took place. During that time we advised the county that the site was not in compliance and now we are asking if they had a business license to operate during that time at that location. (During that time we were told that constituted being open for business. For over six months there has been no training. Now we are told that pursuing compliance ((cleaning up property)) fulfills that requirement. If that is the case why did they have to conduct training classes in the first place?) (See attached emails & pictures) \*

Under "Background" It state that compliance reviews were conducted in 2003 and 2009. We asked for proof that the property was in compliance during those reviews and did not receive and proof that it was in compliance. (See attached letter to Tomi Riley dated Oct 26, 2014)

Under "Background" it also states that the land use permit is still valid even though the

applicants have not been operating it as a business because they have been pursuing compliance. COA #1 specifically states that the COA's are to be met in a timely manner, not 16 years later.

Under "Background" paragraph two it states, "since there is no evidence of the (sound) study being conducted in the past..." Again, out of compliance as stated on COA #1 which specifically states that the COA's are to be met in a timely manner, not 16 years later. Also under "Background" it states there is no official record of complaints made to Code Enforcement...While we didn't want to bring up old history there is a significant history regarding complaints against Sand Hill as documented in the lawsuit of Carol Davis vs. Tommy Anderson and Thomas Smith (C98-03060). That lawsuit specifically states, "Contentious public hearings occurred before the County Planning Commission and Board of Supervisors in 1996 and early 1997. These hearings received extensive press coverage." It also states that because of concerns of plaintiff and neighbors certain limiting conditions were imposed...As newer residents moved in it appeared that Sand Hill had reduced their hours and ridership was declining and since Tom Anderson was here first no complaints were made that we are aware of at the 5 year review hearings. (See attached Davis v Anderson lawsuit)

Also under "Background" paragraph three it states that we question the validity of the permit originally approved as a 80 plus acre site now reduced to an approximate 40 acre site. The county states this reduction was properly noticed and approved at public hearing in 2004. It may have been approved as a lot line adjustment but not properly investigated as the sound/safety/liability buffer for a motocross race track. Was this specifically noticed as a reduction in the size of a motocross race course?

It appears this may not have been carefully investigated prior to approval or someone should have realized the liability that was created by losing what was in effect a buffer for the motocross tracks. Per the staff report this was noticed and approved on January 5, 2004. Paul Bergstrom rode off a Sand Hill course on March 11, 2004, onto what is now the Harrison property, received significant injuries and successfully sued both Sand Hill for over two million dollars and received a settlement from what is currently the Harrison property for about \$750,000. At that time the Harrison property belonged to the Brentwood Rod and Gun Club. (See attached Paul Bergstrom vs. Sand Hill Ranch lawsuit) A perfect example of why a buffer is essential to this property not only for noise but for safety. We have attached a proposal from a motocross course that includes buffer information. The course is 75 acres, the property is 437 acres. The proposed buffer is, "at least 25 feet high by 70 feet wide.." that is around the course area. "A perimeter vegetated buffer area with an average width of 1,000 feet and minimum width of 500 feet..." That appears to be for the actual perimeter of the property. (See attached proposal from Snohomish County and lawsuit article re motorcyclist)

Now we get to the actual COA's:

COA #1: The staff report states they are in compliance. We disagree. County states they are in compliance but they have to remove two unapproved tracks to conform to original site plan dated October 21, 1996. The county also states, "In order to get the site into better conformance with the approved site plan, the applicants were required to submit new site plans that better reflect the original approval." How do they know what the original approval is supposed to reflect, where they involved in the original? It appears from the lawsuit between Davis and Anderson the original approval reflected concerns of the neighbors. "Because of concerns of

Plaintiff and her neighbors expressed to the county, and in compromise of the conditions sought in the original applications of Anderson and Smith, certain limiting conditions were imposed..." We do not believe the intent of the permit was to expose neighbors to even more noise from the motocross tracks. (See attached lawsuit of Davis and Anderson)

COA#1: This COA also talks about the new owner/applicants applying for a grading permit to move the oval track, which was never in compliance with the 1996 site plan. There is no permit for the track which is a condition of COA#4. These new owner/applicants have already done significant grading, tree removal, course modification, retaining wall construction and building remodeling without a permit. All of these issues have been reported and/or asked about. (See attached Req for Public Doc's, emails and citizen access documents)

COA#2: The staff report says they are in compliance. They are not in compliance. Talks about reconstruction of (unpermitted) oval track and notification to Community Development 30 days prior to any racing event. The track is not permitted, the track never conformed to October 21, 1996 site plan and had this process occurred 16 years ago or been investigated at any of the compliance reviews we would not be bringing it up at this time. (Refer to attachments from COA#1)

COA#3: Staff report states they are in compliance. We agree that they were in compliance as of 2012. After two requests for public documents we received satisfactory documentation.

COA#4: Staff report states they are in compliance. They are not in compliance. States the applicants shall have permits for all structures related to motorcycle activities. On the permit it specifically states "the racetrack." A request for public documents resulted in nothing on file. (attachment on COA#1) This racetrack has never been permitted and never been in compliance. There is also no pond indicated on the original site plan. The applicant/owner did a huge amount of grading, fencing and construction to build the current very large pond. There is no permit for the pond we are aware of.

COA#5: Staff report states they are in compliance. They are not in compliance. They have never been in compliance. If they were in compliance why is there a need for a new site plan? The new site plan includes things that were not on the original site plan such as the pond. The new site plan shows the track much closer to the Harrison property line. COA #5 states that minor changes are to be approved by the Zoning Administrator. This is a major change(s).

