

From: [SOS Neighborhoods](#)
Subject: Objection letter to Cannabis Grows
Date: Thursday, April 12, 2018 5:45:08 AM

12-04-2018

From:

Denise DeRose

11102 Cherry Ridge Road

TO:

PRMD Director Tennis Wick

District 1 Supervisor Susan Gorin District 1 Director Pat Gilardi

District 2 Supervisor David Rabbitt District 2 Director David Rabbitt

District 3 Supervisor Shirlee Zane District 3 Director Michelle Whitman

District 4 Supervisor James Gore District Director Jenny Chamberlain

District 5 Supervisor Lynda Hopkins District Director Susan Upchurch

County Administrator Sheryl Bratton

Deputy County Counsel for Cannabis related Sita Kuteira

PermitResourceManagementDepartment(PRMD)

2550 Ventura Avenue, Santa Rosa, CA, 95403

Dear Board of Supervisors Sonoma County,

It is my distinct understanding that:

The following findings must be satisfied prior to securing a use permit for a Cannabis grow application

The design location size and operating characteristics of the use is considered compatible with the existing and future land uses within the vicinity. The use would not be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area

I hereby object to the grow located at 885 Montgomery Rd The following points are in direct conflict with the county's requirements prior to securing a use permit for a cannabis grow operation:

Property Values

- Decline in Property Value
- Impact on residential character of the historic area
- Intrusive, and inappropriate for the setting, security apparatus - guards, fencing, dogs, lighting cameras, alarms
- Odor from huge outdoor grow can be substantial and irritating for months

Traffic

- Employees, Garbage trucks
- Inadequate road access - only access is via one lane shared private driveway, no public access

Hazards due to ageing or un-scalable infrastructure

NA

Environmental and Pollution

- Noise pollution
- Lighting pollution
- Waste Management - disposal of large amounts of waste
- Water use and impact on neighboring wells

Proximity Issues

NA

Non Conformity with the Ordinance

NA

Crime

- History of crime associated with cannabis operations

Others

NA

I hereby submit my complete and absolute objection to the proposed grow and hereby demand that you immediately revoke any liberties permits or advantages you have advanced to this property owner and applicant.

Sincerely
Denise DeRose
Dmderose@outlook.com

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From: [SOS Neighborhoods](#)
Subject: Objection letter to Cannabis Grows
Date: Thursday, April 12, 2018 9:02:14 AM

12-04-2018

From:

TO:

PRMD Director Tennis Wick

District 1 Supervisor Susan Gorin District 1 Director Pat Gilardi

District 2 Supervisor David Rabbitt District 2 Director David Rabbitt

District 3 Supervisor Shirlee Zane District 3 Director Michelle Whitman

District 4 Supervisor James Gore District Director Jenny Chamberlain

District 5 Supervisor Lynda Hopkins District Director Susan Upchurch

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I hereby object to the grow located at 885 Montgomery Rd The following points are in direct conflict with the county's requirements prior to securing a use permit for a cannabis grow operation:

Property Values

- Decline in Property Value
- Impact on residential character of the historic area
- Intrusive, and inappropriate for the setting, security apparatus - guards, fencing, dogs, lighting cameras, alarms
- Odor from huge outdoor grow can be substantial and irritating for months

Traffic

- These are 24 hour operations
- Employees, Garbage trucks

Hazards due to ageing or un-scalable infrastructure

- Inadequate Utility Services - high energy usage

Environmental and Pollution

- Noise pollution
- Lighting pollution
- Waste Management - disposal of large amounts of waste
- Water use and impact on neighboring wells
- Water use and impact on neighboring wells

Proximity Issues

NA

Non Conformity with the Ordinance

NA

Crime

- History of crime associated with cannabis operations
- Large amounts of cash handling at site
- Incomplete security and background checks of employees
- Currently a Federal Class I narcotic substance

Others

NA

I hereby submit my complete and absolute objection to the proposed grow and hereby demand that you immediately revoke any liberties permits or advantages you have advanced to this property owner and applicant.

Sincerely

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From: [Melody Richitelli](#)
To: [Julia Smith](#)
Subject: FW: 885 montgomery road
Date: Friday, August 17, 2018 11:39:39 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

Do we send these directly to the consulting planner?

Melody Richitelli

Administrative Aide

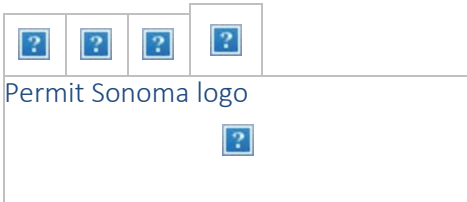
www.PermitSonoma.org

County of Sonoma

2550 Ventura Avenue, Santa Rosa, CA 95403

Direct: 707-565-1925 | Mobile: 707-657-9685

Office: 707-565-1900 | Fax: 707-565-1103



OFFICE HOURS: *Permit Sonoma's public lobby is open Monday through Friday from 8:00 AM to 4:00 PM, except Wednesdays, open from 10:30 AM to 4:00 PM.*

From: Pam Ress [mailto:pamress@aol.com]

Sent: Thursday, August 16, 2018 4:59 PM

To: Tennis Wick ; Melody Richitelli

Subject: 885 montgomery road

Leeroy and I would like to go on record that we strongly object to the cannabis operation on [885 Montgomery Road](#) (APN: [077-130-095](#) Permit: UPC18-0001).

Pam & Leeroy Ress

1085 Anita Lane

Sebastopol

Sent from my iPad

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Fwd: FW: Complaint -- 885 Montgomery Rd

Daniel Hoffman <dhoffman@migcom.com>
To: Scott Davidson <scottd@migcom.com>, Everett Louie <elouie@migcom.com>

Tue, Sep

Scott/Everett,

Tyra, from CE, is requesting a status on UPC18-0001 - please advise. Daniel Findley had previously been handling this project. I believe he was waiting on a hydrogeologic report.

Thanks,
Daniel

----- Forwarded message -----

From: **Tyra Harrington** <Tyra.Harrington@sonoma-county.org>
Date: Tue, Sep 4, 2018 at 3:03 PM
Subject: FW: Complaint -- 885 Montgomery Rd
To: dhoffman@migcom.com <dhoffman@migcom.com>

Can you let me know where we are on this one? Thanks, Tyra

From: Tyra Harrington
Sent: Tuesday, September 04, 2018 3:03 PM
To: 'robert.guthrie@gmail.com' <robert.guthrie@gmail.com>
Cc: Jesse Cablk <Jesse.Cablk@sonoma-county.org>; 'dhoffman@migcom.com' <dhoffman@migcom.com>
Subject: RE: Complaint -- 885 Montgomery Rd

Mr. Guthrie: Jesse has forward your e-mail to me. As you are aware the site is being evaluated for a cannabis permit. All the issues you mentioned are part of that evaluation and are no planning determines whether a use permit can or cannot be approved, they will notify us. At that time, if a use permit is denied they will have to cease operations within 5 days. We ha issued several Notice and Order's on the building violations. Thanks, Tyra

Tyra Harrington
Code Enforcement Manager
Tyra.Harrington@sonoma-county.org
www.PermitSonoma.org
County of Sonoma
2550 Ventura Avenue, Santa Rosa, CA 95403
Direct: 707-565-1280 | Fax: 707-565-1163

From: Jesse Cablk
Sent: Tuesday, September 04, 2018 10:47 AM
To: Tyra Harrington <Tyra.Harrington@sonoma-county.org>
Subject: Fwd: Complaint -- 885 Montgomery Rd

FYI...
Sent from my iPad

Begin forwarded message:

From: Robert Guthrie <
Date: September 4, 2018 at 10:40:48 AM PDT
To: Tennis.Wick@sonoma-county.org, Jesse.Cablk@sonoma-county.org
Subject: Complaint -- 885 Montgomery Rd

I'd like to file another complaint about our cannabis business neighbor at 885 Montgomery Road.

I described below violations you've captured, plus those I see myself including the odor nuisance.

I'd like for you to visit the property again to document the violations.

- odor
- additional grading / tree removal in 2018
- greenhouse removal
- lighting
- fence
- security camera

And to validate the building code violations questions I sent to Jesse this morning.
Thanks so much

Doesn't this property warrant a "Three Strikes Penalty"?

3. **Three Strikes Penalty.** Upon receipt of any combination of three (3) administrative citations, verified violations, or hearing officer determinations of violation of any of the permit requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two-year period, the permit for a cannabis operation is hereby automatically nullified, voided or revoked, subject to prior notice and to appeal. Appeals shall be filed within ten (10) days of the notice of revocation. Upon revocation, an application to reestablish a cannabis operation at the subject property shall not be accepted for a minimum period of two (2) years.

Is their permit hearing soon, or are their violations and grow allowance open-ended?

Odor -- we're sick of it -- it's a significant nuisance

The odor is so bad that I continue to regulate the time I spend outdoors. I have a good-sized log dating back to Aug 2017, but below describes our recent weekend.

Thu Aug 30

-
- Cleaning gutters in the afternoon.
- I became nauseous and got a headache while on the ladder. Had to stop working at that height and escape to indoors
-

Log of my family's visit this weekend:

FRI Sep 1

-
- House and car windows closed
- all day
-
-
- **1230pm.**
- We tried to eat lunch outside at 12:30pm. Back inside at 12:45pm from the odor
-
-
- We spent the entire day 'catching-up'
- indoors
-
-
- **6pm.**
- We BBQ'd for dinner in our front
- yard sidewalk to avoid backyard odor, but we still had to tolerate the smell even in the front yard
-
-
- We ate dinner inside
-

SAT Sep 2

-
- House and car windows closed
- all day
-
-
- **930am**
- We started to eat breakfast outside and had to go inside from the cannabis odor
-
-
- We kept the kids inside while
- the adults picked apples, blackberries, and tomatoes....and just toured the yard
-
-
- The adults and kids escaped
- our house and drove around town
-
-
- **3pm.**
- We spent time at our pool in the backyard. We sent the kids inside at 330pm because the odor was so bad.
-
-
- Two of us got a headache
- from being outside inhaling the cannabis odor for 30min
-
-
- We BBQ'd dinner again on
- the front yard sidewalk while the cannabis odor swirled around the house
-
-
- We ate indoors, even while
- the weather outside was great
-

SUN Sep 3

-
- House and car windows closed
- all day
-
-
- **1:30am**
- **to 4am** Since someone left a bathroom window open, our hallways and
- our room filled with cannabis odor. The smell woke me up and I closed the window.
- **Didn't sleep until 4am out of anxiety and anger from**
- **our life's situation.**
-
-
- **830am.**
- My cousin wore a 'gas mask' while he picked blackberries for breakfast. He spent 30 minutes picking, hence the mask
-
-
- We all tried to have lunch
- at the pool...just to see if we can hold-out for 30-40 minutes without feeling sick to our stomach....failed
-
-
- **1pm**
- **My family no longer wanted to tolerate the cannabis**

- odor and our constant avoidance tactics.
- They returned home a day earlier than planned
-
-
- 6pm.
- My wife and I went to a 30-person BBQ next door -- two parcels away from the cannabis business. All of the attendees smelled the cannabis odor, which is about 750 feet away from the c
-
-
- 8pm.
- People at the BBQ still commenting on and smelling the cannabis odor
-

MON Sep 4

-
- 830am I wore a "gas mask"
- in the garage while painting the gutter downspouts since the cannabis odor trapped and lingered in the garage (even with all doors open)
-

Our neighbor commits every "nuisance" definition in this document: ORD15-0005 Final Cannabis Ordinance with Attachments Dec 20, 2016.pdf	
<p>Board of Supervisors, Dec 20, 2016</p> <p style="text-align: right;">Exhibit A-2 <i>Allowed Land Uses and Specific Use Standards</i></p> <p>Section 26-88-252 Enforcement.</p> <p>(a) Violations.</p> <p>1. Any activity performed contrary to the provisions of Sections 26-88-250 through 258 is hereby declared to be a violation of this Chapter and a public nuisance.</p>	<p>N. Children (minors under the age of 18) are particularly vulnerable to the effects of cannabis use, and the presence of cannabis plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children (including schools, parks, and other similar locations).</p>
<p>SECTION I. Findings. The Board finds and declares the following:</p> <p>A. The adoption of this Ordinance is necessary and desirable to protect the public health, safety and environmental resources, ensure safe access to medical cannabis for patients, provide a regulatory path to permit an existing underground industry, foster a healthy, diverse and economically viable medical cannabis industry that contributes to the local economy, provide opportunity to help stabilize farm incomes, enhance enforcement methods for unpermitted and trespass cannabis cultivation, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.</p>	<p>(f) Health and Safety. Medical cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating</p> <p style="text-align: center;">1</p> <hr/> <p style="text-align: right;">Board of Supervisors, Dec 20, 2016</p> <p style="text-align: right;">Exhibit A-2 <i>Allowed Land Uses and Specific Use Standards</i></p> <p>dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.</p>





Greenhouse removal without a permit

Jesse cited them for having greenhouses. Jesse also stated that they needed a permit to remove them. They are gone so they need another violation.

Grading Violation

<p>Sec. 26-88-256.(f)(8) Biotic Resources. There shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained.</p>	N P O
<p>Sec. 26-88-256.(f)(12) Grading and Access. Cultivation sites shall be prohibited on natural slopes steeper than fifteen percent (15%), as defined by county code Chapter 11 Section 16-020, unless a use permit is obtained. Grading shall be subject to a grading permit in compliance with Chapter 11 of the county code.</p> <p><i>Sec. 11.04.010. - Construction grading permit requirements.</i></p> <p>A. Permit required. A construction grading permit shall be required prior to commencing any construction grading or related work, including preparatory land clearing, vegetation removal, or other ground disturbance, except where exempted from permit requirements by Subsection C. A separate construction grading permit shall be required for each site.</p>	N P G

Google Earth satellite images showing a timeline of their land grading and denuding

2016	Feb 20		No terraces, land untouched
2017	June 16		No grading permit filed Grading violation County issued VGR17-002
	Oct 10		Looks like some plants are in the ground
2018	Feb 14		Still no grading permit filed Shows new terraces, grading, and denuded lands with rows of cannabis planted
<p>September 2018 -- TODAY -- <i>They continued to remove more trees after their first violation. See proof below.</i></p>			



Lighting

Sec. 26-88-256.(f)(14) Lighting. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

<p>Inaccuracies in their permit application</p>	<p>Lighting Plan All lighting for the indoor cultivation area will be shown in the building plans. The indoor operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. The outdoor cultivation area will not apply any supplemental lighting.</p> <p>Security lighting will adhere to the guidelines where all lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night</p>
---	--

Below shows their security light shining on the back portion of our property. I don't maintain our backyard bushes in order to block this light.



Security camera directed onto neighboring properties

Sec. 26-88-256.(f) (f)(16) Security and Fencing. A Site Security Plan shall be required subject to review and approval by the Permit and Resource Management Department. All Site Security Plans shall be confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with capability to record activity but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Vide standard industry format to support criminal investigations. Motion-sensor lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and r cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing shall be consistent with the surround and shall not diminish the visual quality of the site or surrounding area.

<p>Inaccuracies in their permit application</p>	<p>General Perimeter Security Summary Security cameras will be motion-sensor and be installed with capability to record activity beneath the canopy but will <u>not be visible from surrounding parcels and will not be pointed at or recording activity on surrounding parcels.</u> Surveillance video will be kept for a minimum of 30 days. Video will use standard industry format to support criminal investigations. Motion-sensor lighting and alarms will be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites will be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing will be consistent with the surrounding area and will not diminish the visual quality of the site or surrounding area. Weapons and firearms at the cultivation site are prohibited by Misty Mountain Services, LLC. Security measures are designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation will have locking doors to prevent free access</p>
---	--

Below shows their security camera pointed in our direction into our backyard. It also captures their own backyard, but such cameras capture at 180 degrees, so they capture more than just a front narrow point of view.



I can see the camera from the end of the yellow line

Fencing is ugly and is 12' high, made with PVC pipes

Sec. 26-88-256.(f)(16) Security and Fencing. A Site Security Plan shall be required subject to review and approval by the Permit and Resource Management Department. All Site Security Plans shall be confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video shall use standard industry format to support criminal investigations. Motion-sensor lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area.

<p>Inaccuracies in their permit application</p>	<p>General Perimeter Security Summary All outdoor and mixed light cultivation sites will be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing will be consistent with the surrounding area and will not diminish the visual quality of the site or surrounding area.</p>
---	---

The fence is made with mesh and PVC pipes



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--

Daniel Hoffman
Assistant Planner



800 Hearst Avenue
Berkeley, California 94710
510-845-7549 | www.migcom.com

Daniel Hoffman

From: Traci Tesconi
Sent: Tuesday, September 11, 2018 2:22 PM
To: Scott Davidson; 'Daniel Hoffman'
Cc: Julia Smith
Subject: FW: #UPC18-0001 885 Montgomery Rd
Attachments: UPC18-0001 Letter Welcome.docx

Dear Scott and Daniel,

Please see letter of objection below for the file UPC18-0001.

Julia,

Please add the email below to the electronic project file and run a copy for the hard file.

Thank you,

Traci Tesconi
Project Review Section Manager

Permit SONOMA

2550 Ventura Avenue,
Santa Rosa, CA 95403
e-mail address: Traci.Tesconi@sonoma-county.org
(707) 565-1948 direct line
(707) 565-1103 fax

**OFFICE HOURS: PRMD's Public Lobby is open Monday through Friday
from 8:00 AM until 4:00 PM, except Wednesdays, open from 10:30 AM to 4:00 PM.**



From: Tennis Wick
Sent: Tuesday, September 11, 2018 12:23 PM
To: Marilyn Foster <mfoster363@aol.com>
Cc: Jennifer Barrett <Jennifer.Barrett@sonoma-county.org>; Traci Tesconi <Traci.Tesconi@sonoma-county.org>; Amy Lyle <Amy.Lyle@sonoma-county.org>; Sita Kuteira <Sita.Kuteira@sonoma-county.org>
Subject: Re: #UPC18-0001 885 Montgomery Rd

Thank you for your comments Ms. Foster. I appreciate your concern. Staff will consider them and present them to the Board of Zoning Adjustment.

Tennis Wick, AICP

Director

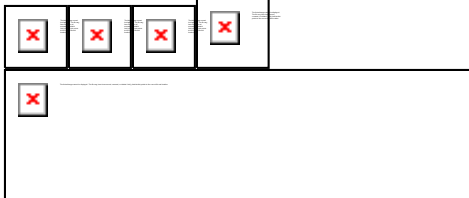
www.PermitSonoma.org

County of Sonoma

[2550 Ventura Avenue, Santa Rosa, CA 95403](http://2550.Ventura.Avenue.Santa.Rosa.CA.95403)

Direct: [707-565-1925](tel:707-565-1925) |

Office: [707-565-1900](tel:707-565-1900) | Fax: [707-565-1103](tel:707-565-1103)



Sent from my iPhone

On Sep 11, 2018, at 12:07, Marilyn Foster <mfoster363@aol.com> wrote:

Dear Sir:

I am objecting to the proposed cannabis cultivation at 885 Montgomery Road Permit UPC18-0001.

This property sits atop a hill on Montgomery Road. I am concerned about the increased water usage which has been severely

diminished with increased vineyards in the area. More concerning, is the run off from the proposed grow. There are several organic

farmers in the properties just below the property. Is there a plan proposed to collect the run off water and to clean it?

It has been brought to my attention that there are electrical and permit problems that already exist on this property. I am sure that

you will address and correct these problems before considering any permits for the grow.

Marilyn Foster

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Daniel Hoffman

From: Robert Guthrie
Sent: Tuesday, September 11, 2018 4:18 PM
To: Tim Ricard; Lynda Hopkins; Tennis.Wick@sonoma-county.org; Daniel Hoffman
Cc: Susan Upchurch
Subject: Shutdown of 885 Montgomery Rd cannabis business
Attachments: Tim Ricard - 885 Montgomery PRP complaint.pdf

Per Tim's request (and I widened the audience):

The report in the attached PDF file focuses on Misty Mountain Services, LLC's numerous violations at 885 Montgomery Rd that warrant removal from the PRP and an assessment of fines maximum allowed commensurate with the violations and county codes, including 100% shutdown of all indoor and outdoor operations.

1. **Falsifying the PRP application** by stating 38,484 sf of outdoor cultivation existed prior to July 5, 2017
2. **Falsifying their cannabis use permit application** by installing 2,550 sf of greenhouses
3. **Lying to a county supervisor** in attempt to hide both their violations and their true intent to follow county codes and the proper use of the land (see page 4)
4. **Violating the "no increase in cultivation area" rule** in Table 1 of the PRP application over multiple instances
 - o Summer 2017 - expanded their initial cultivation area after July 5, 2017
 - o Winter 2017 - expanded into two greenhouses (never documented in any application)
 - o Spring 2018 - expanded their cultivation area a second time
5. **Committing multiple instances of code violations** and repeating them even after Sonoma County cited
6. **Installing two greenhouses** without a permit
7. **Removing said greenhouses** without a permit
8. **Delinquency in submitting a hydrogeology report** past the June 1 application deadline; the submitted CUP application is incomplete without this hydrogeology report and is delaying further processing of the permit while the operator continues to cultivate without a permit
9. **Smoking cannabis on-property during company business hours**, which Eric Bell during the Aug 9 tour admitted that he would stop (which he hasn't)

I'm looking forward to hearing back from you. After hearing that "setbacks" changes will be pushed to Phase 2 of the cannabis ordinance changes, I became hopeful from learning the outcome of the Adobe Road lawsuit in that the parcel will be permanently banned from growing cannabis. Waiting for another 12-18 months to perhaps understand a potentially favorable setbacks ruling and then waiting for N months until our neighbor would actually comply with that ruling isn't an option for us. We hope that our neighbor at 885 Montgomery Rd will be 100% shutdown ASAP so we can actually enjoy living in our home.

