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August 31, 2006

**VIA HAND DELIVERY**

Board of Supervisors  
c/o Pamela Miller, Clerk  
County of Napa  
1195 Third Street  
Napa, CA 94559

Re: Appeal of Denial of Application For Special Fence Permit; Ronald and Kathye Citron; 4189 Silverado Trail; 4/27/06 Notice of Violation; APN 021-020-010-000

Dear Napa County Supervisors:

This law office represents Ron and Kathye Citron in the above-referenced matter. The Citrons respectfully submit this appeal of Napa County Planning Department's denial of the Citrons' Application For Special Fence Permit. This appeal package includes the underlying Application for Special Fence Permit, which contains a similar but longer argument in favor of allowing the fence to stand, and other exhibits.

All Supervisors are respectfully urged to visit the site before the appeal hearing, to confirm that visibility is not at issue with the subject fence. Please contact me at any time if you wish to visit the property, meet and confer, or to request further information.

Thank you.

Sincerely,



Montgomery G. Frankel

## **APPEAL OF DENIAL OF SPECIAL FENCE PERMIT APPLICATION**

**Summary of Appeal.** In March 2006, Ron and Kathy Citron replaced their existing front yard fence on the subject property. The 4/27/06 Notice of Violation herein claims the fence is both too high and within the road setback, thus violating two sections of the County Code. But the fence is exactly the same height and in exactly the same location as the old fence it replaced and which existed on the Citron property since 1943. The property is located adjacent to a curve on the Silverado Trail that is both dangerous and very noisy due to highway speed traffic. The Citrons obtained a Certificate of Legal Nonconformity to build their home on the property's historical footprint of the 1943 farmhouse. During their remodel, the Citrons were told by the County to erect a barrier to block off their northern driveway because of the proximity to the curve. This situation is therefore unique. The Citrons' Application for Special Fence Permit should have been granted here because, in the parlance of Napa County Code Section 18.104.270.3.A.2, a need has been "demonstrated, due to the unique nature of the parcel or surrounding environment, for the proposed fence design." No one opposes the fence, and no justifiable reason exists to deny this appeal.

The Planning Department prejudicially abused its discretion in denying the Special Fence Permit Application herein. The Citrons will be horribly, financially prejudiced if this appeal is denied, whereas no one in the County will be damaged in any way if it is granted. The Citrons thus respectfully urge the Board of Supervisors to exercise the discretion given them by the Code, and grant this timely appeal.

**Background Chronology.** This following chronology is undisputed. The Planning Department has never--not in the Director's denial letter, the Department's Notice of Violation, or in any personal communications--disputed these background facts, or claimed the Citrons intentionally violated any law.

In April 2000, the Citrons purchased the subject property, containing a farmhouse built in 1943 and a fence in the front yard, between the house and the Silverado Trail. The property is zoned Agricultural Preserve, and is located in the unincorporated portion of Napa County, between St. Helena and Calistoga. Historically, the property had two driveways onto the Trail, one to the north and one to the south.

The Citrons planned to rebuild the farmhouse, guesthouse, and fence. During the remodel project, they obtained design and building permits for the main house and guesthouse, a permit for their backyard septic leach field, and an encroachment permit for their driveway. The County Fire Department told them how much driveway space was required between the fence and main house, for fire truck access. On May 20, 2004, the Citrons applied to the County for a determination of Legal Nonconformity, because the existing 1943 farmhouse footprint was too close to the Silverado Trail to comply with the current setback code. The Citrons applied to raze the existing structure and replace it with a new home on the same footprint. The septic system and other existing structures on the property did not permit the home to be moved any further to the west, away from the Silverado Trail. The Citrons' request for Legal Nonconformity was granted on July 19, 2004, to permit the new