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January 26, 2023

Sonoma County Planning Commission

The WCTA project is the product of an extraordinary 1999 land use decision by the Sonoma County Board of Supervisors.

Historically, the parcel at issue was **pasture** and **wetland** in a **rural a residential area**. To the immediate north and west there are **homes and farms** in a rural residential area.

By a 3-2 vote the Board of Supervisors granted the WCTA a zoning change and a use permit to allow “**a school bus storage yard,**” which is essentially **an industrial use** next to preexisting homes in a rural residential area.

57 lengthy and very detailed conditions have been imposed regarding nearly every aspect of the project. Their primary focus is to **protect the environment and the rural residential character of the neighborhood**.

## The 1999 Conditions and the Sonoma County Code require the Planning Commission to wear two hats as part of a design review appeal:

1. A quasi-adjudicatory hat requires enforcing the 57 conditions as intended by the Board of Supervisors in 1999 without discretion.
2. A discretionary design review hat that requires imposing additional new conditions to protect the rural “character” of the neighborhood and the “desirability of investment or occupation in the neighborhood.”
3. Because the 1999 conditions were conditions for a zoning change and for use permits, they cannot be changed by the Board of Supervisors as part of a design review appeal.

The quasi-judicial hat requires ascertaining the Board of Supervisors intent in 1999 from the ordinary meaning of the language in the 57 conditions. The California Supreme Court instructs:

"Our role in construing a statute is to **ascertain** the Legislature's **intent** so as to effectuate the purpose of the law. **In** determining intent, we look first to the words of the statute, **giving the language its usual, ordinary meaning**. **If there is no ambiguity in the language, we presume the Legislature meant what it said, and the plain meaning of the statute governs.**" See *Hunt v. Superior Court* (1999) 21 Cal.4th 984, 1000 (Emphasis added.)

The quasi-adjudacatory hat also requires not reading a condition out of context if ambiguity requires interpretation. The California Supreme Court instructs:

“do not construe statutes in isolation, but rather read every statute ‘with reference to the entire scheme of law of which it is part so that the whole may be harmonized and retain effectiveness.’ “

*Berkeley Hillside Pres. v. City of Berkeley* 60 Cal.4th 1086, 1099 (Cal. 2015) citing *Palos Verdes Faculty Assn. v. Palos Verdes Peninsula Unified Sch. Dist.* (1978) 21 Cal.3d 650, 659.

The discretionary hat requires the board of supervisors to use its discretion to impose additional conditions to preserve the rural character of the neighborhood.

Section Sec. 26-82-050 of the Sonoma County Code explains the design review requirement:

“The committee, or other applicable decision-making body as the case may be, shall endeavor to provide that the architectural and general appearance of buildings or structures and **grounds are in keeping with the character of the neighborhood** and are not detrimental to the orderly and harmonious development of the county and do not impair **the desirability of investment or occupation in the neighborhood.**” (Emphasis added.)

Before the WCTA project began in 1999 the lot at issue was **pasture and wetland** in a rural residential area. It continued to be pasture and wetland until it was bulldozed last year. It borders homes to the north and west in a rural residential zone.

1. Pursuant to condition 57, the WCTA use permit should be revoked for egregious noncompliance with the 1999 conditions and utter disregard of the land use process.

Condition 30 requires that, “All development shall be according to the approved plans and application.” The WCTA has rushed ahead of the design review process to build its school bus storage yard without valid permits. It has been subject to a **correction notice** and **two stop work orders** as a result. It installed **tons of soil, gravel, curbs and a fence, knowing that they are all issues that have been raised as part of the design review process and are subject this appeal.** Allowing this disregard of the law with impunity only encourages more of the same. So far no penalties have been imposed..

The WCTA has also failed to record an **open space easement** for wetland mitigation as required by condition 40 and discussed in issue 3 below.

Condition 57 reads:

“57. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-465.1 and 26-465.2 of the Sonoma County Code. Sec. 26-92-130. “

2. Pursuant to Section 26-92-130 of the Sonoma County Code, the use permit for the western parcel is “automatically void and of no further effect” because it “has not been used within two (2) years.” The western parcel has a different use, different conditions, different zoning, and is physically separate from the two eastern parcels.