Thanks for reading my report.
Robert

Daniel Hoffman

From: Traci Tesconi
Sent: Wednesday, September 12, 2018 3:09 PM
To: 'Scott Davidson'; Daniel Hoffman
Cc: Julia Smith
Subject: FW: Marijuana farm on Montgomery Road

See another objection letter below.

Julia - you know the drill.

Thank you,
Traci

-----Original Message-----

From: Tennis Wick
Sent: Wednesday, September 12, 2018 3:03 PM
To: Traci Tesconi <Traci.Tesconi@sonoma-county.org>; Tim Ricard <Tim.Ricard@sonoma-county.org>; Sita Kuteira <Sita.Kuteira@sonoma-county.org>; Amy Lyle <Amy.Lyle@sonoma-county.org>
Subject: FW: Marijuana farm on Montgomery Road

FYI

Tennis Wick, AICP
Director
www.PermitSonoma.org
County of Sonoma
2550 Ventura Avenue, Santa Rosa, CA 95403
Direct: 707-565-1925 |
Office: 707-565-1900 | Fax: 707-565-1103

-----Original Message-----

From:
Sent: Wednesday, September 12, 2018 10:12 AM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Subject: Marijuana farm on Montgomery Road

RE: 885 Montgomery Road, permit #UPC18-0001

We live on Rice Road. The unpleasant skunky odor from this unpermitted startup just up the hill from our home is only the beginning of our objections.

Decriminalization of marijuana use is a good thing, but it does not follow that commercial production of this product in our neighborhoods is reasonable.

Please don't allow this business to operate. Thanks for your attention.

Please keep my name confidential.

This email has been checked for viruses by AVG.

<https://www.avg.com>

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Daniel Hoffman

From: Traci Tesconi
Sent: Wednesday, September 12, 2018 2:36 PM
To: 'Scott Davidson'; Daniel Hoffman
Cc: Julia Smith
Subject: FW: please deny permit # UPC-18-0001

Scott,

Please see letter below.

Julia,

Please add letter to s drive and print a copy for the hard file.

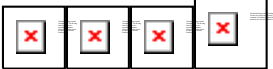
Sincerely,

Traci Tesconi
Project Review Section Manager

From: Tennis Wick
Sent: Wednesday, September 12, 2018 2:28 PM
To: Traci Tesconi <Traci.Tesconi@sonoma-county.org>; Tim Ricard <Tim.Ricard@sonoma-county.org>; Sita Kuteira <Sita.Kuteira@sonoma-county.org>; Amy Lyle <Amy.Lyle@sonoma-county.org>
Subject: Fwd: please deny permit # UPC-18-0001

FYI

Tennis Wick, AICP
Director
www.PermitSonoma.org
County of Sonoma
[2550 Ventura Avenue, Santa Rosa, CA 95403](http://2550.Ventura.Avenue.Santa.Rosa.CA.95403)
Direct: [707-565-1925](tel:707-565-1925) |
Office: [707-565-1900](tel:707-565-1900) | Fax: [707-565-1103](tel:707-565-1103)



Sent from my iPhone

Begin forwarded message:

From:

Date: September 12, 2018 at 13:48:51 PDT

To: "tennis.wick@sonoma-county.org" <tennis.wick@sonoma-county.org>

Subject: please deny permit # UPC-18-0001

Dear Tennis,

I'm writing in regards to the potential permit # UPC-18-0001. I am a neighbor to 885 Montgomery road, and am very disturbed to learn of their activities so close to my house.

There are quite a few reasons why I am against legitimizing their business, but the reason that jumps out the most is their claimed water usage of 50,000 gallons a month. Let's assume that this amount is even accurate, which I doubt, I can't believe an official would approve a business to use this much water when we are in the midst of a historical drought. All residents around this area are on wells sourcing from the same watershed, and our #1 point of stress is water running out. I now of at least 2 wells that have gone dry in this area, and it costs 20K+ for each attempt of drilling for a new well. What do you think happens when home values tank due to a depleted water source? They have been stealing water at this rete, and are not only not facing litigation and immediate shut down, but you are deliberating on making them a valid business? I know who to sue if my well goes dry now; my well level has gone down dramatically the last couple of years, and I have let all decorative vegetation die in face of the drought. I'm stressing over turning on my irrigation, and these selfish people are using that much a month?!?

Also, I am very concerned with the crime this will attract to the area. I have four kids in very close proximity to this place. I moved out of the city to avoid this sort of crap in my neighborhood.

My family objects to the cannabis cultivation business at 885 Montgomery road, permit # UPC-18-0001. I implore you to not only decline the permit, but inform authorities about their lack of permits, and illegal water usage. Honestly, I can't believe it's being considered after the level of scrutiny the residents here have faced from the Sonoma Water Resources Control Board.

Please keep my name and address confidential.

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From: [Tennis Wick](#)
To: [Sita Kuteira](#); [Tim Ricard](#); [Amy Lyle](#); [Jennifer Barrett](#)
Subject: Fwd: Cannabis cultivation
Date: Monday, September 24, 2018 6:10:06 PM

Tennis Wick, AICP

Director

www.PermitSonoma.org

County of Sonoma

[2550 Ventura Avenue, Santa Rosa, CA 95403](#)

Direct: [707-565-1925](tel:707-565-1925) |

Office: [707-565-1900](tel:707-565-1900) | Fax: [707-565-1103](tel:707-565-1103)



Permit Sonoma logo



Sent from my iPhone

Begin forwarded message:

From: Yvonne <ythielen@sonic.net>
Date: September 24, 2018 at 14:52:37 PDT
To: <Tennis.Wick@sonoma-county.org>
Subject: Cannabis cultivation

My family objects to the cannabis cultivation business at 885 Montgomery Rd. Sebastopol. Permit # UPC18-0001
Please keep my name confidential. Thank you very much.
Yvonne Thielen

Sent from my iPad

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Warning: If you don't know this email sender or the email is unexpected, do not click any web links, attachments, and never give out your user ID or password.

September 12, 2018 **UPDATED OCTOBER 9, 2018**

Introduction

This summary focuses on Misty Mountain Services, LLC's numerous violations at 885 Montgomery Rd that warrant removal from the PRP and an assessment of fines maximum allowed commensurate with the violations and county codes, including 100% shutdown of all indoor and outdoor operations.

- 1) **Falsifying the PRP application** by stating 38,484 sf of outdoor cultivation existed prior to July 5, 2017
- 2) **Falsifying their cannabis use permit application** by installing 2,550 sf of greenhouses
- 3) **Lying to a county supervisor** in attempt to hide their violations and their true intent to follow county codes and the proper use of the land (see page 4)
- 4) **Violating the "no increase in cultivation area" rule** in Table 1 of the PRP application over multiple instances
 - a) Summer 2017 - expanded their initial cultivation area after July 5, 2017
 - b) Winter 2017 - expanded into two greenhouses (never documented in any application)
 - c) Spring 2018 - expanded their cultivation area a second time
- 5) **Committing multiple instances of code violations** and repeating them even after Sonoma County cited
- 6) **Installing two greenhouses** without a permit
- 7) **Removing said greenhouses** without a permit
- 8) **Delinquency in submitting a hydrogeology report** past the June 1 application deadline; the submitted CUP application is incomplete without this hydrogeology report and is delaying further processing of the permit while the operator continues to cultivate without a permit
- 9) **Smoking cannabis on-property during company** business hours, which Eric Bell during the Aug 9 tour admitted that he would stop (which he hasn't)

Summary

Misty Mountain Services falsely documented their qualification for the Penalty Relief Program.

They stated they had 38,484 square feet of outdoor cultivation when in fact they did not start planting any cannabis in this area until after July 5, 2017. They secretly installed two greenhouses (2,550 total sf) in the winter, which were **not** included in their Sonoma County cannabis use permit application nor their PRP application. Then they expanded their cultivation **again** in the spring of 2018.

In addition to falsifying both their PRP application and their cannabis use permit application, they committed the following ordinance code violations *after* May 2017:

1. Sec. 26-88-256.(f)(8) Biotic Resources
2. Sec. 26-88-256.(f)(12) Grading and Access
3. Sec. 26-88-256.(f)(7) Building Requirements.

The following pages display a timeline of their outdoor cultivation expansion.

<p>June 2017</p>	<p>Misty Mountain Services illegally graded land and removed trees to begin their outdoor cultivation area -- no permit filed or granted</p> <p>From these actions, Misty Mountain Services committed ordinance code violations:</p> <ol style="list-style-type: none"> 1. Sec. 26-88-256.(f)(8) Biotic Resources 2. Sec. 26-88-256.(f)(12) Grading and Access <p>Sonoma County cited Misty Mountain Services with VGR17-0024</p>
<p>October 2017 to March 2018</p>	<p>Misty Mountain Services illegally built two new greenhouses -- no permit filed or granted, nor defined in their cannabis use permit application.</p> <p>From these actions, Misty Mountain Services committed ordinance code violations:</p> <ol style="list-style-type: none"> 3. Sec. 26-88-256.(f)(7) Building Requirements 4. Falsifying their cannabis use permit application 5. Falsifying their penalty relief program application <p>Sonoma County cited Misty Mountain Services for illegal greenhouse structures with VBU18-0324 and VBU18-0325</p>
<p>March to August 2018</p>	<p>Misty Mountain Services ignored Sonoma County's prior code violations and the PRP requirements and repeated their prior violations:</p> <ol style="list-style-type: none"> 1. Graded land 2. Removed trees 3. Planted new cannabis in a newly created expansion area

Oct 8, 2013



Google Earth -- the capture date is at bottom of photo

Download Google Earth desktop application to view the timeline yourself.

<https://www.google.com/earth/desktop/>

March 27, 2015



Google Earth

September 2016

(source: www.terraserver.com see page 18 for Web browser full-page source)

NO CANOPY



Photo date: **9/22/16**

This photo shows the trees and sloping hill, before the land was reshaped for future cannabis cultivation

May 18, 2017

(source: www.terraserver.com see page 18 for Web browser full-page source)

NO CANOPY



5/18/17: This photo shows the same scene as in the previous photo just 7 weeks before the crucial PRP deadline date of July 5, 2017.

Notice that step terraces are NOT present. This obviously **disproves cannabis operator Eric Bell's** statement on Aug 9, 2018, to Supervisor Lynda Hopkins and the group of neighbors on tour of his operation, when he said: "This [the terraces and grading] was already here."

Eric Bell lied to a county supervisor in attempt to hide his violations and his actual intent to follow county codes and the proper use of the land.

July 6, 2017 PRP CUT-OFF DATE

(source: www.terraserver.com see page 18 for Web browser full-page source)



7/6/17: This photo shows that the cultivation area is still in development after July 5, 2017.

New in this photo:

1. **Trees** were removed to accommodate cultivation area (without a permit)
2. **Land graded** (without a permit)
3. **Stepped terraces** replaced the smooth hillslope (without a permit)

From these actions, Misty Mountain Services committed ordinance code violations:

- **Sec. 26-88-256.(f)(8) Biotic Resources**
- **Sec. 26-88-256.(f)(12) Grading and Access**

These actions/violations are in support of a net-new cultivation area. This was not “pre-existing” before the Dec 20, 2016, cannabis ordinance implementation. This site/operator does not qualify for the Penalty Relief Program “coming out of the illegal market.” This is a new venture.

July 31, 2017 - CODE ENFORCEMENT VISIT + NOTES



Log #111; 07-31-17 site inspection with Steve Brown and Katie Clark and Brian---
outdoor grow on 1/4 acre 100 mature and 50 babies. Significant grading. Also
THARRING cargo container.

7/31/2017

7/13/17: New cannabis plants in the graded and terraced land

New in this photo:

1. Code enforcement documented new plants after the July 5, 2017 PRP deadline

Oct 2017

(source: www.terraserver.com see page 18 for Web browser full-page source)



10/28/17: This photo shows the new outdoor cultivation on a date near the end of the harvest.

New in this photo:

2. **Stepped terraces** are more pronounced/shaped
3. **Greenhouse #1** has been built in violation of **Sec. 26-88-256.(f)(7) Building Requirements**
4. **Cannabis** plants which contributed to the 'outdoor' taxes
5. **Shade** from trees cast over future canopy expansion area (these trees also were removed in 2018)

Feb 2018



Photo date: **2/14/18**

New in this photo

1. New fence which marks the boundary for their "Phase 2" cultivation area expansion
2. **Greenhouse #1** in final resting place
3. **Greenhouse #2** skeleton visible adjacent (north) to #1

GOOGLE EARTH PHOTO. You can see these yourself if you download the Google Earth desktop app

March 2018

(source: www.terraserver.com see page 18 for Web browser full-page source)



Photo date: **3/29/18**

New in this photo

1. **Greenhouse #2** has been finished in violation of **Sec. 26-88-256.(f)(7) Building Requirements**
 - a. **Code Enforcement cited violations VBU18-0324 and VBU18-0325 on Feb 27 inspection**

Spring 2018 - CODE ENFORCEMENT FILES



New in this photo

1. Clearer view of the new terraces I mentioned above
2. Continued utilization of the greenhouses even after being cited on Feb 27 for having them without a permit, nor mentioned in their permit application
3. Stumps from more trees removed since the last photo.

August 2018

ANOTHER EXPANSION

After April 1, 2018:

- 1) This area planted
- 2) All trees removed
- 3) Land graded



I don't have a recent satellite image yet, but clearly one can see this mid-2018 expansion by visiting the premises. Supervisor Lynda Hopkins, local neighbors, and I toured the property on August 9, 2018, and we witnessed the newly planted area and the items listed below

New in this photo:

1. **New cannabis** canopy expanded into the red outline
2. **All trees removed** within the red outline
3. **Land graded** within the red outline
4. **Greenhouse #1 and #2 removed** without a permit, though one of the structures is still present but uncovered

August 2018

(source: www.terraserver.com see page 18 for Web browser full-page source)

More trees removed since March 2018



Photo date: 7/21/18

New in this photo:

1. **New cannabis** canopy expanded into new section below the dirt road
2. **More trees removed** along the dirt road
3. **Greenhouse #1 removed** without a permit

