

CITY OF NOVATO ZONING HOUSING AND BUILDING CODES APPEALS BOARD

July 30, 2024

PUBLIC NUISANCE

Item 1 500 Canyon Rd., APN 146-200-40



Property is Zoned RVL-80
Approx. 14.54 acres

RVL is 'Very Low Density Residential. The maximum allowable residential density ranges from 0.5 to one dwelling unit per acre.'

Issue: Public Nuisance Case CE-C23-0182

Property of Franzi, Paolo E; Menacho De Williams, Bella Marina

DISCUSSION

Failure to comply with Administrative Citations and Orders by property and business owner, Franzi, Paolo E; Menacho De Williams, Bella Marina of Franzi's Deconstruction and Demolition, for utilizing large commercial vehicles for hauling debris in and out of the property, storage of commercial vehicles, storage of materials at the property, employee activity and failure to obtain building and encroachment permits. Violations Novato Municipal Code (NMC) sections 19.10.030, Residential Zoning District Land Uses and Permit Requirements, 19.10.040 - Residential Zoning District General Development Standards and 19.34.080, Home Occupations and California Residential/Building Code(s) 105.1 (Permits) Required. Novato Municipal Code Section 15-2, *Encroachments in Streets or Rights-of-Way*, requires an encroachment permit for any excavating, filling, or disturbing of and placement of any wall in the public right-of-way. The grading, filling, and placement of retaining walls within Canyon Road at and near the driveway entrance to the Property requires an encroachment permit from the Public Works Department and no such permit was obtained by the Owners.

BACKGROUND

On June 14, 2023, Code Enforcement staff received a complaint of commercial activities at the property. Allegation of Franzì's Deconstruction and Demolition utilizing large commercial vehicles, hauling debris in and out of the property, storage of commercial vehicles, storage of materials at the property and employee activity.

Staff emailed Mr. Franzì on July 28, 2023, explaining out regarding the complaints received. A response was not received.

Staff found enough evidence to support the complainants claims that in fact commercial activity is occurring at the property including witnessing commercial vehicle activity, storage 'yard' including vehicles, equipment and materials. Complainant also provided, and still provides evidence and has kept a log of comings and goings of the commercial vehicles and alleged employee vehicles.

Staff notified the owner, Mr. Paolo Franzì, via an Administrative Order in August of 2023, that several complaints were received regarding the allegation that Franzì Deconstruction-Demolition business is being conducted out of the home/property in violation of the Novato Municipal Code(s).

On August 16, 2023, staff had a phone conversation with Mr. Franzì, at which time staff informed Mr. Franzì such activity constitutes a violation of the Novato Municipal Code (NMC) section 19.34.080, Home Occupations is not an allowed use under 19.34.080 and all operations are to cease immediately. Mr. Franzì claimed business activities were not occurring at the Property.

On September 19, 2023, staff discovered that Canyon Rd. had been expanded at two separate areas. 1 large approximately 100'x12' near the entrance to the driveway and one approximately 43'x8' added on Canyon Rd. Short retaining walls at both locations, with compacted fill. Staff had the opportunity to speak with Mr. Franzì at this moment. In the conversation Mr. Franzì seemed to imply this work was approved because 'The Fire District was ok with it'.

After further review of the case and Novato municipal code, an updated Administrative Order was mailed to the owners in March of this year. All business activities were to cease immediately with a compliance date on the rest for March 29, 2024.

On April 9, 2024, staff discovered a main electrical panel station with conduits has been installed without a permit. This was added to subsequent Administrative Citations and Orders as a violation. All business activities were to cease immediately with a compliance date on the rest for April 25, 2024. Citation in the amount of \$2,700.00 issued.

On April 30, 2024, an Administrative Citation and Order was issued as compliance had not been achieved. All business activities were to cease immediately with a compliance date on the rest for May 10, 2024. Citation now totals \$8,100.00.

On May 1, 2024, a Notice of Noncompliance was recorded on the property title. Property was posted the following day with a copy of the recording. This included outstanding citation in the amount of \$2,700.00.