“Section 26-92-130. - Revocation for failure to use or for abandonment of use.

In any case where a zoning permit, **use permit**, design review approval or variance permit **has not been used within two (2) years** after the date of the granting thereof or for such additional period as may be specified in the permit, such permit shall become **automatically void and of no further effect**, provided, however, that upon written request by the applicant and payment of applicable fees prior to the expiration of the two-year period, the permit approval may be extended for not more than one (1) year by the planning director subject to public notice and opportunity for hearing before the authority which granted the original permit.” (Emphasis added)

### 3. Condition 31 limits the permitted use on the western parcel to “a school bus storage yard” and prohibits employee parking.

Section 26C-183(g) of the Sonoma County Code specifically requires a **use permit** for “**parking lots**” in a **Public Facilities district**.

Condition 31 granted the permitted a use permit for “**a school bus storage yard**” and not for “**an employee parking lot.**” Because there is no ambiguity in the language, no interpretation is allowed and the Board of Supervisors **intent in 1999** must be **presumed** from the “**usual, ordinary meaning**” of the language. Additional words cannot be added, yet the draft conditions of approval add the words “**with bus driver parking**” to the permitted use in **condition 28**.

Even if there were ambiguity that required interpretation, the **surrounding conditions are very detailed and refer to buses and not to employee parking**. For example condition 31 limiting activity on the western parcel, condition 37 regarding paving, and condition 42 regarding landscape screening all refer only to buses and not to employee parking.

Moreover, having employees park on the street in an industrial area, as they have been doing for the past twenty years, is preferable to having them park next to homes in a rural residential area.

Additionally, the approved plan from 2000, shows employee parking on the eastern two parcels and not on the western parcel. It is good evidence of the Board of Supervisors intent and how condition 31 was understood in 1999.

4. The proposed project violates the 110-bus limit for all three WCTA parcels pursuant to condition 31.

Existing striping on the western two lots is sized for 51 spaces for 40-foot buses and 24 spaces for 20-foot buses-- or 75 buses total.

The photo to the left is the front half of the existing WCTA facility. The WCTA has submitted an updated site plan that does not count the 24 spaces striped for 20-foot buses shown toward the top of the photo or the 11 spaces striped for 40-foot buses shown at the bottom of the photo. These spaces should be counted.

The WCTA should be limited to 35 new bus spaces because  $75 + 35 = 110$ .





5. The proposed project violates the 80-vehicle limit on the western parcel pursuant to condition 32 because “80 vehicles” means “80 vehicles” and not “160 vehicles”.

If the Board of Supervisors had intended a bizarre arrangement of 160 rotating cars and buses, it would have **said so expressly** and imposed length and detailed conditions regarding how the rotation would work. It wrote 17 pages with **57 extremely detailed conditions** about every other aspect of the project.

**None of the 57 conditions refer to employee parking on the western parcel.** They refer only to buses on the western parcel e.g. condition 31 limiting activity on the western parcel, condition 37 regarding paving, and condition 42 regarding screening.

The WCTA argument renders the 80-vehicle limit completely impractical and unenforceable, especially because bus drivers will constantly be coming and going **due to field trips and split shifts.**

6. The proposed project violates Condition 37 which limits the amount of paving on the western parcel to the minimum needed for “buses”.

Condition 37 states:

37. All areas where **buses** are driven or parked on the western lot (APN 134-07 4-022) shall be fully paved. **Areas on the lot that are not utilized for parking or landscaping shall have the natural grass cover retained** to avoid any dust being created on site. (Emphasis added.)

7. The proposed project violates the 1999 Board of Supervisors' lighting restrictions pursuant to condition 46, which require that security lights be "located at the periphery of the property and not as flood lights."

Condition 46 states:

46. **An exterior security lighting plan** shall be submitted to the Permit and Resource Management Department for review and approval. Exterior lighting shall be internal only and not "wash out" onto adjacent properties nor be a source of glare onto adjacent streets. Generally, fixtures should accept sodium vapor lamps and lighting **should be located at the periphery of the property and not as flood lights**. The lighting shall be installed in accordance with the approved lighting plan during the construction phase. (Emphasis added.)