Before & After

May 2017 (and basically as of the PRP cut-off of 7/5/17) from Google Earth



Spring 2018 during Permit Sonoma's visit



SOURCES from www.terraserver.com with their source and photo date

9/22/16

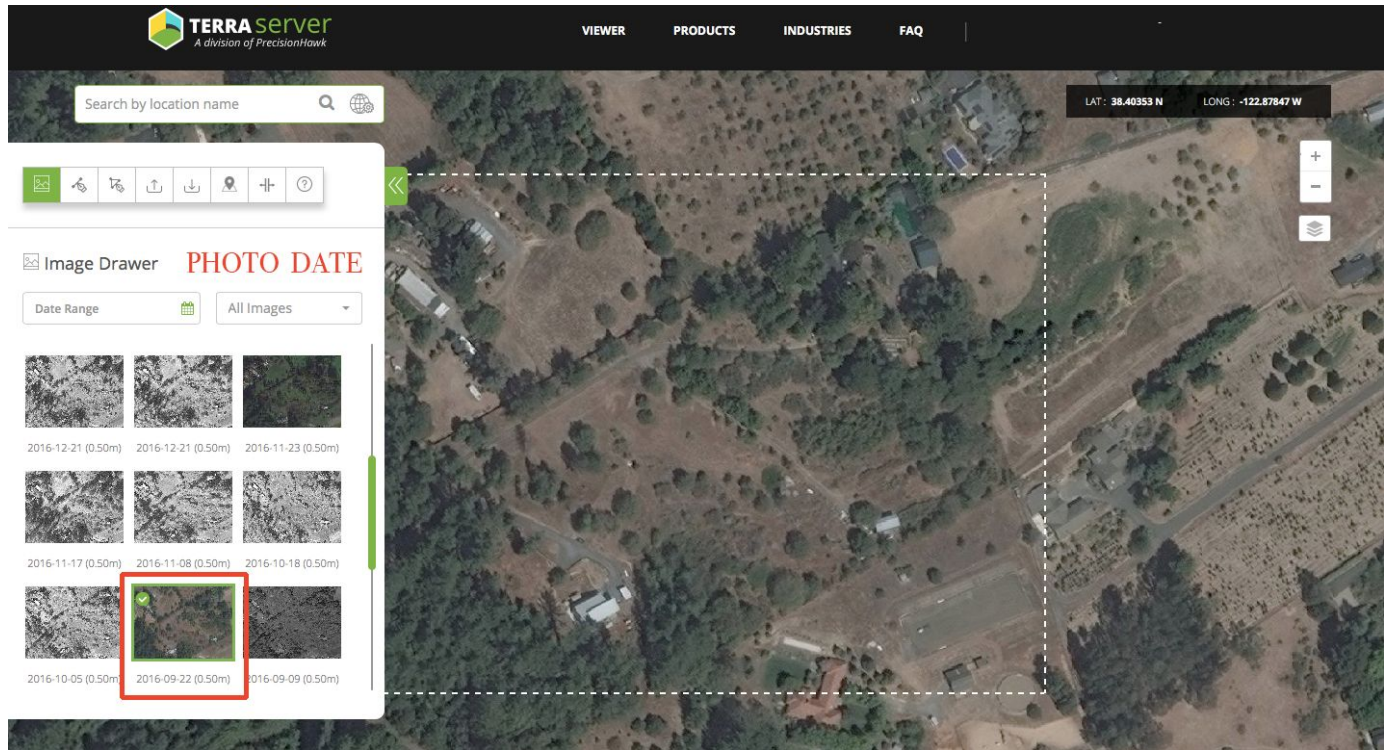


Image source: <https://www.terraserver.com/>

5/18/17

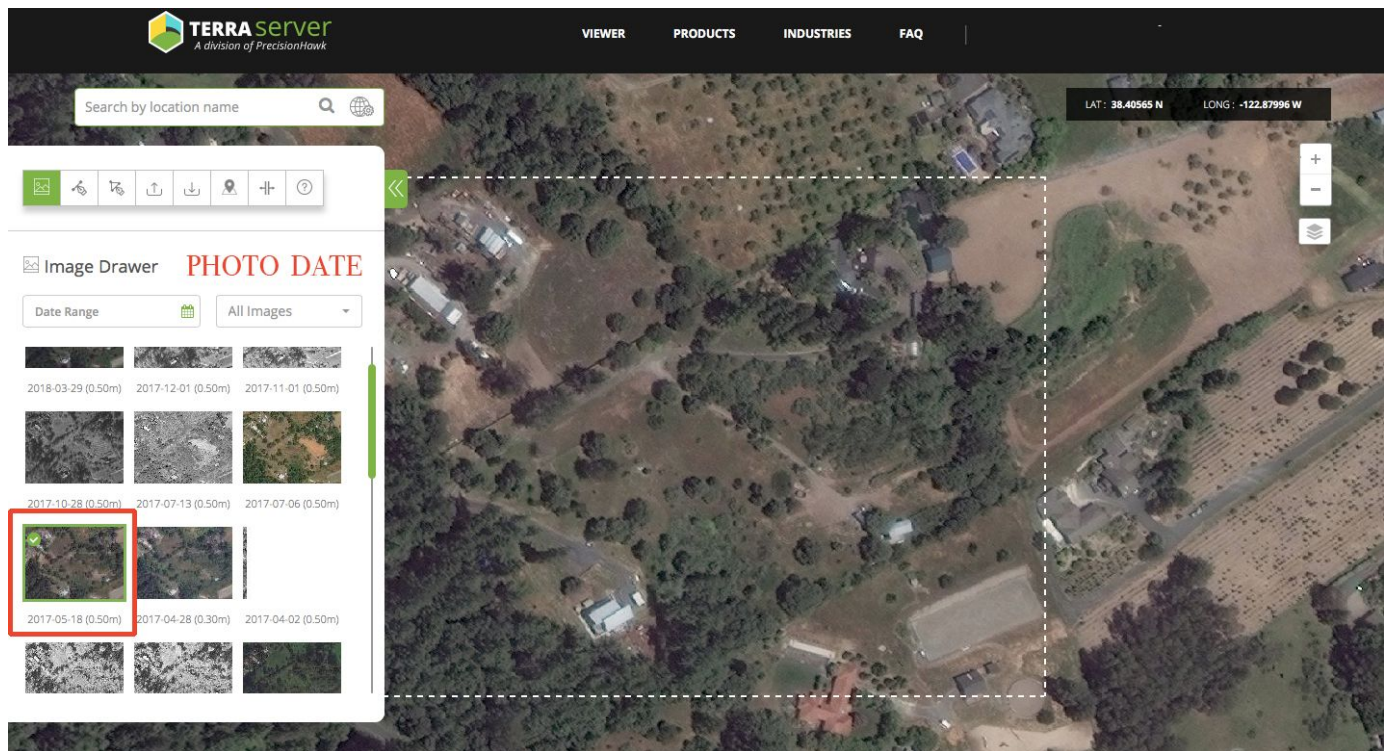


Image source: <https://www.terraserver.com/>

Timeline of Outdoor Cultivation in Violation of the Penalty Relief Program

7/6/17

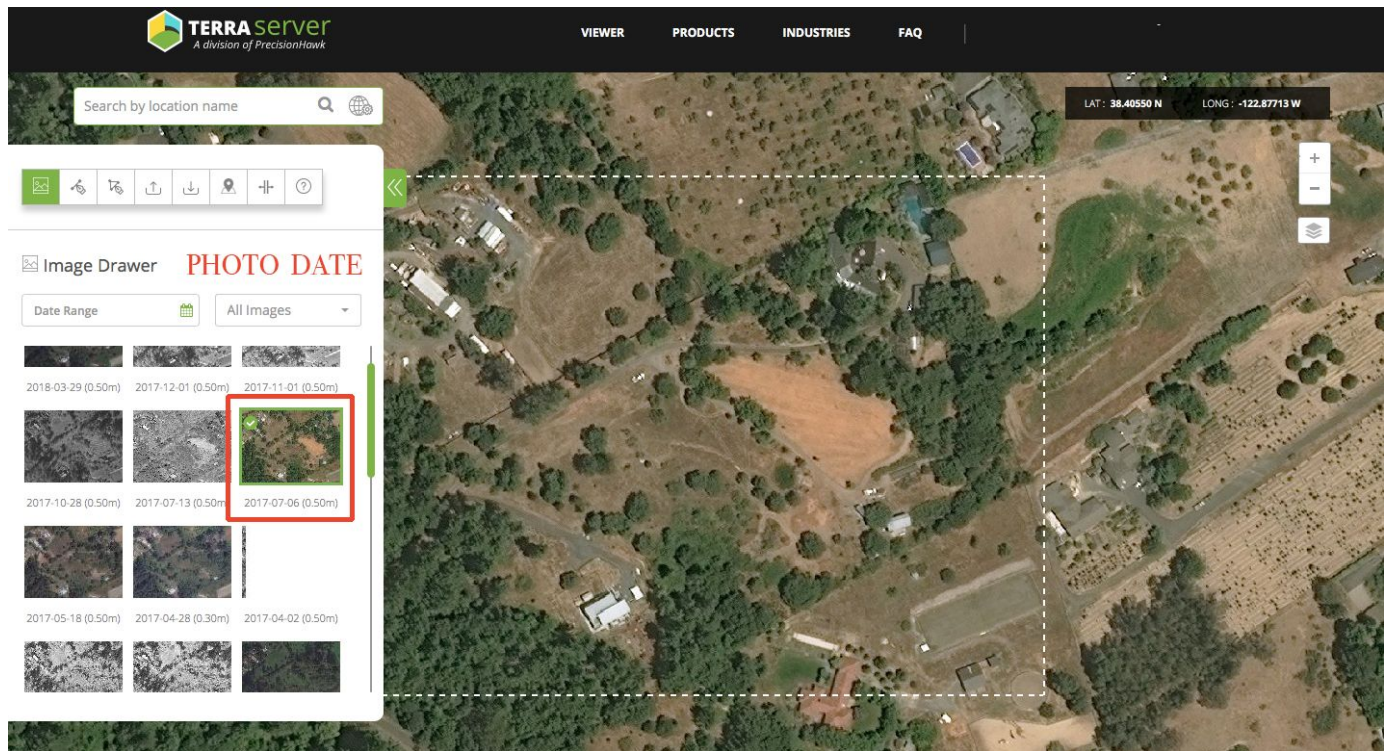


Image source: <https://www.terraserver.com/>

10/28/17

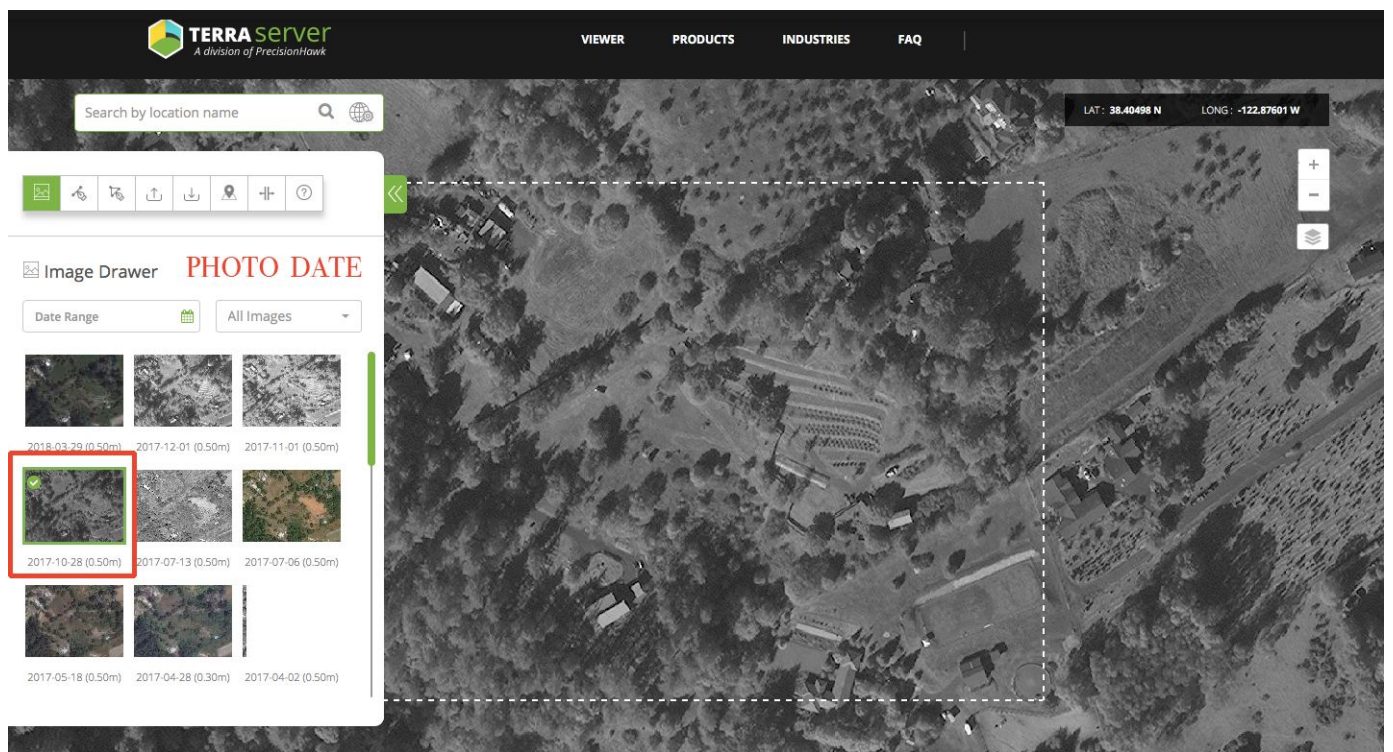


Image source: <https://www.terraserver.com/>

2/14/18



Image source: <https://www.google.com/earth/>

3/29/18

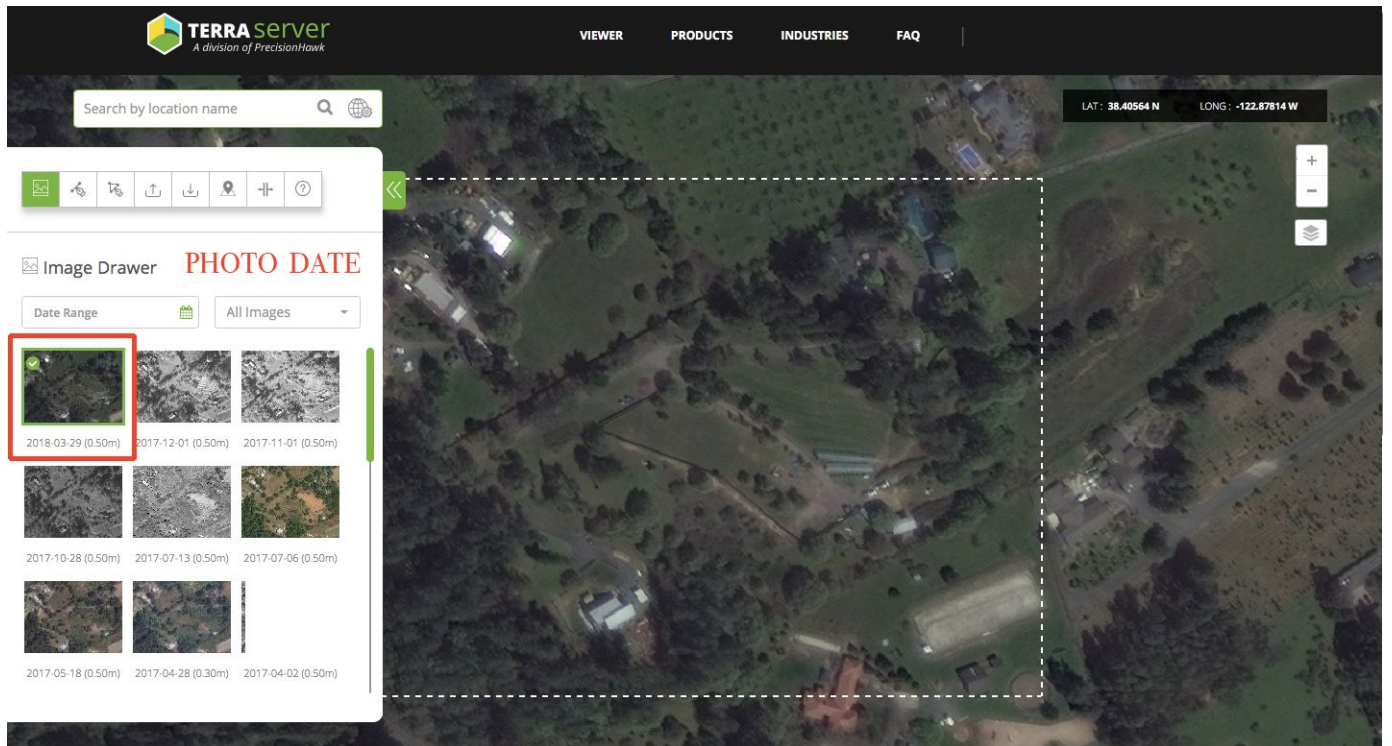


Image source: <https://www.terraserver.com/>

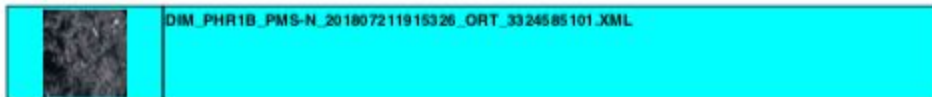
Spring
2018



Source: Permit Sonoma (via MIG)

7/21/18

Work Order : SO18025356-4 (3324585101)
 Volume : SO18025356
 Product ID : DS_PHR1B_201807211915014_FR1_PX_W123N38_0219_00553
 Product code : PLEIADES
 Date : 2018-09-24 16:13:37.106
 Page : 2 / 3



Product Id
 ROI type
 Acquisition date
 Platform
 Acquisition Mode
 Spectral Processing
 Processing Level

Product Parameters

DS_PHR1B_201807211915014_FR1_PX_W123N38_0219_00553
 FULL_STRIP
 2018-07-21 19:15:32.6
 PHR 1B
 PX
 PA+XS_N
 ORTHO

Number bands
 Bands id
 Solar irradiance (watt/m2/micron)

Band information

3		
B2	B1	B0
1547.8	1835.6	1912.0

Orientation
 Global incidence
 Across/Along the track incidence
 Solar azimuth
 Solar elevation

Incidences and orientation

start	middle	end
180.0425612889108	180.0789631357452	180.1031682519249
19.98287079929952	20.03063947003678	20.07847567646481
11.85300019944472 /	11.90636922139169 /	11.95965374234017 /
14.01859603539257	14.03201661274889	14.04552254278393
136.2970642323285	136.2564244353244	136.2156757459807
67.53783548074934	67.55661454870467	67.57538209780964

Source: Airbus Satellite images

Cannabis use permit application

Page 1

No mention of greenhouses

Misty Mountain Services, LLC

Sonoma County Conditional Use Permit Application

Cannabis Permit Types
Type 1A Specialty Indoor
Type 2 Medium Outdoor

Name: Misty Mountain Services, LLC
APN: 077-130-095
Address: 885 Montgomery Rd. Sebastopol, CA
Zoning: DA B6 20 Z, RC100/50
GWA: Zone 2 - Major natural recharge
Lot Size: 10 acres
General Plan Designation: West Sebastopol Specific Plan

Conditional Use Permit Application (PJR-123)

- **Specialty Indoor** (Type 1A state license): **2,961 square feet**
- **Medium Outdoor** (Type 2 state license): **38,484 square feet**

Page 4

Falsehood on application
 They certainly did remove trees

There is no intent to remove trees on the land as related to proposed cannabis project.

Page 5

Falsehood on application
 They certainly did grading and step terracing

Proposed structures

There are no new proposed structures.

There is no proposed grading for cannabis cultivation development of property.

Excerpt from the Stormwater and Erosion Plan: "The elevation ranges from a maximum elevation of 412 feet above sea level at the northern property line near the developed residences, to a minimum of 263 feet above sea level in the southwest corner of the parcel where the driveway meets Montgomery Road. The slope of the parcel ranges from a minimum of approximately 5% near the proposed cultivation area, to approximately 20% at the steepest portion of the hill to the south of the residences and driveway, as measured by hand-held clinometer (Figure 2)."

Timeline of Outdoor Cultivation in Violation of the Penalty Relief Program

A copy of Misty Mountain Services' penalty relief program application

Penalty Relief Application Form

Type of Cannabis Operation (i.e. cultivation, manufacturing, distribution, etc.): Cultivation

Permit Eligible Location? Yes No

Date of application submittal (if applicable): N/A

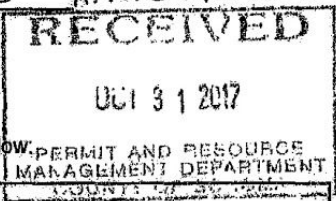
Permit Number (if applicable): N/A

Location (Site Address and Parcel Number): 885 Montgomery Rd APN: 077-130-095

Zoning: DA

Indicate start date of the operation: May 2016

Indicate the total existing square footage of each type of cultivation in the table below.



Indoor	Outdoor	Mixed Light
2,961	38,484	

Initial Below:

EB I certify that the operation is in compliance with the Land Use Ordinance Operating standards.

EB I certify that the operation is in compliance with the Land Use Ordinance Development Criteria.

EB I certify that the operation is in compliance with the Cannabis Best Management Practices.

EB I understand that I am responsible to pay taxes as required in the Cannabis Business Tax ordinance.

EB I understand that providing false or misleading information in this Application or at any time during the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.

EB I affirm I am the authorized owner, operator, or sole proprietor of the cannabis business at the location listed above.

EB I affirm that I am the property owner of the cannabis business location listed above; OR

EB I affirm that I am authorized by the property owner to operate a cannabis business at the location listed above.

Print Operator/Applicant Name Below:

I, Eric Bell declare under penalty of perjury that the information provided on this application is true and correct to the best of my knowledge.

I, Eric Bell authorize entry by the agency having jurisdiction and its contractors onto any and all areas where the cannabis operation is occurring under this application at all reasonable times to determine whether I am in compliance with the above-listed requirements.

Operator Contact Information (email and phone): eric@misty mountain-ca.com (707) 230-3671

Eric R. Bell
Operator/Applicant Signature

10/31/17
Date



Sonoma County Permit and Resource Management Department
2550 Ventura Avenue Santa Rosa CA 95403-2859 (707) 565-1900
www.PermitsSonoma.org

From: [Robert Guthrie](#)
To: [Tim Ricard](#); [Lynda Hopkins](#); [Tennis Wick](#); [Daniel Hoffman](#)
Subject: Re: Shutdown of 885 Montgomery Rd cannabis business
Date: Thursday, October 18, 2018 3:15:09 PM
Attachments: [image003.png](#)
[image.png](#)
[image.png](#)
[image.png](#)
[image003.png](#)

Hi, Tim et al

I'm following-up to see if we're closer to a resolution. You mentioned that a team would **measure their canopy**. Has this occurred?

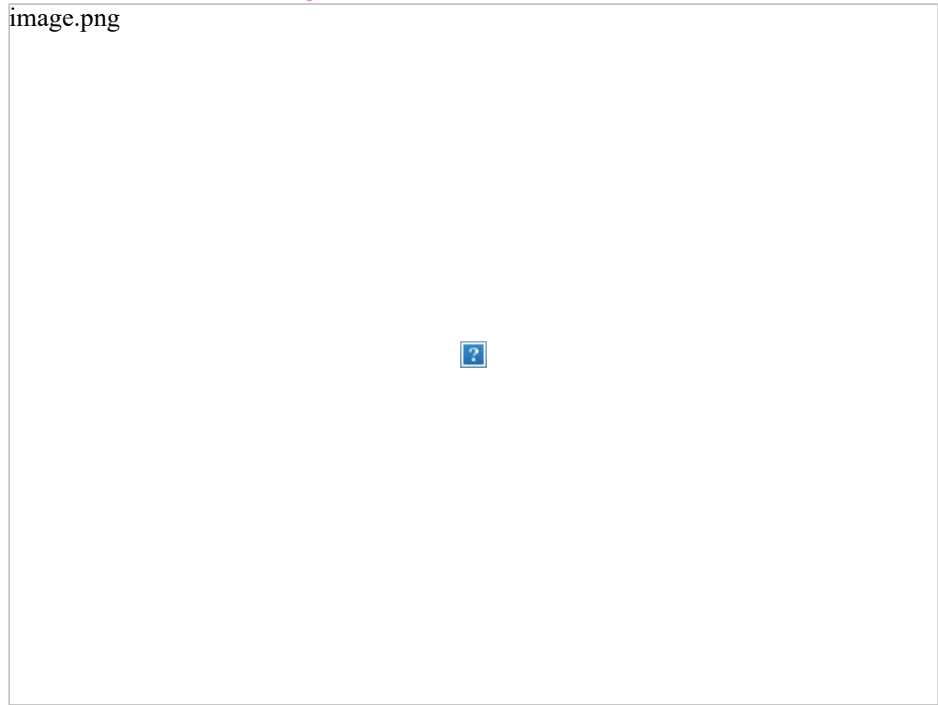
Also, I attached one more image. It's from 9/10 and I used TerraServer's online application to plot the two canopies. I didn't go wild with borders from what I could tell and it seems they could be ~5,300 sq ft larger than that of their application claim. I'm sure some margin of error is inherent, but a 14% margin of error?



The plot mapping is mostly accurate. Here's my attempt to map the combined 13.41 acres of 077-130-095 and 077-130-096 through the various tree lines with 10% margin of error, but at 13 times more coverage than what I plotted with the canopies.



Here's the unlabeled image



On Thu, Oct 11, 2018 at 4:18 PM Robert Guthrie <robert.guthrie@gmail.com> wrote:
+Lynda
Thanks, Tim.
Please keep in mind that I submitted this report 30 days ago.

Let me know if you need help validating the satellite images. I can meet you and counsel or anyone to demonstrate how I retrieved them. Page 18 also shows how I retrieved them from Google Earth Desktop, TerraServer, and LandInfo.com Airbus.

Robert

From: Tim Ricard <tim.ricard@sonoma-county.org>
Sent: Thursday, October 11, 2018 14:38
To: 'Robert Guthrie'
Subject: RE: Shutdown of 885 Montgomery Rd cannabis business

Robert,

I wanted to circle back and thank you for sending this information. As discussed on Tuesday evening I am reviewing the evidence with County Counsel. To date we have had a two extensive conversations and we are working on determining the appropriate action. We are hoping to have more information to discuss with you early next week.

Thank you for your patience.

Tim



TIM RICARD | CANNABIS PROGRAM MANAGER

WWW.SONOMAEDB.ORG

From: Robert Guthrie <robert.guthrie@gmail.com>
Sent: Tuesday, October 9, 2018 10:51 PM
To: Tim Ricard <Tim.Ricard@sonoma-county.org>; Lynda Hopkins <Lynda.Hopkins@sonoma-county.org>; Tennis Wick <Tennis.Wick@sonoma-county.org>; Daniel Hoffman <dhoffman@migcom.com>; Tyra Harrington <Tyra.Harrington@sonoma-county.org>
Cc: Susan Upchurch <Susan.Upchurch@sonoma-county.org>; Grace Barresi <gbarresi@gmail.com>; jbarnum@meca.edu; louisa@magenta.fm; Bernadette Goldstein <bernadettegoldstein@yahoo.com>; jljones796@gmail.com; mfooster363@aol.com; lagalea@att.net; foremma@hotmail.com; Richard Conger <rc@silverballranch.com>; andimcoll@comcast.net; Greg Koss <greg@gregkoss.com>; Blake Everett <beverett1126@gmail.com>; peterlange1@comcast.net; Caroline Koss <caroline@gregkoss.com>; edwallin@yahoo.com; Val <pinball@sonic.net>
Subject: Re: Shutdown of 885 Montgomery Rd cannabis business

Misty Mountain Services **never belonged in the Penalty Relief Program in the first place**

Hi, Tim, Daniel, Tyra, Tennis, and Supervisor Hopkins...and our neighbors + 5 neighbors in the bcc list

Tim called me tonight stating there is no reason to remove Misty Mountain Services, LLC. from the cannabis Penalty Relief Program after visiting the site with Tyra.

We absolutely do not accept this decision -- they do not belong in the PRP, period...ever....have never qualified. They falsified their way into the program, and abused it while under its "protection".