Mr. Franzì did leave a voice message on May 2, 2024. Staff left a voice message but have not heard back. Email correspondence has been with Ms. Franzì via email. Staff

have provided her with copies of all Administrative Citations and Orders. Appears they are estranged but she is on deed/title.

On May 16, 2024, an Administrative Citation and Order was issued as compliance had not been achieved. All business activities were to cease immediately with a compliance date on the rest for May 30, 2024. Citation amount now totals \$13,800.00.

On June 19, 2024, an Administrative Citation and Order was issued as compliance had not been achieved. Citation amount now totals \$23,400.00. (Amount is now unappealable) Final compliance date is July 26, 2024.

On June 25, 2024, Code Enforcement staff did have a phone conversation with Mr. Franzi. Staff explained the violations on the property and corrective actions required. Mr. Franzi still contends his commercial construction business is not being operated out of the home/property. Mr. Franzi is now indicating he did not perform the roadway work. Mr. Franzi was informed that if the violations continued unabated, he would be brought before this board.

On July 18, a Notice of Hearing was issued, posted at the property, emailed to Ms. Franzi and mailed first class and certified.

Administrative Citations and Orders, including the Notice of Non-Compliance recording and the Notice of Hearing were mailed to the property owners at 500 Canyon Rd. first class and return receipt certified, posted on the gate of the property entrance and emailed to Ms. Franzi.

Code Enforcement staff have received 4 official complaints and several inquiries regarding the business and property.

At least 146 emails and 11 phone calls have been exchanged between staff, complainants and the owner(s).

At least 12 inspections have occurred including posting of Administrative Citation and Orders, Notice of Non-Compliance Recording, and Notice of Hearing.

Current: The property is still being used for commercial activity based on the complaints, staff inspections and condition of the property.

Property History:

Home built in 1987, purchased by the current owner on or about December 29, 2020.

Case CE-C21-0128 and CE-C22-0130: Staff received complaints regarding the property. Allegation of commercial business operating out of home. Staff was unable to verify the allegations at that time as the owner was performing fire prevention work and retaining wall work under (now expired) permit B2021-1859.

There is no record of a business license for this property.

Franzi's Deconstruction and Demolition Contractors State License Board (CSLB) number 918269 is current with an address at 22000 Lawrence Rd. Fiddletown, CA 95629

Summary Of Violations:

Code Enforcement determined various activities and improvements observed at the Property represent violations of the following:

1. **Novato Municipal Code Section 19.10.030 -Residential Zoning District Land Uses and Permit Requirements (Very Low Density Residential (RVL) Zoning District) and Novato Municipal Code Section 19.10.040 - Residential Zoning District General Development Standards (RVL Zoning District).** The storage and operation of commercial vehicles and heavy construction equipment, the stockpiling of construction materials and demolition debris, and employee staging for a commercial demolition business is not a permitted land use in the RVL Zoning District. This district allows single-family residences and associated residential accessory uses.
2. **Novato Municipal Code Section 19.34.080 - Home Occupations.** This Section allows the administrative offices of a business to be located in a residence, subject to obtaining a home occupation permit. An acceptable home occupation does not include the storage and operation of commercial vehicles and heavy construction equipment, the stockpiling of construction materials and demolition debris, and employee staging for a commercial demolition business.
3. **Novato Municipal Code Section 15-2, Encroachments in Streets or Rights-of-Way,** requires an encroachment permit for any excavating, filling, or disturbing of and placement of any wall in the public right-of-way. The grading, filling, and placement of retaining walls within Canyon Road at and near the driveway entrance to the Property requires an encroachment permit from the Public Works Department and no such permit was obtained by the Owners.
4. **Novato Municipal Code Section 18-10, Truck Routes and Parking, and Section 18-10.1, Vehicles Exceeding Weight Limit Prohibited.** Canyon Road is not a designated truck route and is not intended to support daily truck trips of the weight of the type used by a commercial demolition business.
5. **California Residential/Building Code(s) 105.1 (Permits) Required.** The electrical improvements observed at the Property require the issuance of a building permit. No such permit has been obtained by the Owners. Further, the Owners previously obtained a permit for a retaining wall on the Property, constructed that retaining wall, and never obtained a final inspection prior to the permit expiring.
6. **California Building/Residential Code; 105.5 Expiration**
Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extensions shall be requested in writing and justifiable cause demonstrated.