8. The proposed landscaping violates Condition 42, which requires “a dense evergreen landscape screening, which shall shield the buses from view.”

Much larger trees are required or the screen will not be effective for years to come if ever. The required screen must be in place before the bus storage yard can be used. 20-year old redwood trees similar to the ones bulldozed by the WCTA should be used.

9. The proposed berm design and set back violates Condition 42 because they are inadequate to grow the required landscaping.

The berm is too steep and narrow to effectively grow trees to create the required screen. It is currently a 2:1 slope with a two-foot wide top. It looks like a strip mine or a shooting range. Don Mc Nair explained that it is difficult to grow trees on a slope greater than 3:1

10. The proposed berm violates Sonoma County Code section 11.14.02 regarding construction grading.

Sonoma County Code section 11.14.02 requires grading to be **“blended with adjacent natural terrain to achieve a consistent grade and natural appearance.”**

The current berm looks like a strip mine, a shooting range, or the back of a levy. It is nine feet tall and has a very steep slope, which looks completely unnatural in an relatively flat pasture area. The two-foot-wide top of the berm also looks extremely unnatural.

11. The WCTA drainage / erosion plan required by Condition 44 does not meet the requirements in sections 11.14.040 and 11.14.020(C)(8) of the Sonoma County Code, which require maintaining “existing drainage patterns.” The WCTA berm and raising of the grade has flooded neighboring property.









12. The chain link fence to the north and west violates Condition 42 and impairs drainage. It should be relocated inside the berm instead of along the property line.

42. The Final Development Plan(s) shall be reviewed by the Design Review Committee. **The plans shall include a berm at least 6 feet high parallel to the north and west property lines of the western lot (APN 134-074-022), with the berm center setback a minimum of 50 feet from the north property line. The berm and setback area shall contain a dense evergreen landscape screening which shall shield the buses from view in those directions. A chain link fence with slats or other view blocking fence design at least 6 feet in height shall surround all other areas that are not shielded by the berm. (Emphasis added.)**

13. EV charging should be prohibited pursuant to Conditions 31, 34, and 36.

42. Condition 31 establishes the permitted use for the western parcel and prohibits EV charging. In relevant part it requires in relevant part that “no work shall occur on vehicles/equipment on this parcel” and “no refueling activities shall occur on this parcel.”

Condition 34 applies to all three parcels and requires as follows: 34. No engines, motors, generators, power tools, etc. that produce noise shall be allowed to operate on site except during normal business hours of operation as established in this use permit. EV charging stations also often create a humming noise. Electric vehicles often run their fans while they are charging, which creates noise. After the WCTA’s transition to electric buses, there would be 71 electric buses charging and making noise. The charging would take place at night and on weekends, which is outside the 6:00 am to 6:00 pm Monday through Friday permitted hours of use for the western parcel pursuant to Condition 36.

14. The Board of Supervisors should use its design review discretion to impose additional conditions to prevent noise from the bus storage yard from destroying the rural character of the neighborhood.

The Board of Supervisors should require:

- (1) a layout that does not require backing up,
- (2) the use of backup cameras instead of backup beepers, and
- (3) a time-controlled gate that prevents the bus storage yard from being used mid-day for split shifts.

## 15. California Public Resource Code section 21166 requires new CEQA review.

By law, the CEQA review from 1999 cannot be relied upon if one or more of the following events occur:

- (1) substantial changes are proposed in the project,
- (2) substantial changes have occurred with respect to the circumstances under which the project is being undertaken, or
- (3) new information has become available.

## Substantial changes and new information requiring new CEQA review include:

- A. As proposed the current project fails to comply with the 1999 mitigation conditions
- B. Climate change and depletion of Sonoma County's deep aquifers
- C. The lack of anticipated demand for additional school bus storage
- D. Increased traffic and drastic changes in WCTA routes and service areas
- E. The transition to smaller school buses with different routes and the use of public transit instead of school buses by students.
- F. The transition away from CNG powered buses to battery-powered electric buses.