PLEASE RE-READ MY ATTACHMENT since I added new photos. I have given you overwhelmingly irrefutable **EVIDENCE**, such as:

1. Misty Mountain Services **in 2017** graded and terraced the land without a permit and created a brand new outdoor cultivation area
2. They **did not** have 38,484 sq ft of cultivation in 2016 or before the July 5, 2017 deadline as a condition of the PRP program; it was bare, denuded land for a new cultivation site after 7/5/17
***** DISQUALIFICATION FROM PRP *****
3. **In 2018** they **AGAIN** expanded their outdoor cultivation area -- crossing that dirt road Tim walked down yesterday (that grow area is new this year...look at the satellite images) ***** DISQUALIFICATION FROM PRP *****
4. And what about the un-permitted greenhouses (new structure, expansion)?! ***** DISQUALIFICATION FROM PRP *****

PLEASE COMPARE THE SATELLITE IMAGES IN MY REPORT.

Please take my evidence to County counsel as Tim mentioned tonight he committed to do.

Step 1: remove them from the PRP

Step 2: bring their permit to its required public hearing

Step 3: shut down the cannabis business at 885 Montgomery Rd and permanently ban any cannabis operation from ever occurring on it -- it doesn't belong in between 7 houses

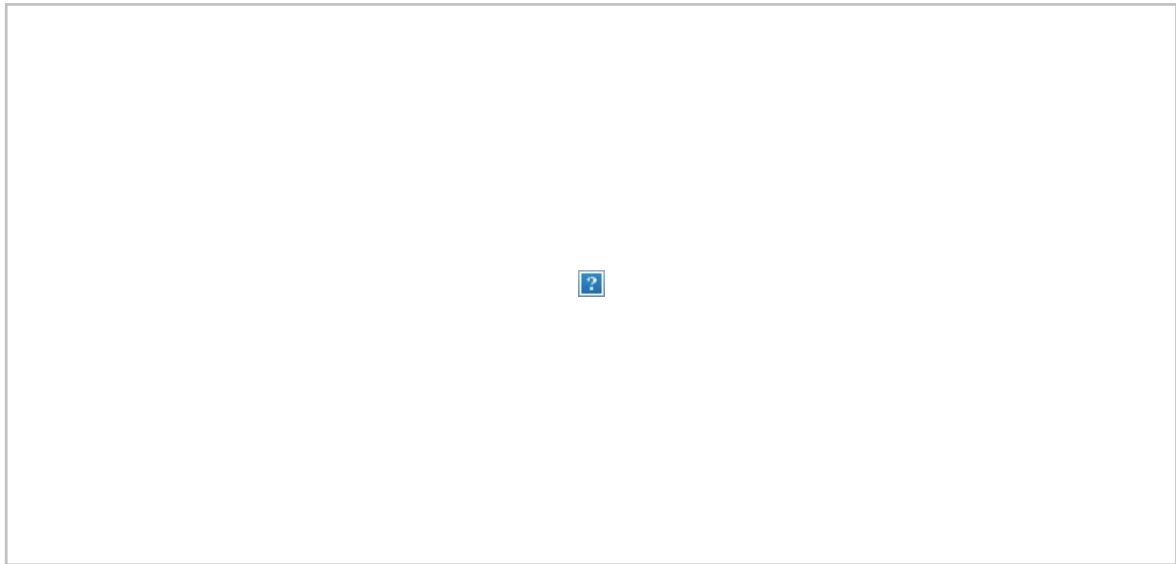
Thanks for focusing your time on our concerns,

Robert and Grace

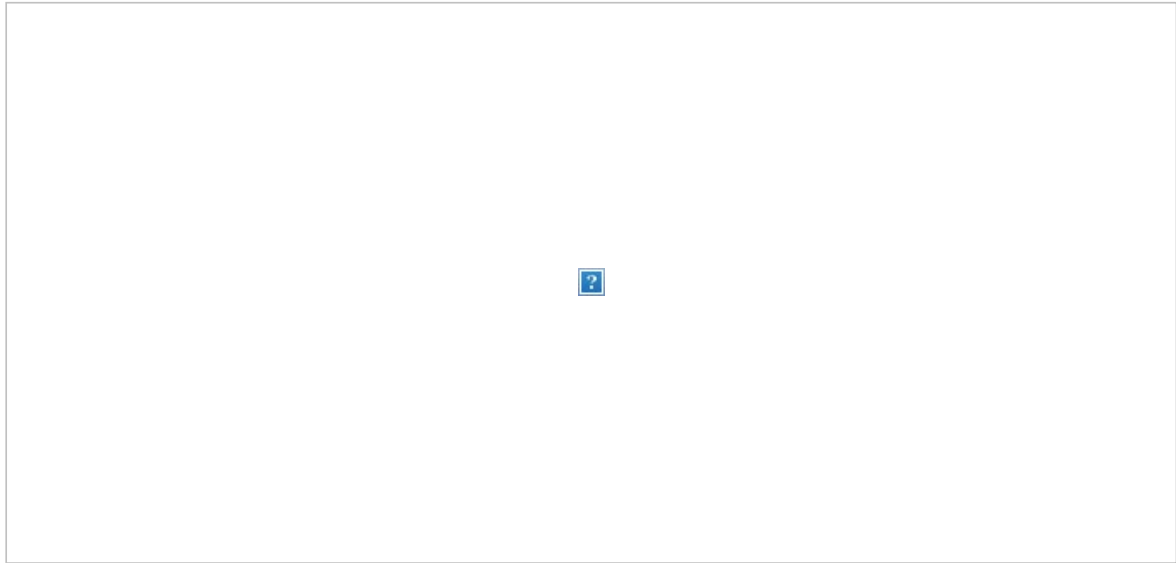
And the many neighbors who are fed up with this business in our neighborhood. We are all between 0 and 1,300 feet away from their cannabis. The odor, our safety, our property value, water consumption, environmental impact, and their noise are our concerns.

Sample of my report -- Before & After

May 2017 no PRP-qualified canopy, no 2016 canopy, no terraces(photo credit: Google Maps)



Spring 2018 Greenhouses, terraces, and those trees along the dirt road were cut down after this photo was taken. Photo credit: Permit Sonoma / MIG files



On Tue, Sep 11, 2018 at 4:18 PM Robert Guthrie <robert.guthrie@gmail.com> wrote:

Per Tim's request (and I widened the audience):

The report in the attached PDF file focuses on Misty Mountain Services, LLC's numerous violations at 885 Montgomery Rd that warrant removal from the PRP and an assessment of fines maximum allowed commensurate with the violations and county codes, including 100% shutdown of all indoor and outdoor operations.

1. **Falsifying the PRP application** by stating 38,484 sf of outdoor cultivation existed prior to July 5, 2017
2. **Falsifying their cannabis use permit application** by installing 2,550 sf of greenhouses
3. **Lying to a county supervisor** in attempt to hide both their violations and their true intent to follow

county codes and the proper use of the land (see page 4)

4. **Violating the “no increase in cultivation area”** rule in Table 1 of the PRP application over multiple instances
 - Summer 2017 - expanded their initial cultivation area after July 5, 2017
 - Winter 2017 - expanded into two greenhouses (never documented in any application)
 - Spring 2018 - expanded their cultivation area a second time
5. **Committing multiple instances of code violations** and repeating them even after Sonoma County cited
6. **Installing two greenhouses** without a permit
7. **Removing said greenhouses** without a permit
8. **Delinquency in submitting a hydrogeology report** past the June 1 application deadline; the submitted CUP application is incomplete without this hydrogeology report and is delaying further processing of the permit while the operator continues to cultivate without a permit
9. **Smoking cannabis on-property during company business hours**, which Eric Bell during the Aug 9 tour admitted that he would stop (which he hasn't)

I'm looking forward to hearing back from you. After hearing that "setbacks" changes will be pushed to Phase 2 of the cannabis ordinance changes, I became hopeful from learning the outcome of the Adobe Road lawsuit in that the parcel will be permanently banned from growing cannabis. Waiting for another 12-18 months to perhaps understand a potentially favorable setbacks ruling and then waiting for N months until our neighbor would actually comply with that ruling isn't an option for us. We hope that our neighbor at 885 Montgomery Rd will be 100% shutdown ASAP so we can actually enjoy living in our home.

Thanks for reading my report.

Robert

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Warning: If you don't know this email sender or the email is unexpected, **do not** click any web links, attachments, and **never** give out your user ID or password.



Everett Louie <elouie@migcom.com>

Fwd: FW: Cannabis

Scott Davidson <scottd@migcom.com>
To: Everett Louie <elouie@migcom.com>

Thu, Oct 25, 2018 at 2:02 PM

FYI & the file.

Scott Davidson
Director of Contract Planning Services



800 Hearst Avenue
Berkeley, California 94710
510-845-7549 | www.migcom.com

----- Forwarded message -----

From: **Tennis Wick** <Tennis.Wick@sonoma-county.org>
Date: Thu, Oct 25, 2018 at 12:59 PM
Subject: FW: Cannabis
To: Jennifer Barrett <Jennifer.Barrett@sonoma-county.org>, Traci Tesconi <Traci.Tesconi@sonoma-county.org>, Scott Davidson <scottd@migcom.com>

FYI

Tennis Wick, AICP
Director
www.PermitSonoma.org
County of Sonoma
2550 Ventura Avenue, Santa Rosa, CA 95403
Direct: 707-565-1925 |
Office: 707-565-1900 | Fax: 707-565-1103

-----Original Message-----

From: Jack Jones [mailto:jvmrjones@comcast.net]
Sent: Sunday, October 21, 2018 4:56 PM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Subject: Cannabis

Confidential

Dear Mr. Wick,

It has come to our attention that there is a large illegal cannabis growing operation in our neighborhood at [885 Montgomery Rd](#) in west Sebastopol. We understand they use 50,000 gallons of our precious groundwater every month. As you know our aquifer contains a finite water supply at insufficient recharge rates. There are other negative issues such as the terrible smell and potential crime it can cause.

We need your help with this serious quality of life issue.

Sincerely,
Jack & Marilyn Jones

10/25/2018

MIG, Inc. Mail - Fwd: FW: Cannabis

1361 Ferguson Rd

Sent from my iPhone

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Everett Louie <elouie@migcom.com>

Fwd: FW: Montgomery Road UPC18-0001

Scott Davidson <scottd@migcom.com>
To: Everett Louie <elouie@migcom.com>

Thu, Oct 25, 2018 at 2:01 PM

FYI & the file.

Scott Davidson
Director of Contract Planning Services



800 Hearst Avenue
Berkeley, California 94710
510-845-7549 | www.migcom.com

----- Forwarded message -----

From: **Tennis Wick** <Tennis.Wick@sonoma-county.org>
Date: Thu, Oct 25, 2018 at 1:00 PM
Subject: FW: Montgomery Road UPC18-0001
To: Jennifer Barrett <Jennifer.Barrett@sonoma-county.org>, Traci Tesconi <Traci.Tesconi@sonoma-county.org>, Scott Davidson <scottd@migcom.com>

FYI

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Director
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2550 Ventura Avenue, Santa Rosa, CA 95403
Direct: 707-565-1925 |
Office: 707-565-1900 | Fax: 707-565-1103

-----Original Message-----

From: Chris Stover & Lorraine Bazan [mailto:trilby@att.net]
Sent: Monday, October 22, 2018 8:08 AM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Cc: Lynda Hopkins <Lynda.Hopkins@sonoma-county.org>
Subject: Montgomery Road UPC18-0001

Dear Mr. Wick,

We are writing in objection to the cannabis operation at 885 Montgomery Road permit UPC18-0001. This operation is located not far (1/3 mile) from our neighborhood. This large-scale growing project is not appropriate to be operated in the midst of residential neighborhoods.

This type of operation has numerous negative aspects to nearby neighbors: smell, water usage, the potential for crime, and harming property values.

Supervisors so far have not given sufficient credence to the increasing number of county residents who express concern with potential crime associate with cannabis operations. It is important to keep in mind that while the economy is now fairly good with healthy employment, this can always change, as it has historically. When the economy turns down,

people are laid off, social benefits may be cut, lives are disrupted, and crimes such as robbery rise significantly.

This nature of the economic cycle means that county residents currently have a much more realistic assessment of future safety risks than county government officials who seem to be in a rush to grant cannabis use permits under ever more lax standards.

Permit Sonoma must recognize that cannabis operations should not be located in places that put them in overly close proximity to nearby residents. This impacts property values and resident's perception of family safety. We are asking you to insure that these types of detrimental effects are not placed on the backs of county residents.

We urge you to recognize that this is not an appropriate cannabis operation to be granted a use permit.

Sincerely,

Chris Stover and Lorraine Bazan
[1357 Ferguson Road](#)
Sebastopol, CA

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Everett Louie <elouie@migcom.com>

Fwd: FW: cannabis

Scott Davidson <scottd@migcom.com>
To: Everett Louie <elouie@migcom.com>

Thu, Oct 25, 2018 at 2:09 PM

FYI and the file. - Can you pull together a summary of the number of people we've received comments from and what the primary issues are? Thanks.

Scott Davidson
Director of Contract Planning Services



800 Hearst Avenue
Berkeley, California 94710
510-845-7549 | www.migcom.com

----- Forwarded message -----

From: **Tennis Wick** <Tennis.Wick@sonoma-county.org>

Date: Thu, Oct 25, 2018 at 12:01 PM

Subject: FW: cannabis

To: Jennifer Barrett <Jennifer.Barrett@sonoma-county.org>, Traci Tesconi <Traci.Tesconi@sonoma-county.org>, Scott Davidson <scottd@migcom.com>

FYI

Tennis Wick, AICP

Director

www.PermitSonoma.org

County of Sonoma

2550 Ventura Avenue, Santa Rosa, CA 95403

Direct: 707-565-1925 |

Office: 707-565-1900 | Fax: 707-565-1103



From:
Sent: Thursday, October 25, 2018 8:20 AM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Subject: cannabis

My family strongly objects to the cannabis growing business at 885 Montgomery Rd. PLEASE deny permit #UPC18-0001.

Why would Sonoma County allow this business in a facility that lacks permits for the dwelling and electrical work. I know I would not be allowed to build like that on my property nor would I want to. This operation endangers all surrounding neighbors.

We have lived on Ferguson Rd for 38 years. Now we have to put up with skunk like odors from this neighbor? Not fair at all!

PLEASE STOP THIS PERMIT...

Ferguson Rd

Sebastopol

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Everett Louie <elouie@migcom.com>

Fwd: FW: No place for commercial grows this close to families

Scott Davidson <scottd@migcom.com>
To: Everett Louie <elouie@migcom.com>

Thu, Oct 25, 2018 at 2:08 PM

FYI and the file.

Scott Davidson
Director of Contract Planning Services



800 Hearst Avenue
Berkeley, California 94710
510-845-7549 | www.migcom.com

----- Forwarded message -----

From: **Tennis Wick** <Tennis.Wick@sonoma-county.org>
Date: Thu, Oct 25, 2018 at 12:04 PM
Subject: FW: No place for commercial grows this close to families
To: Jennifer Barrett <Jennifer.Barrett@sonoma-county.org>, Traci Tesconi <Traci.Tesconi@sonoma-county.org>, Scott Davidson <scottd@migcom.com>

FYI

Tennis Wick, AICP

Director

www.PermitSonoma.org

County of Sonoma

[2550 Ventura Avenue, Santa Rosa, CA 95403](http://2550.Ventura.Avenue.Santa.Rosa.CA.95403)

Direct: 707-565-1925 |

Office: 707-565-1900 | Fax: 707-565-1103



From:**Sent:** Thursday, October 25, 2018 12:01 PM**To:** Tennis Wick <Tennis.Wick@sonoma-county.org>; robert95472@gmail.com**Subject:** No place for commercial grows this close to families

Hello,

My family objects to the cannabis cultivation business at 855 Montgomery Rd, permit # UPC18-0001.

Commercial grows need to be on commercially sustainable lands; not in the middle of a dense residential area.

I have no problem with people using cannabis, but since the laws have changed it has become arguably slanted in favor of big business, which in my opinion most often are usually only concerned with a bottom line profit; not the health and safety of their operation, products and neighbors.

This is Sebastopol! We're better than this!

If the people truly matter, then they must be heard.

Please give this matter your utmost serious consideration.

Please keep my name confidential.

Thank you for your time,

Virus-free. www.avg.com



Everett Louie <elouie@migcom.com>

Fwd: FW: Cannabis farm on Ferguson Road

Scott Davidson <scottd@migcom.com>
To: Everett Louie <elouie@migcom.com>

Thu, Oct 25, 2018 at 1:57 PM

FYI & the file.

Scott Davidson
Director of Contract Planning Services



800 Hearst Avenue
Berkeley, California 94710
510-845-7549 | www.migcom.com

----- Forwarded message -----

From: **Tennis Wick** <Tennis.Wick@sonoma-county.org>
Date: Thu, Oct 25, 2018 at 1:04 PM
Subject: FW: Cannabis farm on Ferguson Road
To: Jennifer Barrett <Jennifer.Barrett@sonoma-county.org>, Traci Tesconi <Traci.Tesconi@sonoma-county.org>, Scott Davidson <scottd@migcom.com>

FYI

Tennis Wick, AICP
Director
www.PermitSonoma.org
County of Sonoma
2550 Ventura Avenue, Santa Rosa, CA 95403
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Office: 707-565-1900 | Fax: 707-565-1103

-----Original Message-----

From: Nancy Tantarelli [mailto:nlt5757@aol.com]
Sent: Monday, October 22, 2018 10:20 AM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Subject: Cannabis farm on Ferguson Road

My family objects to the cannabis cultivation business at 885 Montgomery Rd permit #UPC18-0001. Please keep my name confidential.

Sent from my iPhone

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From: [Traci Tesconi](#)
To: ["Scott Davidson"](#)
Cc: [Julia Smith](#)
Subject: FW: No on permit#UPC18-0001
Date: Thursday, November 8, 2018 4:38:23 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)

See objection letter below for the file.

Traci

From: Tennis Wick
Sent: Thursday, November 08, 2018 4:36 PM
To: 'Jan Flores'
Cc: Jennifer Barrett ; Amy Lyle ; Tim Ricard ; Sita Kuteira ; Traci Tesconi
Subject: RE: No on permit#UPC18-0001

Thank you.

Tennis Wick, AICP

Director

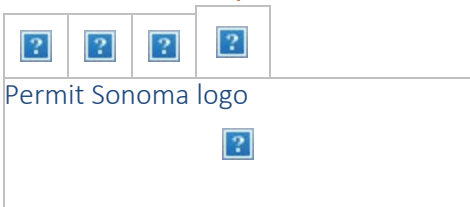
www.PermitSonoma.org

County of Sonoma

2550 Ventura Avenue, Santa Rosa, CA 95403

Direct: 707-565-1925 |

Office: 707-565-1900 | Fax: 707-565-1103



From:
Sent: Monday, November 05, 2018 11:34 AM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Subject: No on permit#UPC18-0001

To Tennis Wick

Permit Sonoma Manager

I have no objection to marijuana use. But I seriously object to the possible cannabis **cultivation** business at 885 Montgomery Road, Sebastopol, CA.(Permit #: UPC18-0001).

In addition to the smell, a possible home invasion route to the harvested marijuana up Ferguson Road, where we live, the thought of them pumping 50,000 gallons of water **per month** from their wells, is going to have an extremely negative effect on our water table. We are all on wells in this particular area of Ferguson Road, and the cost of drilling a new well is prohibitive.

Please do not approve this permit to grow acres of marijuana in an area comprised of families.

Please keep my name confidential.

Thank you for your consideration.

Ferguson Road

Sebastopol, CA 95472

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From: [Traci Tesconi](#)
To: [Scott Davidson](#); [Elizabeth Tyler](#)
Cc: [Kyreen Gonzalez](#); [Lucia Fincher](#)
Subject: FW: Concern regarding Cannabis operation on Montgomery Road, Sebastopol UPC18-0001
Date: Wednesday, February 13, 2019 11:37:59 AM
Attachments: [UPC18-0001 Letter Welcome.pdf](#)

See comment letter below for UPC18-0001. Please add to the project file.

Traci

From: Tennis Wick
Sent: Tuesday, February 12, 2019 9:02 PM
To: Singing Frogs Farm
Cc: Mi Amore ; Melody Richitelli ; Traci Tesconi
Subject: Re: Concern regarding Cannabis operation on Montgomery Road, Sebastopol
Thanks for your comments. We will include them in our analysis and report to the planning commission.

Tennis Wick, AICP

Director

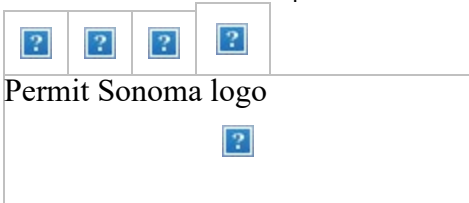
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County of Sonoma

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Office: [707-565-1900](tel:707-565-1900) | Fax: [707-565-1103](tel:707-565-1103)



Sent from my iPhone

On Feb 12, 2019, at 20:55, Singing Frogs Farm <info@singingfrogsfarm.com> wrote:

Dear Mr. Wick,

We own and operate Singing Frogs Farm. We provide vegetables for over 300 Sonoma County families via our CSA (Community Supported Agriculture) program as well as farmers' markets in a county where vegetable farms are dwindling in comparison to vineyards and now Cannabis.

We are in the neighborhood of a sizable commercial cannabis operation that we're told is seeking approval to expand on property at 885 Montgomery Rd, Sebastopol [Permit #UPC18-0001; APN #077-130-095]. We're also told that this operation is planning on extracting up to **50,000 gals** of ground water per month from our water table.