COA#6: Staff report states they are in compliance. They are not in compliance. Our public document requests specifically asked for the original application, site plan and any changes or addendum's. We were never given what they identify here as Exhibit 4. This is also the only document that is not date stamped as to when it was received and/or approved by the county. We specifically asked for a 1998 map but were told the 1996 map was the site map. On the county staff report under COA#5 it specifically states, "conform to the approved October 21, 1996 site plan..." Exhibit 4 also states hours start at 7am. COA#1 states "Any expansion or CHANGE in hours of operation, additional types of racing or other uses WILL require the approval of a new Land Use Permit." The hours on the approved permit start at 8am. (See emails.)

COA#7: Staff report states they are in compliance. We state they are not in compliance and have not been for 16 years. Again there is NO timeliness to this, again a violation of COA#1. (See

request for public document.)

COA#8: Staff report states they are in compliance. We can agree to this although we have asked about a designated helo landing area to minimize sound, dust and debris as medical helicopters land on a routine basis. We have been told by fire department staff that when Sand Hill was up and running it was their number one response location.

COA#9: Staff report states they are in compliance. Not in compliance, have not been in compliance for 16 years. Again there is NO timeliness to this, again a violation of COA#1. There has never been a permit for lights on the racetrack, should have been addressed 16 years ago.

COA#10: Staff report states they are in compliance. They do not have any signs up, how could they be in compliance? They did put up signs without approval and had to take them down. If they had met with the county as directed on COA #18 perhaps they would not have again violated the permit.

COA#11: Staff report states they are in compliance/ongoing. However on the staff report it states dust control for parking area. On the permit it states when there are 25 or more present the dust control will include the entire site to avoid dust impacts on nearby properties. We want to ensure proper dust control.

COA#12: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#13: Staff report states they are in compliance. As this has to do with safety helmets releases, minors accompanied by adult, etc they cannot be in compliance until they are open. We have had historic problems with motorcycles from Sand Hill riding on Camino Diablo and Walnut Blvd. The applicant was told of those concerns and said that would not be a problem. Since that time on more than one occasion unlicensed bikes from Sand Hill/Diablo MX have been seen on Camino Diablo and Walnut Blvd.

COA#14: Staff report states they are in compliance. This is regarding Contra Costa County Water (CCW) easement access. We can only assume they would have access.

COA#15: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#16: Staff report states they are in compliance. This is a historical problem as it relates to musical concerts and dances. There used to be Rave parties held at Sand Hill. Traffic on Camino Diablo would be completely blocked by these parties which would also impact traffic on Vasco Rd. While they may not allow concerts or dancing, the loud music played by customers was/is not enjoyed by the neighbors.

COA#17: Staff report states they are in compliance. They are not in compliance and have never been in compliance. THIS IS A HUGE ISSUE. There is no evidence a sound study was ever done. How are we supposed to know what is an acceptable noise level? When we are in our homes with double paned windows with all windows and doors closed we still have to turn up the volume on whatever we are listening to try and drown out the dirt bikes. That to us is

UNACCEPTABLE. We cannot enjoy being outside with friends and family when the motocross is running. Where are our rights to peace and quiet? We believe Sand Hill/Diablo MX is a "Nuisance" property. There is also case law supporting our position. (See attached letter to Supervisor Piepho for details on Nuisance Property and previous case law.)

COA#18: Staff report states they are in compliance. They are not in compliance, the previous owners (attorneys) were not in compliance and according to the county Tom Anderson was not in compliance. The staff report says they are in compliance because they "notified" the county in a timely manner. Nowhere is COA#18 does it say "notify" it specifically states the new owner is to "meet" with the Zoning Administrator(ZA). This same violation was brought up when the attorneys owned the property as they did not meet with the ZA either. We were told at that time the condition was met through a letter. What is the point of having COA's when things like this happen repeatedly? The "disclosure of deed restrictions," COA #18 also states," You are purchasing a property with a permit for a motocross trails park. This permit carries with it certain conditions that must be met by the owner of the property. The permit (LP95202) is available from the current owner or from Contra Costa County Community Development Department. A new owner is required to meet with the Zoning Administrator within 30 days of purchasing the property to discuss the terms of the permit and County requirements and expectations." If the attorney's did not disclose this then the current owners should follow-up with them. If it was disclosed it appears that the current owners decided they did not need to follow the Conditions of Approval as they did not meet with the county and did significant work, grading, construction of a pond, concrete work, signage, fencing, tree removal, retaining walls and remodeling without obtaining permits. If there is a concern of detrimental reliance on the part of the county we believe that is not the case. Previous potential buyers were well aware of the conditions attached to this property. They talked to the neighbors and the county prior to attempting to buy the property and as a result did not buy the property. (John Taylor)

COA#19: Staff report states they are in compliance. We do not believe they are in compliance. As a result of unpermitted grading there are drainage problems on adjoining parcels, specifically the Harrison & Alamillo properties.

COA#20: Staff report states they are in compliance. They are not in compliance. The driveway into the motocross is not in compliance. This was brought up previously and nothing was done. The driveway is not 20 foot wide paved with tapers and flares....in accordance with Caltrans Highway Design....(See Coa#20)

COA's 20 through 29: Staff report states they are in compliance. Without consulting with a specialist in this area we are in general agreement. We still have questions as to which driveway is for the development, if it meets criteria and how many driveways there are supposed to be for that property.

We have attached copies of several letters of concerns:

Letter to Supervisor Piepho delivered in person during meeting on May 7, 2014  
Letter to Chief of Staff Tomi Riley, dated Oct 6, 2014  
Letter to neighbors at 50 Camino Diablo, dated November 20, 2014

In closing we would like to reiterate that our concerns have not changed. We have stated since 2012 that we do not believe this property has ever been in compliance with the Conditions of Approval on

the Land Use Permit. As stated in COA#1, failure to comply in a timely manner may lead to revocation. Any change in hours will require a new land use permit. It has been closed for over two years. That is a significant change in hours.

(R1)