In its February 2, 1999 Resolution the Board of Supervisors analyzed the effect of WCTA project on traffic patterns:

“Presently, WCTA buses serving the south west Santa Rosa area are stationed in the Sebastopol area, and must travel east on Hwy 12 and then southbound to reach the area during morning commute hours, and north and westbound during evening commute hours, which corresponds to the highest projected traffic demand pattern on Hwy 101 by the South West Santa Rosa Area Plan EIR. While the overall Freeway Mainline level of service is unlikely to be changed by the project, the existing bus pattern would be reversed. This would result in buses traveling north and west bound in the morning to the Sebastopol area, and east and southbound in the evening, a pattern which has a lower projected demand in the EIR.”

In its February 2, 1999 Resolution the Board of Supervisors relied on the WCTA representations about where future growth in ridership would occur and made the following findings:

“c) WCTA representatives have stated approximately one-third of the students they presently serve are in school districts located in the south west Santa Rosa area.

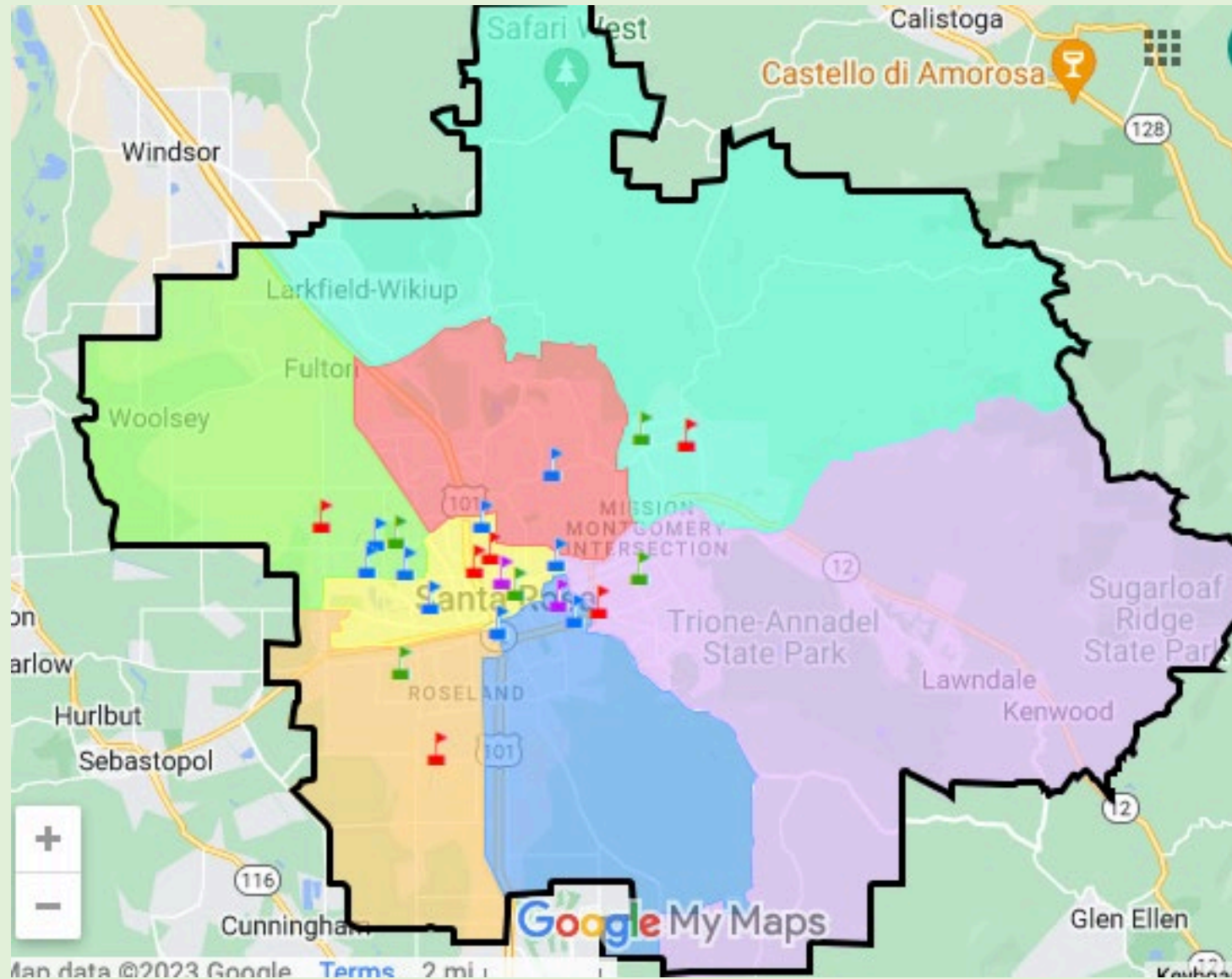
d) WCTA representatives indicated in the Planning Commission hearing, that of areas the WCTA serves, the school districts in the south west Santa Rosa area have the fastest growing student populations. It is projected that this trend will result in an increase in the percentage of students served by the WCTA coming from the south west Santa Rosa area, from one-third to approximately one-half of the total served.