If this information is correct, we find it very, very disturbing! As a farm that relies on our aquifer water for irrigation, you can see why we might be concerned.

Additionally, you will recall that less than two years ago (during another drought year) all of the rural residents in our West Sebastopol area bordering the

Atascadero Creek drainage were asked to report on and restrict our ground water usage to preserve the flow in the Creek for fish habitat. This property on Montgomery Rd feeds directly into this same ground water aquifer that we all use for our residential wells (some wells in our vicinity have already gone dry). With all the vineyards already in our area pumping ground water, I can't believe that the County would approve still another operation that would consume this much water per month! **Please, please do not approve this amount of additional water consumption!** Now is the time to change the direction in which we are heading re/ commercial cannabis operations and water usage in our rural West County area. Let's keep the creeks flowing!

Thank you for your consideration.

Sincerely,

Elizabeth and Paul Kaiser

Farmers Elizabeth & Paul Kaiser
Singing Frogs Farm
1301 Ferguson Rd
Sebastopol, CA 95472

(707) 829-1389

info@singingfrogsfarm.com

www.singingfrogsfarm.com

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From: Tennis Wick <Tennis.Wick@sonoma-county.org>
Date: February 24, 2019 at 10:15:58 PST
To: Charlene Stone <charlenestone99@yahoo.com>
Subject: Re: UPC18-0001

Thank you Ms. Stone.

Staff will take your recommendation and points into consideration and include your letter in the planning commission report.

Tennis Wick, AICP

Director

www.PermitSonoma.org

County of Sonoma

[2550 Ventura Avenue, Santa Rosa, CA 95403](http://2550.Ventura.Avenue.Santa.Rosa.CA.95403)

Direct: [707-565-1925](tel:707-565-1925) |

Office: [707-565-1900](tel:707-565-1900) | Fax: [707-565-1103](tel:707-565-1103)



Sent from my iPhone

On Feb 24, 2019, at 08:42, Charlene Stone <charlenestone99@yahoo.com> wrote:

Feb 24, 2019

Dear Mr. Wick,

Please deny the conditional use permit application, **UPC18-0001**, 885 Montgomery Road. This commercial cannabis business **does not** belong in the middle of a residential neighborhood and is a nuisance to the neighbors who surround it.

Over the last 18 months, I have gotten to know Grace and Robert Guthrie, residents of Sonoma County, who have found themselves unlucky to live adjacent to 885 Montgomery Road, where a commercial cannabis business is currently operating.

This cannabis business sits on a 10-acre, DA zoned parcel, smack in the middle of small acreage RR/AR and DA zoned properties.

Grace and Robert have worked with the County to raise awareness of the unintended consequences of this business in their densely populated, rural residential neighborhood. They have provided you with real-life examples at Board meetings, in private meetings and via email communication demonstrating how they are unable to enjoy their property or their home. They cannot open their windows. If they do, a pungent odor invades their home and living

space and lingers. If outdoor for 30 minutes, nausea and headache set in.

A New York Times reporter found their story so compelling when

he visited their home last Fall that he wrote an article that featured the Guthrie's, highlighting these issues.

They also live in fear of an armed conflict because this business sits right on their property line. They worry about their well drying up because of the intensive water usage associated with cannabis cultivation.

Personally, I cannot stomach the smell of cannabis. I worry about crime, fire hazards, even more folks driving while stoned. My family and I are third generation Sonoma county people. I find it reprehensible what is happening to many of the rural citizens who I've gotten to know because of this ill-conceived ordinance.

The current ordinance states:

The Sonoma County Cannabis Ordinance states in the Health and Safety Section 26-88-250(f): "***Commercial cannabis activity shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes***".

I believe this cannabis business has created a public nuisance. Please deny this Conditional Use Permit Application, **UPC18-0001**.

Thank you,
Charlene Stone

West Sonoma County Resident

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From: Rachel Zierdt [mailto:rzierdt@gmail.com]
Sent: Sunday, February 24, 2019 4:34 PM
To: Tennis Wick <Tennis.Wick@sonoma-county.org>
Cc: Scott Davidson <scotttd@migcom.com>; Traci Tesconi <Traci.Tesconi@sonoma-county.org>
Subject: Re:

Thank you! I am concerned that previous correspondence about this grow was not placed in the file when it was last checked. This is not acceptable. I am hoping that this will be there so that my concerns are noted. I did send it to both MIG's as well as all Supervisors. This whole process.....mainly the PRP....has been a mess.
Rachel Zierdt

On Sun, Feb 24, 2019 at 2:52 PM Tennis Wick <Tennis.Wick@sonoma-county.org> wrote:

Thank you Ms. Zierdt.

I will forward to staff and place this communication in the planning commission staff report.

Tennis Wick, AICP

Director

www.PermitSonoma.org

County of Sonoma

2550 Ventura Avenue, Santa Rosa, CA 95403

Direct: [707-565-1925](tel:707-565-1925) |

Office: [707-565-1900](tel:707-565-1900) | Fax: [707-565-1103](tel:707-565-1103)

Sent from my iPhone

On Feb 24, 2019, at 12:35, Rachel Zierdt <rzierdt@gmail.com> wrote:

Dear County of Sonoma Staffer,

I am writing to challenge the cannabis grow permit application at [885 Montgomery Rd, Sebastopol](#). It is alarming to me that this permit is still active and that the growers have been allowed to continue their practices that are harming both the neighbors and the actual environs. Despite multiple visits by county official and blatant disregard for the ordinance provision, this grow continues. It is only with the denial of this CUP that an end can be put on this nightmare.

This property is completely surrounded by small parcels where the odor and noise intrusion have been allowed to continue and completely destroy the livability of the neighbors. Neighbors cannot enjoy their outdoors due to the obnoxious odors and noise caused by workers and attack dogs.

Illegal grading, while evident, has been ignored by the county staff. When the PRP ends, the land will still be destroyed.

The indoor grow has been allowed in a shed that has no setbacks from the property line.

There are additional concerns about water useage and wells perhaps being sucked dry.

Honestly, how many more violations need to pointed out before violation heavy grow is stopped. What happened to the three strikes in the ordinance?

I strongly urge the denial of UPC18-0001

-

Rachel Zierdt

West County resident

-

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From: [Traci Tesconi](#)
To: "Rachel Zierdt"; [Milan Nevajda](#)
Cc: [Tennis Wick](#); [Milan Nevajda](#); "Everett Louie"; [Scott Orr](#); [Scott Davidson](#); [Kyreen Gonzalez](#)
Subject: RE: Notifications on UPC 18-0001
Date: Thursday, June 06, 2019 1:47:30 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
Importance: High

Dear Rachel, 6-6-2019

Thank you for your introduction and message. To respond:

First, and foremost, your name and email address has been included in the mailing list for the project filed under UPC18-0001 at 885 Montgomery Rd. To date, this project has not be set for a hearing. However, you will be notified in the mail when a hearing is set. If for any reason you want the email address to remain confidential, please alert Permit Sonoma with a reply back. Typically, any form of correspondence is considered a public record.

Secondly, the County of Sonoma on their website has a page dedicated to **Cannabis** information for the general public.

Please see links below from the County's Cannabis page for a schedule for upcoming public hearings.

<https://sonomacounty.ca.gov/Cannabis/Scheduled-for-Hearing/>

You can also find it by clicking the "Scheduled for Hearing" link in the left navigation of the main County cannabis program page: <https://sonomacounty.ca.gov/Cannabis-Program/>

Please inform any interested parties or your neighbors of this information.

I hope the foregoing has been helpful. If you have any questions please contact me.

Sincerely,

Traci Tesconi
Project Review Section Manager

Permit SONOMA
2550 Ventura Avenue,
Santa Rosa, CA 95403
e-mail address: Traci.Tesconi@sonoma-county.org
(707) 565-1948 direct line
(707) 565-1103 fax

OFFICE HOURS: PRMD's Public Lobby is open Monday through Friday

from 8:00 AM until 4:00 PM, except Wednesdays, open from 10:30 AM to 4:00 PM.



From: Rachel Zierdt [mailto:rzierdt@gmail.com]

Sent: Saturday, June 01, 2019 6:35 PM

To: Milan Nevajda <Milan.Nevajda@sonoma-county.org>; Traci Tesconi <Traci.Tesconi@sonoma-county.org>

Subject: Notifications on UPS 18-0001

Hello,

Let me introduce myself. I am Rachel Zierdt and I live in District 5 on Coffee Lane. I have been very active in educating my neighbors in West County as to what is going on with the cannabis ordinance and how it applies to neighborhoods.

I am interested in knowing how the county is making the decision as to which permits will have hearings first and once the hearing is decided, how can we, the public, not just immediate neighbors, find out when and where these hearings will take place.

In the past, it just seems to me that the hearing process was quite limited and that the public was not in the know as to when these proceedings will take place.

I have a request in knowing about a hearing at a grow at 885 Montgomery and have some doubt whether the request is on the books and whether my request will be honored. You are in the position to see if that is so.

Also of concern is the need to actually contact the county about each and every hearing. It is exhausting and frustrating. Is there not a place on the county website where this information could be accessed by the public at large? This would certainly be easier on the county staff and easier access by the public.

Many thanks,
Rachel Zierdt

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Everett Louie <elouie@migcom.com>

For entering into the records for UPC18-0037, UPC17-0065, UPC17-0012, UPC17-0085, UPC17-0082, UPC18-0001, UPC17-0089, UPC18-0015, UPC17-0071, UPC17-0037, UPC18-0021, UPC17-0095, UPC17-0041

Deborah Eppstein <deppstein@gmail.com>
To: Everett Louie <elouie@migcom.com>, Scott Davidson <scott@d@migcom.com>
Cc: Milan Nevajda <Milan.Nevajda@sonoma-county.org>

Sat, Aug 31, 2019 at 1:29 PM

Dear Scott and Everett,

We were informed that we needed to submit this information directly to the planners to ensure ti was entered into the file records. Accordingly, please enter the attached document (PRP summary of ongoing violations July 12, 2019), which was previously submitted to the County Administrator’s Office, into the formal records for the following PRP projects:

- 2260 Los Alamos Road, UPC18-0037**
- 3803 Matanzas Creek Lane UPC17-0065**
- 2211 London Ranch Road, UPC17-0012**
- 4050 Grange Road, Santa Rosa (UPC17-0085)**
- 4065 Grange Road, Santa Rosa (UPC17-0082)**
- 885 Montgomery Road, UPC 18-0001**
- 7955 St Helena Road, UPC 17-0089**
- 8373 Singing Hills Trail (2870 Leslie Rd), UPC18-0015**
- 2815 Leslie Rd UPC17-0071**
- 6101/6105 Cleland Ranch Road; UPC17-0037**
- 3815 Calistoga Road; UPC18-0021**
- 3215 Middle Two Rock Road, Petaluma, UPC 17-0095**
- 2000 Los Alamos Road, UPC 17-0041**

As summarized in the attached document, in addition to the numerous violations, the above applicants also provided false or misleading information in their application to the county, which according to the PRP application they signed, requires that their application be removed from further consideration. All of these applicants were not in compliance with the Land Use Development Criteria and/or Operating Standards and/or Cannabis Business Tax Ordinance, and thus provided false information to the county when they stated under penalty of perjury that they were in compliance. They also provided false information to the state to obtain their state license. The following is what the applicant certified in their application to the county:

I certify that the operation is in compliance with the Land Use Ordinance Operating standards.

I certify that the operation is in compliance with the Land Use Ordinance Development Criteria.

I certify that the operation is in compliance with the Cannabis Best Management Practices.

I understand that I am responsible to pay taxes as required in the Cannabis Business Tax ordinance.

I understand that providing false or misleading information in this Application or at any time during the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.

I, declare under penalty of perjury that the information provided on this application is true and correct to the best of my knowledge.

Thus, when their public hearing comes up, the above applications should be not only denied but are required to be removed from further consideration. I trust that you, as the planner, will include this in your write up that Permit Sonoma sends to the BZA before the public hearing. If you do not agree with the foregoing and that the above statements signed by the applicant constitute false or misleading information, can you please let me know and if so, the reason?

Thanks,
Debby

Deborah Eppstein
801-556-5004

 **PRP summary of ongoing violations July 12, 2019 PDF.pdf**
230K

**Penalty Relief Program Summary
Requirements, Ongoing Violations, and Required Actions
July 11, 2019**

This summary was prepared with input from Sonoma County residents impacted by these violations

I. Introduction

The **Temporary Penalty Relief Program (PRP)** was established by the Sonoma County Board of Supervisors (BOS) on May 23, 2017 (Resolution 17-0233), *“as an incentive to bring unpermitted cannabis operations, operating under the Transition Period or in permit-eligible locations, into compliance for the purposes of addressing potential health and safety issues,”* and extended and modified on September 12, 2017 (Resolution 17-0319) *“to allow sufficient time for unpermitted cannabis operations located in permit-eligible locations to comply with the Medical Cannabis Land Use Ordinance,”* and to *“enhance cannabis tax revenue.”*

Some relevant points from the BOS resolutions:

1. The temporary PRP expires June 1, 2018 (no new applications).
2. The PRP does not apply to building, well, grading, septic or other violations on the property. Operations *“must still meet all applicable codes currently in effect, pay all other permit and development fees, and complete all required inspections prior to a waiver of penalties being granted.”* (Resolution 17-0233, #12, and 17-0319, #3). Thus there can be no unpermitted electrical or no operations in unpermitted buildings for penalty relief to be granted.
3. The property must be on a Permit-Eligible Location as defined in the Cannabis Ordinance.
4. If an operator was on a Non-Permit Eligible Location (eg, if they were too close to a park or school or in Rural or Agricultural Residential), they had to cease all operations after Jan 1, 2018 [Resolution 17-0319, #10(a)].
5. Operators on Permit-Eligible Locations could operate under the PRP (ie, with no cannabis land-use fines) **only** if they **followed all Cannabis Ordinance Development Criteria and Operating Standards**, the Ag Commissioner’s Cannabis **Best Management Practices**, the Cannabis Business **Tax Ordinance**, submitted the initial PRP application by Oct 31, 2017, and **filed a Complete Application by June 1, 2018** (defined as having all the Required Application Materials in the application) [Resolution 17-0319, #10(b)].
6. The initial one-page PRP application required the applicant to *“declare under penalty of perjury”* that the information provided on the application is true and correct; this included **following all Development Criteria, Operating Standards and Best Management Practices**. The Required Application Materials and the Complete Application form state in bold all caps: **‘APPLICANTS PROVIDING FALSE OR MISLEADING INFORMATION IN THE PERMITTING PROCESS WILL RESULT IN REJECTION OF THE APPLICATION AND/OR NULLIFICATION OR REVOCATION OF ANY ISSUED PERMIT.’** The County has not enforced this critical provision.
7. In addition, the PRP shall not apply if the review authority determines that the land use poses a serious risk to the environment, public health or safety. (Resolution 17-0319, #11).

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II. Ongoing Violations

Despite these clearly stated rules, there are multiple examples of PRP applications where the County, under the direction of Economic Development with support of County Counsel, has blatantly refused to follow the rules enacted by the BOS. Some of these include:

- 1. 2260 Los Alamos Road, UPC18-0037.** The following items have been presented to the county on numerous occasions over the past year, with full documentation, but nothing has been done to terminate this application:
 - a. Incomplete application as of June 1, 2018. The County gave applicant an extension (already violating terms of the PRP Resolutions) until July 29, 2018, to provide the 10 missing documents, but the applicant submitted nothing. PRMD issued a Cease and Desist letter on July 31, 2018, but Sita Kuteira (County Counsel) intervened when the applicant filed for an appeal hearing and determined that since two of his missing items, the hydro-geo report and water monitoring easement, were not needed (despite him being in water zone 4) due to his stated use only of surface water, she over-ruled the Cease and Desist letter, ignoring the other 8 required missing items in violation of the PRP Resolution requiring removal from the PRP.
 - b. Violation of Development Criteria, and Perjury on PRP application as well the application for the state license by applicant stating he was in compliance with all Development Criteria, as follows:
 - (i) Violation of Development Criterion 26-88-254(f)(3). Applicant cultivated in excess of the 43,560 sf on his application, with 46,900 sf in 2017 by satellite photo (650 plants counted), and 64,000 sf in 2018 (800 plants counted). Although Ag measured his cultivation area as 35,203 ft in 2017, this measurement was not in agreement with the criteria in the Cannabis Ordinance which clearly state that the cultivation area is the 'outermost perimeter of each separate and discrete area of cultivation'; we confirmed with the state that each separate and discrete area would need to have been shown as such on the initial site map. The applicant did not request re-measurement in 2018, and despite documentation provided to the County that his cultivation area increased to almost 1.5 acres, no new measurements were made. Thus in addition to violation of cultivation area limits and no increase in cultivation area, the applicant also underpaid taxes by a significant amount in both 2017 and 2018, depriving the county of revenues - and in violation of the PRP for underpaying the cannabis tax.

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- (ii) Violation of Development Criterion 26-88-254(f)(6). Cultivation site is visible from public right-of-way, Los Alamos Road entry into Hood Mt Park (photos provided). It is again visible in 2019.
 - (iii) Violation of Development Criterion 26-88-254(f)(10). Applicant built an unpermitted building in fall of 2018 including grading, trenching, and electrical in violation of not only County codes, the PRP, and the Cannabis Ordinance, but also his application (see c and d below).
 - (iv) Violation of Development Criterion 26-88-254(f)(12). Illegal tree removal, starting in 2015, and confirmed (satellite photos) after Dec 20, 2016 as specifically prohibited in the Cannabis Ordinance.
 - (v) Violation of Development Criterion 26-88-254(f)(15). Applicant is likely in violation of the Williamson Act due to size of non-ag cannabis operations (see below under d).
 - (vi) Violation of Development Criterion 26-88-254(f)(16), as applicant did not seek or obtain a fire operational permit as required. Los Alamos Road, a 5+ mile dead-end road, one-lane for the upper mile, and does not meet County or State standards for new development in the State Responsibility Area.
- c. Violation of both his application and the PRP resolution concerning unpermitted buildings. Applicant stated in his application that he would not undertake any grading, building or any activity requiring permits unless he had the required permits, yet he built a 3000 sf processing facility in fall of 2018 (also not where shown on his site map). It was only after we provided aerial photo evidence of this that PRMD checked it for safety of wiring, but did not yet assess any fines, and he was not removed from the PRP as he should have been according to the PRP Resolutions. The PRP Resolutions clearly state that applicants cannot have penalty relief if they violate these requirements (see I(2) above). Applicant should have been fined the full land use penalty as he violated many Development Criteria in violation of the PRP yet applicant has been granted penalty relief for the 2 prior years and is continuing now into his 3rd year.
- d. Furthermore, the applicant is subject to the **Williamson Act (WA)**. His phase-out will be completed Dec 31, 2022, so he was under the WA Contract when he submitted his PRP application in 2017 and will continue through 2022. Cannabis cultivation is only allowed as a compatible use 'if allowed by the underlying zoning', and he cannot place more than 5 acres in non-ag or non-preserve use. Measurements on his site map and Google Earth show far more than 5 acres for the cannabis

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operations, show that his bee hives and vineyard have been removed, and show only ~6 acres that could be used for grazing, with most of the 40 acres covered by thick forest. Thus he appears to be in violation of the Williamson Act and also in violation of 26-88-254(f)(15), concerning abiding by the *'Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, including provisions governing the type and extent of compatible uses listed'*.

Furthermore, as RRD was not zoned for cannabis cultivation until Jan 1, 2017, he was been in violation of the Williamson Act since he started cultivating cannabis, at least for 2015-16, possibly 2 years earlier (satellite photo images). The Penalty Relief Program does not forgive violation of the WA contract. His reduced county property tax at least for 2015-16 was obtained under false information, cheating the county out of its tax revenue. Falsification of tax status is criminal.

(e) Both applicant and the County (Tim Ricard) provided false and misleading information to the state to obtain a temporary state license by stating that this application was in compliance with all Sonoma County regulations.

2. 3803 Matanzas Creek Lane UPC17-0065

(a) This property was not on a permit eligible parcel in 2017 when it entered the PRP as it did not meet park setback requirements [26-88-254(f)(6)]. According to the September 12, 2017 PRP Resolution, it was not allowed to cultivate past January 1, 2018 (point I(4) above). The county was notified of this parcel ineligibility on March 3, 2018 and numerous later occasions. On March 6, 2018, Amy Lyle agreed that "the property lies within 1,000 ft of a park and is not eligible for outdoor/mixed light cultivation," and copied this conclusion to PRMD Director Tennis Wick and Supervisor Susan Gorin. Despite this conclusion and PRMD's issuance of

1. Notice of Failure to Meet Penalty Relief Program Requirements on July 31, 2018 for, among other things, a failure to submit a complete application by June 1, 2018, and
2. Notice & Order—Unlawful Commercial Medical Cannabis Use letter by PRMD on September 10, 2018 (VCM 17-0503),

Sita Kuteira allowed the applicants to continue operating through harvest in 2018, and to continue operating in 2019. This was again brought to the attention of Bruce Goldstein on May 7, 2019 and Sheryl Bratton on May 28, 2019, yet nothing has been done. Mr. Goldstein has confirmed that he supports Ms Kuteira 100%. Although the Cannabis Ordinance was amended on Nov 15, 2018, to allow applicants on parcels at least 10 acres to apply for a park setback variance which *'may be reduced with a use permit'*, no cultivation under such allowance of a variance could occur until the CUP is issued.

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(b) Both applicant and the County (Tim Ricard) provided false and misleading information to the state to obtain a temporary state license by stating that this application was in compliance with all Sonoma County regulations.