7. **1-7 - Administrative Citation and Penalty**

1-7.10 *Failure to Pay Penalty*. The failure of any person to pay the penalty assessed by an administrative citation within the time specified on the citation and/or decision at a hearing conducted under this section shall constitute a debt owed to the city and may result in any of the following:

- a. In addition to all other means of enforcement, such penalties may be enforced as a personal obligation of the responsible party. An administrative fine shall accrue interest at the same annual rate as any civil judgment in favor of the city under Code of Civil Procedure Section 685.010. Interest shall accrue commencing on the 20th day after the fine becomes a final decision or order.
- b. The city may collect administrative penalties by the use of the small claims court or through any other available legal remedies. In the event a civil action is commenced to collect the administrative penalty, the city shall be entitled to recover all costs associated with the collection of the penalty, including, but not limited to, staff time and attorney fees incurred in the collection of the fine and those costs set forth in Code of Civil Procedure Section 1033.5.
- c. The city may withhold issuance of licenses, permits and other entitlements to a responsible party on any project, property, or application of any kind whenever an administrative penalty owed by that party remains unpaid.
- d. The remedies set forth in this section are not exclusive.

Definitions

Chapter 19, Zoning; Division 19.60 - Definitions/Glossary

Contractor storage yard--*Contractor Storage Yards*. Storage yards operated by, or on behalf of a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

Quarry materials storage and processing--*Quarry Materials Storage and Processing*. Manufacturing facilities for the sorting, grading, and storage of aggregates as construction materials; includes concrete batch plants. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under "Building Material Stores."

Storage – Outdoor--*Storage - Outdoor*. The storage of various materials outside of a structure other than fencing, either as an accessory or principal use.

STAFF RECOMMENDATION.

Find the property located at 500 Canyon Rd. APN 146-200-40 a Property Nuisance under Novato Municipal Code 1-6.2. and order the owner to,

- (1) All commercial activity is to cease and desist immediately up to the removal of all construction materials including tools, machinery, vehicles, and building supplies and materials, except for those of a reasonable number which are commonly found at a residence that are to be used for normal maintenance of the home and/or property.
- (2) Within thirty (30) days of the date of this hearing.
 - a. Full amount of fine to be paid (\$23,400.00)
 - b. Remove all vehicles and equipment pertaining to the business
 - c. Remove all materials pertaining to the business
 - d. Remove all trash/debris
 - e. Pay board fee of \$1,548.00 (Total due \$24,400.00)
 - f. Obtain a new building permit to close out the retaining wall permit including grading involved with the project
 - g. Obtain a permit for the electrical station/panels
 - h. Obtain an Encroachment permit for the roadway work (whether to keep or remove)

All permits to achieve a final sign-off/approval within the time noted on the permit. Inspection to be performed no later than thirty (30) days from the date of this hearing to verify compliance. Release of Noncompliance Letter will be issued once abatement is confirmed and payment of fines/fees has been received and all permits have received a final.

Board Action: The Board may:

1. Proceed with Staff recommendation and deem **500 Canyon Rd, APN 146-200-40** a Property Nuisance as outlined in **Section 1-6.2** of the Novato Municipal Code.
2. Impose any additional conditions on the property, as the Board finds just and proper.

Failure to correct the violation within the time specified by the Board will result in the city attorney seeking enforcement of the Board decision in Superior Court to have violations corrected. Per City of Novato Administrative Policy 2.3, all costs including attorney fees associated with the abatement of the property to be charged to the property owner(s), Franzi Paolo E, Menacho De Williams, Bella Marina. Failure of the owners to pay assessed fees will result in a special assessment being recorded against the property.

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.

ATTACHMENT(S) IN PACKET

1. Vehicle Logs dating from 2022
2. Administrative Orders
3. Administrative Citation(s) and Order(s)
4. Notice of Noncompliance
5. Notice of Hearing
6. Relevant Code Sections