e) WCTA will continue to operate some smaller bus storage yards in the West County area that serve the most outlying districts, which would serve to reduce trips from the project site to the west county area.”

Since the WCTA project was approved in 1999, the resulting traffic patterns have changed. The WCTA has grown from 9 to 17 school districts.

In 2016, the addition of Santa Rosa City Schools essentially doubled the number of students served. Santa Rosa city Schools is to the north of the WCTA facility. Only about 1/7 of these students are in Southwest Santa Rosa. Please see the attached map. Each of the seven trustee areas has approximately equal numbers of students.

<https://www.srcschools.org/Page/3235>



Despite growth that was unanticipated in 1999, expansion of the WCTA facility onto the western parcel has not been need so far and School Bus Ridership is in decline.

Based on the WCTA's most recent publicly available financial statements (FYE June 30, 2021) "Pupil Services" declined 38.64% during the fiscal year. The WCTA's financial statements state:

"Pupil Services include the activities involved with transporting students for members and other contracted entities. Relative to the decrease in pupil service, regular home to school transportation is not mandated in California. Due to the current severe financial constraints, many school districts have reduced or eliminated their regular home to school transportation program. In addition, many of our school districts have been in declining enrollment and there are fewer students who attend our member school districts, and therefore, fewer school bus riders. Special education transportation, however, is mandated by federal aw for those students requiring it to access their educational program."