3. 2211 London Ranch Road, UPC17-0012

(a) This property was permit ineligible in 2017 when it applied to the PRP as it did not meet park setback requirements [26-88-254(f)(6)]. Thus the outdoor and mixed light cultivation should have ceased after January 1, 2018. The applicant strongly lobbied for the park variance option amendment, which was adopted on Nov 15, 2018, along with the 10-acre parcel minimum.

(b) Thus this parcel became additionally non-permit eligible as it is ~7 acres, below the 10 acre minimum parcel size requirement approved on Nov 15, 2018. This application could not have been a pipeline project prior to Nov 15 (pipeline projects were grandfathered to allow cultivation on parcels under 10 acres) as it was on a permit-ineligible parcel. Furthermore, as stated above, no setback variance would have made the parcel permit eligible (and only if it were pipeline) unless granted with an issued CUP, which has not occurred and is not even possible due to his smaller parcel size.

(c) This application should have been shut down for outdoor and mixed light cultivation as of January 1, 2018, yet the County continues to allow him to cultivate in the PRP. As above, this information has been provided to the county on several occasions, including to Bruce Goldstein on May 7, 2019 and to Sheryl Bratton on May 28, 2019.

(d) Both applicant and the County (Tim Ricard) provided false and misleading information to the state to obtain a temporary state license by stating that this application was in compliance with all Sonoma County regulations.

4. 4050 Grange Road, Santa Rosa (UPC17-0085)

(a) This 14.6-acre parcel is ineligible because the operator, John Chen, submitted false or misleading information to PRMD in the PRP application. Mr. Chen, claimed "I do not have any felony convictions now or in process." In fact, Chen has three felony convictions for offering false instruments filed with the State of California and three felony convictions for presenting payment false claims to the State of California. The suit was brought by then-Attorney General Kamala Harris. Chen was also the executive vice president of the Tung Tai Group, Inc., which was convicted of two counts of an environmental crime (unlawful storage of hazardous waste). The county has had a copy of Chen's plea agreement since October 2018. The county could easily have required Chen to complete the request for a Live Scan Service Form (BCIA 8016) which can be found on the CalCannabis Licensing Service

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website. The state requirements for disqualification of an individual for cannabis cultivation include a ‘felony conviction involving fraud, deceit, or embezzlement.’”

For providing false or misleading information in his application, according to the PRP application requirements, this application is not only to be removed from the PRP but also removed from any further processing as a regular CUP.

(b) Chen also claimed he began the grow on June 30, 2017, just before the July 5 deadline for eligibility. The parcel was not even conveyed to Bennett Rosa LLC (which Chen owns) until August 30, 2017, almost two months after the deadline. The LLCs of the owner (Bennett Rosa LLC) and operator were registered in mid-July, after the deadline. The County has ignored suggestions to require the operator to produce ordinary business records (contracts, checks, identity of workers who can be interviewed, proof of purchase of plants, work orders, labor contracts). The County allowed the 2018 harvest to be sold despite the fact that the growers lacked State licenses and the marijuana was probably sold on the black market. On Jan 4, 2019, the County planner confirmed to Tim Ricard, who then met with County Counsel, that Chen provided false or misleading information and that this should have removed him from the PRP as well as rejected the application, yet nothing has been done about this.

(c) This grow should also be disqualified because the owner of the property is a convicted felon. Both the applicant and Tim Ricard provided false information to the state of California in a signed document that this property is in compliance with the County Cannabis Ordinance in order to facilitate the initial issuance of a temporary state license. In addition, Ricard stated that the operator is Fernando Martinez rather than John Chen. Chen is named as the operator on the application and all supporting materials, and this substitution seems intended to insure that CalCannabis does not undertake a criminal investigation of Chen. Interestingly, in recent documents of the County, the operator is listed as Sonoma Grange Farms LLC; however the Cannabis Ordinance requires a person as operator.

(d) In addition, this application was incomplete as of June 1, 2018, and was STILL INCOMPLETE on March 4, 2019, with the planner requesting multiple missing items.

5. 4065 Grange Road, Santa Rosa (UPC17-0082).

(a) This 4.9-acre property is ineligible because the operator (Brian McInerney) submitted false and misleading information to PRMD in the PRP application. The operator claimed to begin the grow on June 30, 2017, just before the July 5 deadline for eligibility. The county has had in its possession since October 2018 incontrovertible satellite imagery showing that the grow had not begun on July 9, 2017. In fact, the parcel was not even conveyed to Bennett Rosa LLC until August 30, 2017, almost two months after the deadline. The LLCs of the owner (Bennett Rosa

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LLC) and operator (CL5 LLC) were registered in mid-July, after the deadline. The County has ignored suggestions to require the operator to produce ordinary business records (contracts, checks, identity of workers who can be interviewed, proof of purchase of plants, work orders, labor contracts) to verify whether the grow began on June 30, 2017. The County allowed the 2018 harvest to be sold despite the fact that the growers lacked State licenses and the marijuana was probably sold on the black market.

(b) This grow should also be disqualified because the owner of the property, John Chen, is a convicted felon, as discussed above. Both the applicant and Tim Ricard told the state of California in a signed document on November 29, 2018, that this property is in compliance with the County Cannabis Ordinance in order to facilitate the initial issuance of a temporary state license.

6. 885 Montgomery Road, UPC 18-0001

Misty Mountain Services falsely documented their qualification for the Penalty Relief Program. They stated they had 38,484 square feet of outdoor cultivation when in fact they did not start planting any cannabis in this area until after July 5, 2017. They secretly installed two unpermitted greenhouses (2,550 total sf) in the winter of 2017-18, which were **not** included in their Sonoma County cannabis use permit application nor their PRP application. Then they expanded their cultivation **again** in the spring of 2018.

In addition to falsifying both their PRP application and their cannabis use permit application, they committed the following Cannabis Ordinance code violations *after* May 2017:

1. Sec. 26-88-256.(f)(8) Biotic Resources
2. Sec. 26-88-256.(f)(12) Grading and Access
3. Sec. 26-88-256.(f)(7) Building Requirements.

This evidence has been presented to the County on numerous occasions, with full documentation, but nothing has been done. A 14-page document of these violations, including aerial photos, was recently sent to Christina Rivera on June 14, 2019, summarized below:

(a) For almost 2 years, County officials have ignored neighbor complaints (18 families impacted) about odor, noise, night light pollution, and security cameras trained on neighboring homes [violation of 26-88-250(f)]. The County failed, neglected, and refused to verify false statements in the grower's Penalty Relief Application Form - including that his plants were in the ground by July 5, 2017- that should have removed this application from both the PRP as well as any further processing.

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(b) Eric Bell, the operator of Misty Mountain Services, stated he was cultivating 38,000 sq feet of cannabis plants prior to July 5, 2017. However, satellite images and neighbor statements provided to the county have proven this statement is false. There were no plants in the ground before July 5, 2017.

(c) The County has allowed the grower to use power circuits that were installed without permits, exposing neighbors to fire risks. The County has allowed the grower to use unpermitted buildings for its indoor cannabis cultivation operations. Both of these actions are in clear violation of the PRP Resolutions and the Cannabis Ordinance.

(d) Eric Bell built 2 greenhouses without a permit and was cited by the county. He then removed said greenhouses without a permit.

(e) The County refused to shut the grow down despite all of the violations of the PRP and Cannabis Ordinance Development Criteria including illegal grading, terracing, and tree removal. The County and applicant provided false information to the state to obtain the state license. The operator is in his 3rd year of cultivation illegally according to the County regulations; penalty relief should have been denied and his application removed from any processing had County officials verified the information provided on falsification of claims of the grower.

7. 7955 St Helena Road, UPC 17-0089

This grower joined the PRP only after being cited for his illegal construction and cannabis growing (August 31, 2017).

(a) In August 2018 the grower was removed from the PRP for failure to pay cannabis taxes in the 3rd and 4th quarter. However he entered a payment plan and was allowed to rejoin he program despite violating the PRP Resolution that *"The operation must be in compliance with Sonoma County Business Tax"*. No Reason was given to the neighbors to explain why this decision was made, which was in violation of the PRP rules.

(b) On December 12, 2018 the operator was given notice that again he was operating outside the PRP rules. Specifically that his water use *".....will result in, or is likely to cause or exacerbate, an overdraft condition inMark West Creek"*. He was given until February 1, 2019 to cease operation due to violation of the PRP Resolution requiring being in compliance with all Development Criteria and Operating Standards of the Cannabis Ordinance. Applicant appealed this decision. Rather than continuing with an appeal hearing for the PRP removal, County allowed the appeal over hydrology to be included in a future CUP hearing and applicant was allowed to continue operating under the PRP, continuing to damage the watershed. No CUP hearing has been scheduled to date.

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(c) On April 16, 2019 one of the illegal buildings caught fire and caused a massive response by Cal Fire including 4 engines, 4 support vehicles and 2 water tanker trucks. While responding to the fire, code enforcement discovered that the operator had not only continued to use the red-tagged buildings, but had also constructed more new buildings expanding his operation in complete disregard for PRP Rules on following the County building codes and that *"There is no increase in cultivation size"*. This violation was resolved not by removing the grower from PRP as the law dictates but rather by a settlement allowing continued cultivation indefinitely, which was prepared in private with no public input or oversight and in direct contradiction of PRP rules. Fines due for violations were decreased by 75% at a minimum (based on minimum daily fines for the final violations only).

8. 8373 Singing Hills Trail (2870 Leslie Rd), UPC18-0015

(a) They have been using water from a pond on their property since they began operating a few years ago. In their application, they falsely stated that they had water rights to the pond. Neighbors sent two emails to the state water board, and were able to determine that in fact, the pond is unpermitted (an on-stream pond) and there are no water rights. So, in fact, the applicants have been using water in a critically-impaired watershed that they have no rights to, for several years. Neighbors sent these findings to the project planner, who confirmed that these comments are included in the file, but there was no response about removal from the PRP or stopping their water use from the unpermitted pond. The applicants clearly are in violation of the PRP as they provided false information on their application so they should not only be removed from the PRP but their application should be removed from any consideration.

(b) The only way for the applicants to legally move forward now would need to be in a new application according to County regulations, in which they were granted water rights from the state, which is highly unlikely given current state policies, and to come up with a sustainable net-zero water use plan, which is what is required under the Cannabis Ordinance. Why are the applicants still operating under the PRP? The County is allowing continued unpermitted water use, in violation of both County and state regulations. This operation should be shut down immediately. How does the County plan to handle PRP applicants that are in clear violation of net zero water use requirements? It's one thing if there is a plan that is open to geologist interpretation and needs to be sorted out through the conditional use permit process. It's an entirely different matter if the water use is clearly not compliant with the ordinance.

9. 2815 Leslie Road; UPC17-0072

(a) Applicant received a letter from the County in December 2018 stating that applicant had failed to provide sufficient evidence that the project would not have a negative impact on streamflow and would be removed from the PRP. Applicant appealed this decision. Rather than continuing with an appeal hearing for PRP removal as per County law, the County allowed the applicant to continue operating under the PRP, and said that the appeal over hydrology will be included in the future CUP hearing. Over 6 months

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later no CUP hearing has been scheduled, and applicant is allowed to continue depleting the watershed and proceed with his 3rd growing season in violation of the PRP rules and Cannabis Ordinance.

10. 6101/6105 Cleland Ranch Road; UPC17-0037

(a) On Dec 12, 2018, PRMD notified the applicant that its use of ground water has high potential to reduce dry season stream flow in Mark West Creek/tributaries, and that all ground water extraction must cease by Feb 1, 2019, due to violation of the PRP Resolution requiring being in compliance with all Development Criteria and Operating Standards of the Cannabis Ordinance. They stated they switched to a surface pond source.

(b) Code enforcement recently (end of May 2019) found on a site visit that the applicant had five unpermitted greenhouses (listed 6/3/19 as violations). After being rudely refused entrance to the greenhouses, code enforcement watched from nearby the next morning as the applicants removed plants from the greenhouses, which code enforcement then documented as a clear violation of the PRP. So, after two recent violations of the PRP and the Cannabis Ordinance (increasing the footprint and refusing entry to code enforcement), why is the applicant still allowed to continue operating under the PRP? PRP rules dictate that this applicant should be removed from the PRP immediately, and should be fined the full penalty for unpermitted growing.

11. 3815 Calistoga Road; UPC18-0021

(a) Applicant received a letter from the County in December 2018 stating that applicant had failed to provide sufficient evidence that the project would not have a negative impact on streamflow and would be removed from the PRP. Applicant appealed this decision. Rather than continuing with an appeal hearing for the PRP removal, the County allowed the applicant allowed to continue operating under the PRP, and said that the appeal over hydrology would be included in the future CUP hearing. Over 6 months later no CUP hearing has been scheduled, and applicant is allowed to continue in his 3rd growing season, continuing depletion of a critical watershed, in violation of the PRP rules and Cannabis Ordinance.

12. 3215 Middle Two Rock Road, Petaluma, UPC 17-0095

(a) The applicant, Mr. Dripps, clearly had some kind of illegal grow in an old barn on the Nadale property, and expanded the “use” to the top of the ridge line grow he is using now. Aerial images show the expansion of use.

(b) Neighbors have images of him trucking in water. When challenged by PRMD on this, he told them that he was taking it from one place on the property to another. And, yet neighbors saw him hauling water from off site.

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(c) His hydrology report states that anticipated water use would be over 1,700,000 from their wells and need to truck in water for their livestock - this is a grave concern. His report also shows that the only way he can support the water use demand will be to build over 10,000 square feet of greenhouses (on the ridge line) and expand use further to collect rainwater for a 10,000 water tank on the ridge. So the only way he can support a grow will be to expand structures and divert more rainwater from the already impacted aquifer. Neighbors are very concerned about his impact on the watershed, and have retained a hydrologist to review the Dripps report. It has been found to be deficient and the County is asking for more info.

(d) Dripps maintains an RV on the site, and two large containers, all in violation of the Cannabis Ordinance. PRMD has not responded.

(e) This is a Williamson Act property. Has the County confirmed that his cannabis operations, including all supporting structures and land, are less than 5 acres?

13. 2000 Los Alamos Road, UPC 17-0041

The applicant is operating an indoor grow in a converted barn in remote area of high fire risk and poor road access; the electrical was done without a permit. Although at our request the County recently inspected and confirmed the wiring as sufficient, this is still a violation of the PRP rules.

The access to the property is via Los Alamos Road and then through Hood Mt Park, roads that do not meet County of State fire-safe standards for such development. Thus no fire operational permit can be obtained as required by the County.

14. There are more PRP applicants not listed above who have violated the PRP, including some who have intimidated and threatened neighbors such that the neighbors are afraid to discuss with the County except under confidentiality.

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III. Other Significant Violations of the Cannabis Ordinance and County Ordinances

1. False and Misleading Information Provided by Applicants and the County to State for State License. All of the above applicants who applied for a state license provided false and misleading information to the state to obtain a temporary state license by stating that these applications were in compliance with all Sonoma County regulations. The PRP rules state that this requires their removal from the PRP as well as no further consideration of their application. In addition County officials (Tim Ricard) tricked the State of California to initially issue the operators a temporary license by providing paperwork stating that all these applications were in compliance with all County regulations, including Development Criteria, which the County knew it was not (documented by multiple letters to the County). We have inquired to the state, who responded that they do not check but rather trust the information submitted by the County as being accurate. **Sonoma County has thus put itself in a position of liability by providing false information to the state in order to allow PRP operations to obtain temporary state licenses.**

2. Health and Safety. Many of the above PRP grows also violate a very significant section of the Cannabis Ordinance, 26-88-250(f), which states that any cannabis operation:

“shall not create a public nuisance or adversely affect the health or safety of nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibrations, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.”

This violation has harmed residents by not only deleteriously affecting their health and safety, but has also prevented them from using their yards or opening their windows, and has resulted in reduced property values. All of these deleterious effects are prohibited under the Cannabis Ordinance as well as Sonoma County Code section 26-92-070(a), yet the County has ignored the numerous complains of residents.

3. Safety Under the Sonoma County Fire Ordinance 6184.

The County Fire Ordinance has specific regulations on access roads and driveways for new development including width, length, steepness, and requirement for 2-lane roads to ensure safe concurrent civilian evacuation and fire engine access during a wildfire emergency. Many of the PRP grows are in violation of this critical ordinance, and furthermore all of the PRP grows are in violation of the requirement to have a fire operational permit prior to commencing operations [ORD 6245 26-88-254(f)(16) and ORD 6184 Chapter 1(8) (105.6.50) (11)]. Sonoma County has thus

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put itself in a position of liability by ignoring these regulations, jeopardizing the safety of residents.

IV. Summary and Action Items

The Temporary Penalty Relief Program was instituted by the Board of Supervisors in May, 2017, and modified in Sept, 2017 to extend to more recent applicants and to extend the filing deadlines, but in all cases specifically to be a TEMPORARY program, ending on June 1, 2018. As outlined above, multiple PRP applicants are in violation of the PRP, as well as the Cannabis Ordinance, the Sonoma County Fire Ordinance and the Sonoma County Code. The County appears to be conflicted in that one of its stated goals of the PRP was to increase tax revenue to the County, and it even directed that enforcement of the PRP be administered by Economic Development, supported by County Counsel. However, this is no excuse for the County to ignore its own laws.

Sonoma County residents have spent thousands of hours and thousands of dollars compiling the documentation for all the above violations over the past 14 months and providing this to the County, something that the County should have done. The County, including the Supervisors, have been notified many times of these multiple violations of the PRP that require termination of such applications, yet this has been repeatedly ignored. The County has provided false information to the state to obtain state licenses of a controlled substance to further its ability to collect County tax revenue. All of this is untenable. The lack of oversight of these activities has harmed the health and safety of residents, and has further harmed residents by lowering property values. It ultimately is the responsibility of the Supervisors to ensure that the laws of the County are upheld.

Actions:

1. Any PRP application, including all of those listed above, that has or had violations of the PRP needs to be terminated immediately.
2. The full fines for violating the land use ordinance should be collected.
3. Furthermore, any PRP application in which the applicant provided false or misleading information on their application (most of those listed above) not only needs to be **immediately terminated** but additionally their **application needs to be rejected from further evaluation**. This is the law.

All the above actions are the clear rules stated in the PRP documents and Cannabis Ordinance. To facilitate your getting up to speed, we request to meet with you to review the documentation for each of the above PRP applications without further delay. These applicants should not be allowed to continue cultivation for yet a 3rd growing season, in continued violation of County law.



Everett Louie <elouie@migcom.com>

Public Notice for UPC18-0001; 885 Montgomery Road, Sebastopol

Joel Brent <joelbrent@gmail.com>
To: elouie@migcom.com

Fri, Jun 19, 2020 at 4:29 PM

Hi,

I just received a notice for 'Public Notice for UPC18-0001; 885 Montgomery Road, Sebastopol', but the notice seems to imply it can only be protested under the grounds of environmental impact. I can't speak to that aspect, but I am vigorously against this in regards to safety (I have 4 children, and I can honestly see people mistaking my driveway for theirs), water usage, and negative impact to property value.

I'm not sure of the process to send a formal process. Would you mind sending me some information?

Thank you!

- Joel Brent

[Quoted text hidden]

--

- Joel



Everett Louie <elouie@migcom.com>

UPC18-0001

Rachel Zierdt <rzierdt@gmail.com>

Wed, Jun 24, 2020 at 12:10 PM

Cc: Elouie@migcom.com, Leo Chyi <Leo.Chyi@sonoma-county.org>, Scott.Orr@sonoma-county.org, "Tennis.Wick@sonoma-county.org" <Tennis.Wick@sonoma-county.org>, scottd@migcom.com

Regarding this application. I have already objected to it. I do not see any responses to this application. It still boggles my mind that the whole story of violations and untruths as well as all the documentation that was done by neighbors do not show up in this set of information.

When will the total package coming to the board actually represents all the input that was done on this matter?

Regards,
Rachel Zierdt

Ken & Akiko Freeman
1300 Montgomery Road
Sebastopol, CA 95472
Tel: 415 310-5077

Permit Sonoma
2550 Ventura Ave
Santa Rosa, Ca. 95403

Re: permit Sonoma File No. UPC18-0001

Dear Planner, and Supervisor Linda Hopkins

I am writing to strenuously-oppose the proposed Cannabis grow on 10 acres on Montgomery Road. This is a very bad idea, and we will pull the neighbors together and fight this.

As a note of background, my wife and I own Freeman, a small, high-end, winery at 1300 Montgomery Road. Five years ago we went thru a bruising-battle with our neighbors to get approval for a small number of appointment-only tastings. During the process it became very clear that Montgomery Road is very narrow and tight - and adding a commercial cannabis operation will add lots of daily traffic, and make the road even more dangerous.

Additionally we have a nine acre, organically farmed vineyard just down Montgomery Road on the hillside which produces +96 point wine and is sold in leading restaurants and wine shops around the world. It is a fact that grapes are permeable and will pick up the very noxious scent of Cannabis while its growing and being processed.

I am actually not opposed to Cannabis, but not on Montgomery Road. I have been on the Sonoma Land Trust Board for five years, and with Sonoma County's 2.2 Million acres there are lots of potential Cannabis growing areas that are not surrounded by residents, and not accessed by a dangerous tight, one-lane road, and do not have high end vineyards very close.

I am looking forward to speaking at the hearing. Please let me know the details. Thank you in advance,

Ken & Akiko Freeman
Proprietors, Freeman Vineyard & Winery

Also please see the following on page Two compiled by a direct neighbor of the illegal grow;

Here are some thoughts:

1. This is an intensive agricultural operation on a small parcel surrounded by occupied residential properties on a quiet rural-residential road.
2. The existing illegal grow and processing that has been going on unabated by the county has been allowed to continue for several years.
3. The operation and particularly the outdoor grow produce a horrible smell that smells up the nearby properties, and when open for ventilation, makes some homes uncomfortable to occupy because of the strong odor. If a permit is issued, COMPLETE ABATEMENT OF ALL ODORS IS ABSOLUTELY NECESSARY.
4. There may be only 3 people working "full time" as stated by the applicant, but there is an army of contract and "part time", often historically illegal workers brought into the property to help with the all work being done. It is not remotely possible for three people to do all the work that needs to be done in this operation.
5. Operating a business FROM 6AM TO 8PM with employees (full time and part time), deliveries and shipments, maintenance (often with machinery), and more are not ok on a property surrounded on all sides by occupied private residences.
6. The disruption of the lifestyles, degradation of property values, and compromised air quality are unacceptable in this mostly residential neighborhood.
7. The imbalance of an intense operation like this that involves many more employees than specified in the "negative declaration" and it's too much for the neighborhood, it should be located elsewhere.
8. The property in question does not have sufficient water or sufficient access/egress for fire apparatus which could prove to be a threat to the whole area.
9. The fact that the owner has been operating a felonious illegal operation without being caught for several years is a pretty clear indication that he has not previously followed the law (federal, state, local, employment, health department, fire safety, and OSHA to name a few)), and likely will not follow the rules once he receives a permit.
10. Absolute assurances and enforcement commitment from the county permit, fire, and law enforcement officials MUST BE AN INTEGRAL PART OF ANY PERMIT APPROVAL.

Get Outlook for Android



Everett Louie <elouie@migcom.com>

885 Montgomery Road

Val <pinball@sonic.net>
To: Elouie@migcom.com

Tue, Jul 7, 2020 at 11:04 AM

Hello Everett Louie,

Thank you for your response, a short while ago requesting information on the hearing for the change from a two year county permit to a five year state permit for cannabis growing.

First, I believe, a step for the very first county permit should not be done at this time. With the shutdown in place, people are not prepared to have gatherings at a "virtual public hearing" about a subject as important as this issue. This also seems like an effort to avoid some very important input from neighboring community members.

As a property owner adjacent to 885 Montgomery Road on their eastern property line, I am wondering exactly how the county permit office handled my complaint that I filed two years ago about the unpermitted buildings. The three "no permitted" buildings on their eastern property line: the barn/garage, the in ground pool, and the bath house with a raw sewage disposal system.

I would like to know all that was done by the county permit office.

Thank you.

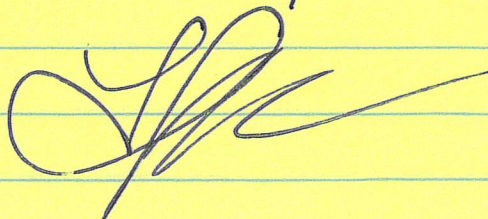
Sincerely,
Richard Conger, [1947 Coffee Lane, Sebastopol, CA](#)
Property address: [942 Ferguson Rd. , Sebastopol, CA](#)

RE file number - UPC 18-0001
885 Montgomery
Seb. CA 95472

I AM opposed to giving this permit Because
OF following REASONS

- WATER USE
- FIRE DANGER
- TRAFFIC
- my concern for Neighbors in the
IMMEDIATE AREA for the smell, AND
The impact of workers AND
POSSIBLE FOUL PLAY & ILLEGAL ACTIVITY.
- A Business Like This Should Be
allowed to operate ON A ^{MUCH} LARGER
piece of property where IT DOESN'T
IMPACT THE NEIGHBORS, THE
NEIGHBORHOOD AND WHERE ~~IT IS~~ NOT
A DANGER TO OUR NEIGHBORHOOD
^{IT IS}

Thank you



June 29,2020

To whom it may concern:

Subject: Permit Sonoma File No. UPC 18-0001

Notice dated June 19, 2020 Notice of intent to adopt a mitigated Declaration Pursuant to California Environmental Quality Act.

In regard to the potential environmental impacts that could be mitigated, I have three issues I would like to be considered.

1. The nauseating skunk like smell that fills the air 24 hours a day during growing and harvest period.
2. It is my understanding that this particular crop uses large amounts of water, could this lead to the water table being affected.
3. I also have concerns of a double standard being applied. This operation has been allowed to operate for several years without the proper permits while other operations like the construction trades that operate without permits are shutdown down until permits issued and fees paid.

I sincerely hope that these issues will be considered along with those of other residents.

Regards,



Ed Wallin

From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: UPC18-0001 - please save to S drive and interested parties.
Date: Tuesday, July 14, 2020 9:56:23 PM

EXTERNAL

From: **Jeff Barnum** <jbarnum@meca.edu>
Date: Tue, Jul 14, 2020 at 7:24 PM
Subject: UPC18-0001 & related hearing about 855 Montgomery in Sebastopol
To: <elouie@migcom.com>

From Jeff Barnum, Sebastopol
Re: UPC18-0001
- 9:30am on August 12

To Whom it May Concern:

It has come to our attention that there is to be a cannabis farm at 855 Montgomery Avenue in Sebastopol. We live at [798 Ferguson Road](#) and are resolutely AGAINST this development and any further permitting for the following reasons:

1. The odor. It is overwhelming and unpleasant. It is very close to smelling a skunk. No amount of trees or bushes or other reasonable solutions can neutralize this odor and it is untruthful to pretend otherwise.
2. Impact. We are very concerned about synthetic agricultural chemicals going into both runoff and the water table. The amount, kind, and intensity of fertilizers and other additives is industrial agriculture, not organic — and we believe this will have significant impact on the natural environment and context. We run a significant organic and biodynamic home-scale farm and have already lost valuable resources (bees) due to chemical sprays (Roundup) of our neighbor — which they have since modified to meet organic standards.

We are also concerned about significant water usage, traffic, biodiversity, noise, light pollution, and potential crime. We do realize that cannabis is legal in California (but not federally) — but it is still a valuable cash crop and its cultivation is, given its long history, historically associated with criminal behavior.

Light pollution is a real factor for us as we enjoy the dark nights and star gazing and live just down the hill from this proposed operation.

If the cultivation were organic, does not add to light pollution, and were indoors with effective odor mitigation, and if it did not use more than its fair share of water resources, then we'd be fine with it. As is, however, it's not something we want to see in our neighborhood.

3. Location. This location is smack in the middle of the neighborhood, surrounded on all sides by residences. A terrible precedent!

4. Property values. We are concerned that the odor and other unpleasant factors associated with this cultivation will decrease property values — and indeed the pleasantness of living in rural Sebastopol.

Thank you for your consideration

Jeff Barnum

--

Everett Louie

Environmental Planner and Project Associate

he/him/his



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800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
www.migcom.com



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Everett Louie <elouie@migcom.com>

885 Montgomery

3 messages

Val <pinball@sonic.net>
To: Elouie@migcom.com

Tue, Jul 14, 2020 at 1:40 PM

Hello Everett Louie, I am wondering if this permit for Eric Bell goes to the state who does the enforcement of the of the growing rules? Who does the enforcement of the county rules? Who has "the shut" down ruling? Do you know how this is handled? Thank you, Richard Conger, 942 Ferguson Road, adjacent to 885 on the east side.

Everett Louie <elouie@migcom.com>
To: Arielle Wright <Arielle.Wright@sonoma-county.org>

Wed, Jul 15, 2020 at 3:22 PM

From: **Val** <pinball@sonic.net>
Date: Tue, Jul 14, 2020 at 1:40 PM
Subject: 885 Montgomery
To: <Elouie@migcom.com>
[Quoted text hidden]

--

Everett Louie*Environmental Planner and Project Associate
he/him/his*

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800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
www.migcom.com



Everett Louie <elouie@migcom.com>
To: Val <pinball@sonic.net>

Wed, Jul 15, 2020 at 3:36 PM

Good afternoon Val,

Thank you for your email. I have saved your emails to the file.

All Sonoma County cannabis projects must apply for State licenses in order to be eligible for a Use permit within the County. This allows for a two step verification process to ensure that the project meets both the State and County standards.

As for enforcement, all cannabis permits are subject to conditions of approval which require the applicant to follow and abide by the standard operating conditions such as maintaining a security plan, water usage monitoring, and on-site enforcement visits. The Project planner works with Code Enforcement to ensure that the applicant is operating within their Conditions of approval.

The power to shut down a project rests with the County. The cannabis ordinance mandates that projects who do not comply with the ordinance have the possibility of having their use permit revoked.

Cannabis Ordinance:

Sec. 26-88-252. - Enforcement. (c)

Suspension, Revocation or Modification. (1) Any permit, license or approval issued pursuant to this chapter may be suspended, revoked, or modified by the agency having jurisdiction, if the Director or the Agricultural Commissioner determines any of the following: a. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification; b. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application; or c. One (1) or more of the conditions or standards of the permit have not been substantially fulfilled or have been violated.

Please let me know if you have any questions.

[Quoted text hidden]

[Quoted text hidden]

From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: Fwd: Misty Mountain - Cannabis Grow, Eric Bell - 855 Montgomery Road, Sebastopol
Date: Tuesday, July 14, 2020 12:14:23 PM

EXTERNAL

Mountain - Cannabis Grow, Eric Bell - 855 Montgomery Road, Sebastopol

Hi Scott and Matt,

I hope you are doing well. I was hoping you could help; I have not seen a County Notice on Montgomery Road, or heard back from the County that they have received our opposition / we are on the calendar?. Can you please let me know.

Also, not being a NIMBY here, just lots of better places for this grow..

Thank you in advance,

Ken

From: Ken Freeman
Sent: Sunday, June 21, 2020 5:33 PM
To: planner@sonoma-county.org
Subject: Misty Mountain - Cannabis Grow, Eric Bell - 855 Montgomery Road, Sebastopol

Dear Planner,

I am writing to strenuously-oppose the proposed Cannabis grow on 10 acres on Montgomery Road. This is a very bad idea, and we will pull the neighbors together and fight this.

As a note of background, my wife and I own Freeman, a small, high-end, winery at 1300 Montgomery Road. Five years ago we went thru a bruising-battle with our neighbors to get approval for a small number of appointment-only tastings. During the process it became very clear that Montgomery Road is very narrow and tight - and adding a commercial cannabis operations will add lots of daily traffic, and make the road even more dangerous.

Additionally we have a nine acre, organically farmed vineyard just down Montgomery Road on the hillside which produces +96 point wine and is sold in leading restaurants and wine shops around the world. It is a fact that grapes are permeable and will pick up the very noxious scent of Cannabis while its growing and being processed.

I am actually not opposed to Cannabis, but not on Montgomery Road. I have been on the Sonoma Land Trust Board for five years, and with Sonoma County's 2.2 Million acres there are lots of potential Cannabis growing areas that are not surrounded by residents, and not accessed by a dangerous tight, one lane road, and do not have high end vineyards very close.

I am looking forward to speaking at the hearing. Please let me know the details. Thank you in advance,

Ken Freeman

Mobile: 415 310-5077

Winery: 707 823-6937

www: freemanwinery.com

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Everett Louie

Environmental Planner and Project Associate

he/him/his

From: [Everett Louie](#)
To: [Rachel Zierdt](#)
Cc: [Arielle Wright](#)
Subject: Re: UPC 18-0001
Date: Tuesday, July 14, 2020 8:53:28 AM

EXTERNAL

Hello Rachel,

Thank you for your public comment. I have saved the comment to the file.

On Tue, Jul 14, 2020 at 7:18 AM Rachel Zierdt <rzierdt@gmail.com> wrote:

Mr. Louie,

I strongly feel that this permit needs to be denied. The continued existence of this grow within inches of neighbors is inappropriate. The poor neighbors have been forced to endure this totally unacceptable business venture for the past few years spoiling this quiet, tranquil neighborhood of West County. One neighbor, who needed to wear a gas mask during the months of harvest when the skunk odor is most pungent, has been forced to relocate. Another neighbor has had no interest to re-list his lot for sale which borders this grow. I personally know two of these home owners and both have been adversely affected by this cannabis business.

Supervisor Lynda Hopkins visited the grow site and was surprised at the unpleasant odors that emanated from the outdoor grow. She is quoted in the Press Democrat in reference to this grow. There is a illegal building teetering on the lot line. The grower, Eric Bell, dishonestly states in his permit application that the property has not been graded, when in fact, it has certainly been graded and terraced to create the outdoor cultivation site. Sonoma County has turned a blind eye on this fact despite satellite images proving the illegal grading.

There are so many flaws in this whole project, starting with the ability of the grower to have 1 acre of outdoor plants within 300 feet of 7 houses. The grower has maxed out the number of plants to meet the "minimum" setback. The unpermitted buildings being used for the indoor grows have placed neighbors at increased risk of fire hazards. Where are the permits for electrical work needed for all the indoor grow lamps?

The long term consequences of water consumption of these plants on wells has not been adequately assessed in your MND report. Cannabis plants require a lot of water use. Doesn't rain catches rob valuable water from somewhere else?

Lastly, this cannabis business is in the wrong location situation in the middle of a residential neighborhood. The property owners and the grower of 885 Montgomery Road have taken advantage of the "DA zoning" without considering the ill effects on the surrounding neighbors. The current cannabis ordinance allows cannabis cultivation on 10 acre DA zoned properties. But it also states "no nuisance shall be created by the cannabis business".

This unpermitted cannabis business is surrounded by small RR and DA zoned parcels where cannabis isn't even allowed to be cultivated. Neighbors who live on these small parcels can't

just move to different parts of their property to escape the odors and the noise associated with this grow. And their homes were build before the unpermitted grow appeared in the summer of 2017.

Please enter this into the record.
Rachel Zierdt, West County resident

--

Everett Louie

Environmental Planner and Project Associate

he/him/his



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800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
www.migcom.com



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From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: PUBLIC COMMENT: please save to S drive and interested parties UPC 18-0001
Date: Wednesday, July 15, 2020 11:54:53 AM

EXTERNAL

From: **Cindy Schellenberg** <schellenberg3@gmail.com>
Date: Wed, Jul 15, 2020 at 11:09 AM
Subject: OPPOSITION to UPC 18-0001
To: <elouie@migcom.com>

Date: Wed, Jul 15, 2020
Subject: UPC 18-0001
To: Everett Louie <elouie@migcom.com>

Mr. Louie:

There is no question that the above referenced permit needs to be denied. The continued existence of such an offensive commercial pot grow within inches of neighbors is totally inappropriate and unfair. People live in rural areas in order to enjoy the outdoors and more peaceful surroundings. The unfortunate neighbors to the grow in question have been forced to endure this egregious and unacceptable business operation for the past few years, which has effectively spoiled a quiet, tranquil neighborhood of West County. One neighbor needed to wear a gas mask during the months of harvest when the skunk odor is most noxious and has been forced to relocate. Another neighbor has had no interest to re-list his lot for sale which borders this grow. I personally have spoken with several of these unhappy home owners, all of whom have been adversely affected by this pot business.

Supervisor Lynda Hopkins visited the grow site and was surprised at the unpleasant odors that emanated. (She is quoted in the Press Democrat in reference to this grow). There is also an illegal building on the lot line. The grower, Eric Bell, misrepresented in his permit application that the property had not been graded, when in fact, it has certainly been graded and terraced to create the outdoor cultivation site. Sonoma County officials have turned a blind eye on this fact despite satellite images proving the illegal grading.

There are so many flaws in this whole project, starting with the ability of the grower to

have 1 acre of outdoor plants within 300 feet of 7 occupied residences. The grower has maxed out the number of plants to meet the “minimum” setback. The unpermitted buildings being used for the indoor grows have placed neighbors at increased risk of both fire and health hazards. Where are the permits for all the electrical work needed for the indoor grow lamps?

The long term consequences of water consumption of pot plants on wells has not been adequately determined in your MND report. It is common knowledge that pot plants require a lot of water.

Lastly, this commercial pot business is in the wrong location in the middle of a residential neighborhood and therefore is incompatible with the neighbors’ quality of life.. The property owners and the grower of 885 Montgomery Road have taken advantage of the “DA zoning” regardless of the ill effects on the surrounding neighbors. The current cannabis ordinance allows cannabis cultivation on 10 acre DA zoned properties, however it also states “**no nuisance shall be created by the cannabis business**”.

The above unpermitted cannabis business is surrounded by small RR and DA zoned parcels where pot isn’t even allowed to be cultivated. Neighbors who live on these small parcels can’t just relocate to different parts of their property to escape the odors, health threats and the noise associated with this invasive grow. Nor should they have to. I ask whether you would personally want to live next to a grow such as this and implore you to protect the rights of our citizens.

Please record my strong outrage to this commercial pot grow and do the right thing. Deny the permit. Thank you for your consideration.

L.L. Schellenberg
Penngrove resident

--

Everett Louie

*Environmental Planner and Project Associate
he/him/his*



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800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
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From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: Please save to project file and interested parties UPC18-0001
Date: Wednesday, July 15, 2020 4:43:30 PM
Attachments: [Letter re Montgomery.docx](#)

EXTERNAL

From: **Scott Seidman** <scottgseidman@sbcglobal.net>
Date: Wed, Jul 15, 2020 at 4:18 PM
Subject: Re: UPC18-0001 – Hearing Aug 12, 2020 9:30 AM Opposition to approval of permit
To: bos@sonoma-county.org <bos@sonoma-county.org>
Cc: elouie@migcom.com <elouie@migcom.com>, Marylee Guinon <maryleeguinson@gmail.com>

Please see attached letter. Thank you.

--

Everett Louie

Environmental Planner and Project Associate
he/him/his



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800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
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To: Everett Louie (elouie@migcom.com)

Board of Supervisors (bos@sonoma-county.org)

Date: July 15, 2020

Re: UPC18-0001 – Hearing Aug 12, 2020 9:30 AM Opposition to approval of permit

In an unconscionable violation of not only their own regulations and ordinances but of public trust, Sonoma County continues to allow the operation of a commercial cannabis operation at 885 Montgomery Road, under UPC 18-0001.

This operation was inappropriately permitted based on an application that has been repeatedly documented as falsified. In applying for permits under the Penalty Relief Program, the applicant claimed over 38,000 square feet of existing outdoor cultivation prior to July 5, 2017. This qualifying statement has repeatedly been proven blatantly false. Based on this statement alone, per the application form *“Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issue permit”*.

Despite incontrovertible proof, the County failed to act on its legal responsibilities. By continuing to allow this operation to proceed, even further violations of the ordinance and regulations have occurred. Again, by failing to act, the County has further allowed the grower to use unpermitted power circuits and unpermitted building structures, exacerbating fire risks and endangering the health and safety of the County residents. In failing to act or enforce regulations, the County has also sanctioned illegal grading, terracing and tree removal.

The permitting of this cannabis operation was based on falsified data, and continues to operate despite multiple verifiable violations of County and State codes, ordinances and laws. That the County has failed to act on the years of cumulative documentation provided by heavily impacted residents is inexcusable.

In addition to the multiple violations by the County of the PRP and County regulations and ordinances, the disregard for the inherent nature of allowing this commercial cannabis operation to be situated in the heart of a clearly rural residential community is inexcusable. The assessments of impacts to less-than-significant levels by relying on such creations as topography and vegetation deflecting odors into the atmosphere, structures at one end of the property acting as odor buffers, and the prediction of “prevailing winds” in September and October are frankly absurd. The impacts are very real, and the residents in this rural community have already been suffering them for nearly four years while this commercial operation, an operation that should never have been approved to begin with, continues to function.

The residents of this county are paying attention. The constant dismissal of residents’ real issues in favor of blindly supporting cannabis has created a vacuum of representation. This

project exemplifies why an ever-increasing number of our residents distrust Permit Sonoma, and have openly lost faith in the Board of Supervisors to hear and appropriately respond to their constituents.

The only fair and rational course to follow is to apply the law, and take the following actions:

1. Due to the documented violations of this operation, the PRP application needs to be terminated immediately.
2. The full fines for violating the land use ordinance should be collected.
3. Since the applicant provided false and misleading information on their application, this operation not only needs to be immediately terminated, but additionally their application needs to be rejected from further evaluation.

Sincerely,



Scott Seidman
Freestone, CA



Marylee Guinon
Freestone, CA

From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: Please save to file and interested parties upc18-001
Date: Wednesday, July 15, 2020 6:25:46 PM

EXTERNAL

From: Charlene Stone <charlenestone99@yahoo.com>
Date: Wed, Jul 15, 2020 at 6:22 PM
Subject: PUBLIC NOTICE FOR upc18-001
To: elouie@migcom.com <elouie@migcom.com>
CC: bos@sonomacounty.com <bos@sonomacounty.com>

Mr. Louie,

This project is an abomination to the people of Sonoma County. It feels like the racketeers are taking over all aspects of our government and that the \$\$ they supposedly produce is worth any and all infractions and misery that they cause the rest of the decent, law-abiding, tax-paying citizens of this county.

I strongly feel that this permit needs to be denied. The continued existence of this grow within inches of neighbors is inappropriate. The poor neighbors have been forced to endure this totally unacceptable business venture for the past few years spoiling this quiet, tranquil neighborhood of West County. One neighbor, who needed to wear a gas mask during the months of harvest when the skunk odor is most pungent, has been forced to relocate. Another neighbor has had no interest to re-list his lot for sale which borders this grow. I personally know two of these home owners and both have been adversely affected by this cannabis business.