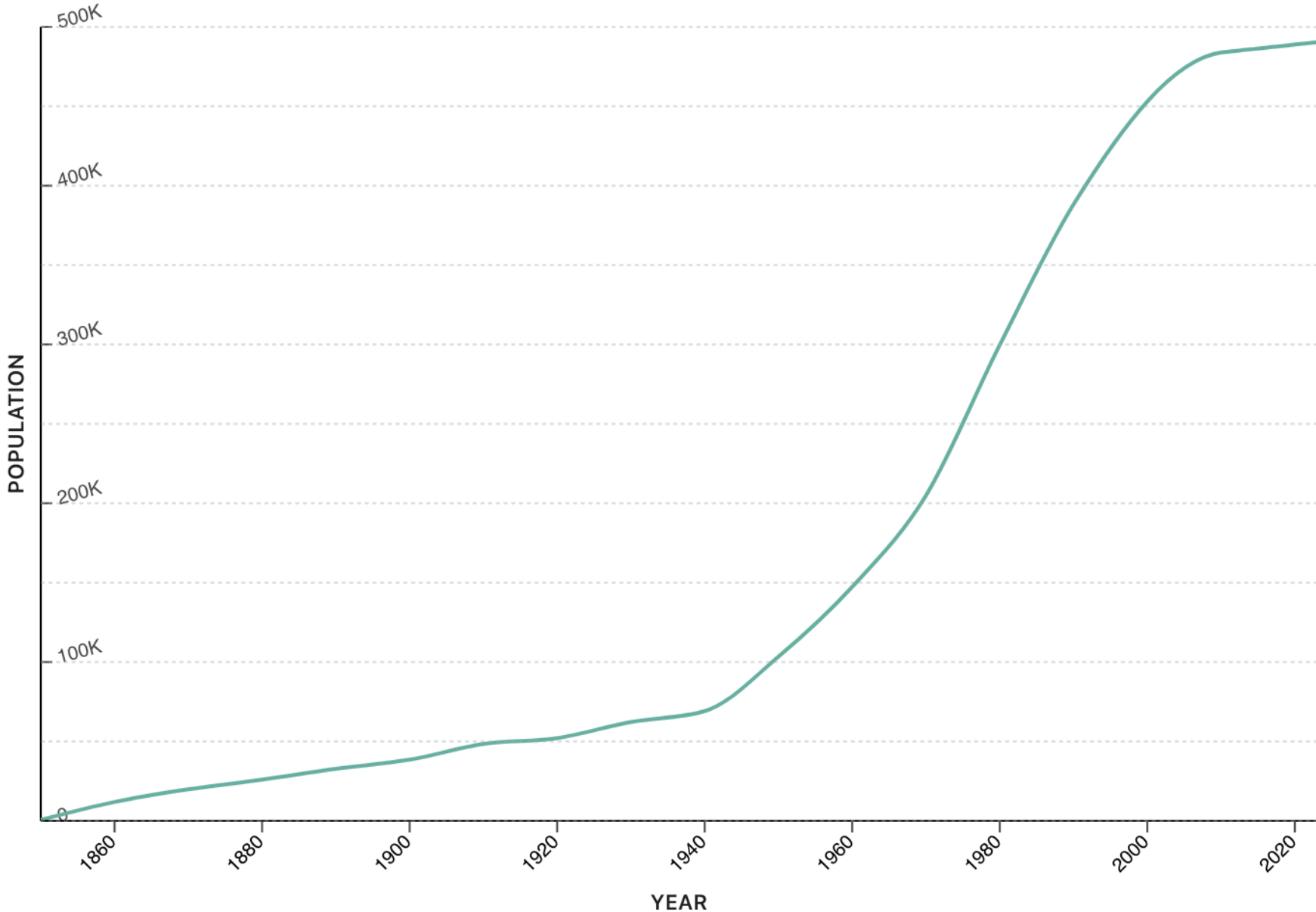
There has been no showing by the WCTA that expansion on the western parcel is necessary to meet growing demand as was anticipated by the WCTA in 1999.

In 1999 the Board of Supervisors stated:

h) The project is conditioned to limit the western lot (APN 134-074-022) to a maximum of 80 vehicles, and the entire project to a maximum of 110 buses, and would provide WCTA both a primary consolidated centralized facility, and **allow for a limited expansion of 20 to 30 percent to keep up with growing student populations in the future. (Emphasis added)**

Expansion onto the western parcel has been proven to be unnecessary by the last twenty years. Sonoma county's population has leveled off and there are fewer school-aged children because the population is aging. Fewer school aged children are taking the school bus and now rely on other forms of transportation.

# Sonoma County, California Population 2023



**“Deep zone aquifers have also declined over the past decade, and do not recover during wet years according to monitoring wells and stream level observations. These chronic declines indicate that groundwater withdrawals are occurring at a higher rate than recharge or replenishment.”**

**The Sonoma Valley Groundwater Sustainability Agency  
(GSA)<https://sonomavalleygroundwater.org/conditions/>**

New CEQA review is also required because Sonoma County's design review process gives the Planning Commission discretion to impose additional conditions to preserve the environment and because condition 57 gives the Planning Commission discretion to revoke the use permit for noncompliance with any of the 57 conditions.

"CEQA applies only to "*discretionary* projects proposed to be carried out or approved by public agencies ...." (*Pub. Res. Code sec 21080*) italics added.) A "discretionary project" is defined as one "which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations." (Guidelines, § 15357.) The "touchstone" for determining whether an agency is required to prepare an EIR is whether the agency could meaningfully address any environmental concerns that might be identified in the EIR. McCorkle Eastside Neighborhood Group v. City of St. Helena (2018) 31 Cal.App.5th 80, 242 Cal.Rptr.3d 379.