Supervisor Lynda Hopkins visited the grow site and was surprised at the unpleasant odors that emanated from the outdoor grow. She is quoted in the Press Democrat in reference to this grow. There is a illegal building teetering on the lot line. The grower, Eric Bell, dishonestly states in his permit application that the property has not been graded, when in fact, it has certainly been graded and terraced to create the outdoor cultivation site. Sonoma County has turned a blind eye on this fact despite satellite images proving the illegal grading.

There are so many flaws in this whole project, starting with the ability of the grower to have 1 acre of outdoor plants within 300 feet of 7 houses. The grower has maxed out the number of plants to meet the "minimum" setback. The unpermitted buildings being used for the indoor grows have placed neighbors at increased risk of fire hazards. Where are the permits for electrical work needed for all the indoor grow lamps?

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Lastly, this cannabis business is in the wrong location situation in the middle of a residential neighborhood. The property owners and the grower of 885 Montgomery Road have taken advantage of

the "DA zoning" without considering the ill effects on the surrounding neighbors. The current cannabis ordinance allows cannabis cultivation on 10 acre DA zoned properties. But it also states "no nuisance shall be created by the cannabis business".

This unpermitted cannabis business is surrounded by small RR and DA zoned parcels where cannabis isn't even allowed to be cultivated. Neighbors who live on these small parcels can't just move to different parts of their property to escape the odors and the noise associated with this grow. And their homes were build before the unpermitted grow appeared in the summer of 2017.

Please enter this into the record.

Charlene Stone , West County resident

--

Everett Louie

Environmental Planner and Project Associate
he/him/his



PLANNING | DESIGN | COMMUNICATIONS | MANAGEMENT | SCIENCE | TECHNOLOGY

800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
www.migcom.com



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From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: Please save to file and interested parties 885 Montgomery
Date: Friday, July 17, 2020 9:46:35 AM

EXTERNAL

From: **Everett Louie** <elouie@migcom.com>
Date: Fri, Jul 17, 2020 at 9:46 AM
Subject: Re: 885 Montgomery
To: Val <pinball@sonic.net>

Hello Val,

Thank you for your email. I have provided a link to the final cannabis ordinance which contains information regarding County guidelines with cannabis: <http://sonomacounty.ca.gov/Cannabis/Legislative-Updates/County-Ordinances/>

Here is the section on inspections as per your question:

26-88-250(k) Inspections. Premises shall be subject to inspections by appropriate local and state agencies, including but not limited to the Department of Agriculture/Weights & Measures and Permit and Resource Management Department. Premises shall be inspected at random times for conformance with the county code and permit requirements. The inspection shall be conducted during regular business hours. If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may temporarily suspend the permit and order the permit holder to immediately cease operations

On Thu, Jul 16, 2020 at 7:20 PM Val <pinball@sonic.net> wrote:

----- Forwarded Message -----

Subject:885 Montgomery
Date:Thu, 16 Jul 2020 12:55:40 -0700
From:Val <pinball@sonic.net>
To:Elouie@migcom.com

Hello Everett Louie,

Our property is adjacent to 885 Montgomery so we have been involved for quite sometime with the operation. I attended many meetings, as an interested party, when the cannabis advisory board met in Santa Rosa. Towards the end of the board meetings, at least when I quit attending, there was an unresolved item that I never heard of a resolution. It is the issue of visits by the county(?) inspector of the grow. If I remember, the growers wanted a 24 hour notice and the others wanted surprise(?) visits. Can you tell me how this came out? Is there a county "grower's manual" with the guide lines the county expects available? Thank you, Richard Conger 942 Ferguson Road property address. Home: 1947 Coffee Lane Sebastopol, CA 95472

From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: Please save to file - UPC18-0001 MND Comments
Date: Thursday, July 16, 2020 10:37:55 PM
Attachments: [UPC18-0001_GK-CGK_Cmnt-Submission.pdf](#)

EXTERNAL

From: **Greg Koss** <greg@gregkoss.com>
Date: Thu, Jul 16, 2020 at 10:23 PM
Subject: UPC18-0001 MND Comments
To: <Elouie@migcom.com>, <Planner@sonoma-county.org>, <Pat.Gilardi@sonoma-county.org>, <Andrea.Krout@sonoma-county.org>, <Tracy.Cunha@sonoma-county.org>, <jchamber@sonoma-county.org>, <District5@sonoma-county.org>, <bos@sonoma-county.org>

Hi All,

This is the submission from Gregory & Caroline Koss, owners of [1096 Ferguson Rd, Sebastopol, CA 95472](#).

We share a border with the Misty Mountain parcel and are submitting this comment.

Best Regards,
-G

--

Greg Koss
greg@gregkoss.com

--

Everett Louie
Environmental Planner and Project Associate
he/him/his



PLANNING | DESIGN | COMMUNICATIONS | MANAGEMENT | SCIENCE | TECHNOLOGY

800 Hearst Avenue
Berkeley, California 94710 | USA
o 510-845-7549
elouie@migcom.com
www.migcom.com



UPC18-0001 Submission

Gregory & Caroline Koss

Owners & Residents at 1096 Ferguson Road, Sebastopol, CA

Mr. Everett Louie, Planner – Sonoma County
Permit Sonoma
2550 Ventura Ave.
Santa Rosa, CA 95403
(510) 845-7549
elouie@migcom.com

Copied to the Board of Supervisors, Sonoma County

July 16, 2020

Mr. Louie,

Caroline and I are writing to submit our comments regarding the Misty Mountain Services LLC permit at 885 Montgomery Road, Sebastopol, CA, APN - 077-130-095. This is pursuant to the MND notification we received in June this year.

Caroline and I have a single family residence at our property that shares a boundary with the Misty Mountain parcel on the southern side of our property. We are the same as the residents living in private homes to the east, west, and south sides of Misty Mountain. Regardless of the fact most of us are zoned DA, we are not farmers. We are private citizens living in single family homes enjoying the rich quality of life afforded by Sonoma County and Sebastopol.

One of the critical components of our quality of life is being able to sit comfortably on our deck, in our yard, or in our house, without being disturbed by odor or noise coming from a commercial cannabis operation next door. While we wholeheartedly support the legalization of cannabis we feel that it's a different crop with very different characteristics from grapes, apples, or other kinds of plant crops that are abundant in the area and on our own property. Cannabis' unique ability to generate pervasive odors for many months out of the year call for different regulation from other crops that don't have this characteristic.

We also know that mature trees, bushy shrubs, and fences do not block or mitigate cannabis odors at all. We know that weather patterns in the area are dynamic which is why all the immediate neighbors have been afflicted with cannabis odors during some part of the year. But the most pervasive odors are experienced on the eastern and northern borders because the winds tend to come across the hills from W/SW to E/NE carrying all the odors generated on the property at Misty Mountain. Only containment in sealed buildings and air filtration have proven to be effective at mitigating the odors.

We understand that cannabis regulation is an evolving space. Santa Rosa has completed their code to manage odors effectively. Sonoma County should copy the gist and spirit of the regulation so there is parity for residents within Santa Rosa and across the entirety of Sonoma County.

A great example of how the city of Santa Rosa ensures that odors do not bother neighbors is in their Building and Fire Code Requirements for Cannabis Related Occupancies;

<https://srcity.org/DocumentCenter/View/22641/Cannabis-Related-Occupancies---Building-and-Fire-Code-Requirements>

I excerpt the specific section here, and highlighted the important requirements, for convenience;

Mechanical Code Requirements (applicable to all occupancies and MAUCRSA permit types)

1. *The provisions of the CMC shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to or the maintenance of mechanical systems.*

2. *A ventilation system shall be required to filter contaminants to the exterior of the building and any adjoining property (SRCC 20-46.050). **The mechanical ventilation or exhaust system shall be installed to control, capture, and remove emissions or other odors generated from product growing, processing, use or handling where required in accordance with the Building or Fire Code, or as a Condition of Discretionary Approval.***

*The design of the system shall be such that the emissions or other odors are confined to the area in which they are generated by air currents, hoods, or enclosures and shall be exhausted by a duct system to a safe location or treated by removing contaminants. **Certification of the odor control system design by a licensed engineer shall be submitted at the time of permit application.***

3. *Provide an exhaust system designed and constructed to capture sources of contaminants to prevent spreading of contaminants to other parts of the occupied spaces of the building (CMC Chapter 4).*

4. ***Building elements separating the cannabis agricultural area from other occupied portions of the building must be air sealed to prevent odor migration into adjacent spaces.***

The city of Santa Rosa does not suggest trees or shrubs to mitigate odors. They require well engineered HVAC systems that are certified by engineers coupled with sealed building spaces to do the job. Sonoma County must address the odor mitigation challenge the same way since the farming and processing of cannabis produces the same odors in Santa Rosa that it produces everywhere else in the county.

The intense odor we have experienced with cannabis growing at Misty Mountain has varied intensity but can be experienced any time from April to November in a typical year. Given the many months we have experienced the odors we must assume the odor must come from processing and storage as well as the grow itself. We know that cannabis doesn't take 8 months to go from seed to harvest. And indoor grows can have as many as five grow/harvest cycles in a year, so it's especially important for indoor grow buildings to be sealed and have air filtration, as both the Santa Rosa and the Sonoma County statutes state below.

We believe Sonoma County recognizes that cannabis is a different crop where odors are concerned when these statutes were added to the county code, I highlighted the important sections;

Section 26-88-250 Commercial Cannabis Uses – Medical

(a) Purpose. This section provides the development and operating standards for personal and commercial medical cannabis uses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

(f) Health and Safety. Medical cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

26-88-254 Cannabis Cultivation – Commercial Medical

(a) Purpose. This section establishes development criteria and operating standards for commercial medical cannabis cultivation activities as allowed by the base zone in compliance with Section 26-88-250 Commercial Medical Cannabis Uses.

(b) Applicability. This section shall apply to all commercial medical cannabis cultivation activities, including but not limited to, outdoor, indoor and mixed light or greenhouse environments and associated drying, curing, grading, and trimming facilities. Medical cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Commercial medical cannabis cultivation operations shall comply with the following development criteria and operating standards in addition to the requirements of Section 26-88-250 Commercial Medical Cannabis Uses.

(f) Development Criteria.

(3) Property Setbacks- Outdoor. Outdoor cultivation areas and all associated structures shall not be located in the front yard setback area and shall be screened from public view. Outdoor cultivation areas shall not be visible from a public right of way. Outdoor cultivation areas shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on surrounding properties. Outdoor cultivation sites and greenhouses/ mixed light structures shall be setback a minimum of 600 1,000 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

(4) Property Setbacks- Indoor. All structures used for indoor cultivation and all structures used for drying, curing, grading or trimming and all indoor cultivation structures shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.

(g) Operating Standards.

(2) Air Quality and Odor. All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.

Given the requirements are clearly laid out above, it's up to the county to enforce the code by ensuring odors are mitigated. That has not happened at the Mist Mountain parcel to date.

There have been several validations of the nuisance level of the odor from the cannabis grow. It's impossible to know whether the odor at the time of each visit emanated from the outdoor grow or one of the other structures. But the result to the neighbors is the same – A strong odor of cannabis that can be anywhere from unpleasant to life threatening if you suffer from pulmonary compromise or asthma. Elderly parents that want to visit our home would be unable to do so under current levels of odors on some days of the year. That is a severe limitation on our home and quality of life that is unnecessary and violates the codes shown above.

Lynda Hopkins visited the property on the eastern edge of Misty Mountain on May 25, 2018. The visit was documented in the local paper. I excerpt the quote for convenience;

Some folks feel they're being deprived of the use of their property due to overwhelming odor," she said. On a visit to a site near Sebastopol whose owners have applied for an outdoor cultivation permit, Hopkins said she was surprised by "how pungent" the plants were."

<https://www.pressdemocrat.com/article/news/press-democrat-poll-finds-sharp-division-in-sonoma-county-over-cannabis-cul/>

These people visited the same property at these different times of the year and were very aware of the odor in each case;

July 5, 2018: Tennis Wick, code enforcement director

February 20, 2019: John Lowry, District 5 Planning Commission

March 30, 2019: Pam Davis, District 5 Planning Commission

The New York Times also documented the odor in this article published December 19, 2018;

<https://www.nytimes.com/2018/12/19/us/california-marijuana-stink.html>

Given the above, and with the goal to maintain the high quality of life in our neighborhood, we would like Mr. Bell and Misty Mountain to enclose all the grow and processing areas, and install filtration to remove the pervasively pungent odors that all of us have experienced. The enclosure should be a greenhouse to support both goals of growing a healthy crop and containing the odor that is produced.

All the buildings where cannabis is processed, stored, and prepared for sale must be required to follow the same rules so nuisance odors are contained and mitigated onsite.

Further, in discussion with Mr. Bell, he was very clear that he would like to enclose his outdoor grow in a greenhouse but Sonoma County would not issue him a permit. It seems like Mr. Bell is both aware of the odor problem but willing and able to mitigate it. But he needs the support of the county so he can take action.

In the interest of having a good neighbor, and being a good neighbor, we would like Sonoma County to grant Misty Mountain a permit to enclose the outdoor grow and processing areas and require filtration for the air that passes through those structures to mitigate the cannabis odor. We would like the requirement to mitigate odors be a condition of the Misty Mountain permit to be a cannabis grower the same as we found in the Santa Rosa code above.

Mr. Bell was clear that he would like a permit to enclose his grow and processing operations so he can be a good neighbor to all of us. Please support all our desires to mitigate the cannabis odor with the proper permits as quickly as possible.

We would also like Sonoma County to mandate a requirement that when a DA property will be used for a cannabis grow operation and shares a boundary with RR or other parcels with family residences, all the growing and processing must be conducted within sealed structures that have air filtration installed to mitigate the odor. We think this would go a long way towards having residents embrace cannabis crops just as they embrace grapes and apples today.

Respectfully,

-s-

Gregory Koss

-s-

Caroline Koss

Emailed; Board of Supervisors, Everett Louie

From: [Cheryl Wills](#)
To: [PermitSonoma](#)
Subject: Public Comment - : Permit Sonoma County File no, UPC18-0001, 885 Montgomery Road, Sebastopol CA 95472
Date: Friday, July 17, 2020 3:32:14 PM

EXTERNAL

Permit Sonoma

July 17,2020

2550 Ventura Avenue

Santa Rosa, CA 95403

Re: Permit Sonoma County File no, UPC18-0001, 885 Montgomery Road, Sebastopol CA 95472

Dear Permit Department,

As a longtime resident of this neighborhood and rural private residential lane, I am very concerned about the proposed permit application for a five-year conditional permit for a commercial cannabis operation. I have lived on this lane for over 45 years and have seen the area change a lot. The lane we live on is a small private one lane road that is maintained by the residents of the lane who have an easement to utilize it.

My first concern is the posting of the notice at the mailbox area of what is unofficially known as Drew Lane, which is accessed off Ferguson Road, with Mill Station Road as the closest cross street. The posting showed up on June 22, 2020 and is an area most resident may not bother to look. In my honest opinion this was not sufficient notice as it was not the thirty days as required. The other public notice was stated to be 6/19/20 in the Press Democrat which is available by subscription and some residents such as myself, do not have the available resources to subscribe.

Next would be the reason for the posting at Drew Lane. Why would a Montgomery Road address need to post such a notice at a private residential road off Ferguson Road? Does 885 Montgomery Road have an easement for Drew Lane? Drew Lane is a private lane without any county maintenance. Additional use from a commercial operation will wear down this lane and holds the potential for speeding on a lane where families and pets walk. A dangerous combination.

The proposed hours of operation shown on this permit are 6am to 8pm, seven days a week. Noise abatement must be addressed to ensure residents of this peaceful area can ensure all county ordinances are upheld, especially given the proximity to the surrounding private residences.

Next concern is water usage. Living in rural Sebastopol, we are living off wells. Cannabis cultivation has a reputation for heavy water usage, which has the potential to negatively affect many property owners in the surrounding area. In addition to the water usage concerns, we are part of the watershed for Atascadero Creek which is a tributary to the Russian River and is protected.

Lastly and in my personal opinion most importantly will be the odor and emissions involved with this potential project, leading to possible side effects for those of us living nearby. In my family I have a several family members who are at risk. My daughter is asthmatic, and the odor has the potential to trigger attacks, that can be life threatening. My husband holds a commercial drivers license with a passenger endorsement and school bus endorsement. This is required in his profession, his livelihood. As a commercial driver, he falls under the Federal Motor Carriers Act, which allow for 0.00 trace of cannabis in his system. To live in this beautiful area, we are both working fulltime, to stay here. I am concerned the odor and emissions, could lead to his failing a random drug test at no

fault of his own. Approving this type of commercial operation would place the onus on the County to mitigate or enforce any odor and emissions issues. Several of our family suffer from severe allergies to dust and pollens, which has the potential to be exacerbated by the emission of this type of operation. One of the perks of living in this area is the weather, which allows most of us to live without air conditioning. If the odor and emissions become an issue, how do we address this?

This is not the right area for this type of operation. The potential negative impacts to those living in proximity far out weights the reasons for allowing the permit for the proposed operation. The potential harm to our watershed and the fish who live and spawn in the Russian River and Atascadero Creek it not something to be taken lightly. Once these resources are gone, they are gone, and we cannot repair that.

Thank you for your consideration,

Cheryl Wills

1058 Ferguson Road

Sebastopol, CA 95472

707-849-7407

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From: [Everett Louie](#)
To: [Arielle Wright](#)
Subject: Please save to file and interested parties
Date: Friday, July 17, 2020 10:08:08 AM
Attachments: [Grand Jury Santa Barbara.pdf](#)

EXTERNAL

----- Forwarded message -----

From: Charlene Stone <charlenestone99@yahoo.com>
Date: Fri, Jul 17, 2020 at 9:57 AM
Subject: PUBLIC NOTICE FOR upc18-001
To: Everett Louie <elouie@migcom.com>, bos@sonomacounty.com
<bos@sonomacounty.com>

In addition to my previous comments on this project , I am attaching a copy of the Santa Barbara Grand Jury's report on their investigation into their supervisorial oversight of cannabis issues in that county. It is pretty damning and I think, in large part, applies to what we are seeing in Sonoma County.

Perhaps our Grand Jury will choose to do its own investigation some time soon. Thank you for your attention to this urgent matter.

Charlene Stone, West Sonoma county

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Everett Louie

Environmental Planner and Project Associate
he/him/his



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Cannabis

SUMMARY

The action taken by the Santa Barbara County Board of Supervisors to certify the development of a robust cannabis industry as the primary objective of the cannabis ordinances has altered the quality of life in Santa Barbara County, perhaps forever.

The fulfillment of that objective dictated the actions taken by the Board from the excessive allowance of licenses and acreage, creation of an unverified affidavit system, ignoring widespread odor complaints, not acknowledging the conflict between cannabis cultivation and traditional agriculture, to rejecting the environmentally superior alternatives of limited cannabis development.

Instead of a balanced approach carefully evaluating how the cannabis industry would be compatible, both as to amount of acreage and location, the Board simply opened the floodgates. These ordinances must be amended.

INTRODUCTION

The 2019-20 Santa Barbara County Grand Jury (Jury) received several requests for investigation of the actions of the Santa Barbara County Board of Supervisors (Board) surrounding the creation and passage of the Ordinance 5026, adding Chapter 50A of the Santa Barbara County Code; Ordinance 5027, amending Chapter 35-1 of the Santa Barbara County Code, the Santa Barbara County Land Use and Development Code (LUDC); Ordinance 5028, amending Article II, the Coastal Zoning Ordinance of Santa Barbara County (CZO); and creation and passage of Ordinance No. 5037, adding Chapter 50 of the Santa Barbara County Code, Licensing of Commercial Cannabis Operations (License), and related impacts. The Jury, comprised of professional people, including attorneys and CPAs, former law enforcement, business owners, government officials, and educators, spent countless hours reviewing documents, reviewing Board and Santa Barbara County Planning Commission hearings and interviewing numerous witnesses including the five members of the Board.

The rules of the Santa Barbara County Grand Jury do not permit the naming of individuals within a report. The intent of the investigation, initially undertaken pursuant to *California Penal Code Section 919(c)*, was to examine the process of the creation and passage of the ordinances and resulting issues.

The Jury does not express an opinion on the legalization of cannabis.

This investigation by the Jury was hindered by the denial of its request for subpoenas to be issued to non-government witnesses who might have been helpful to the inquiry. The investigation was further hindered by a two month delay in the final production of requested documents from the County of Santa Barbara that was purported to be responsive and complete. During the investigation, the Jury learned that all documents requested have not been provided.

The California Supreme Court has stated, “In California, unlike some other American jurisdictions, the grand jury’s role as a vigilant ‘watchdog’ over the operations of a variety of local government activities has a long and well respected heritage.”¹

¹ *People v. Superior Court* (1973 Grand Jury) (1975) 13 Cal. 3rd 430, 436

The Grand Jury is aware that the Santa Barbara County Board of Supervisors initiated a process in July, 2019 to review and possibly amend the cannabis related ordinances. The insights and recommendations provided by the Jury in this report should be of great assistance in creating a legal cannabis framework going forward that will best serve the interests of the residents, local businesses and the agricultural industry of Santa Barbara County.

METHODOLOGY

In the course of its investigation, the Grand Jury interviewed:

- the five members of the Santa Barbara County Board of Supervisors who voted on the ordinances
- a senior member of the Santa Barbara County CEO staff
- a senior member of the Santa Barbara County Planning and Development staff
- a school district superintendent
- a high school principal
- a public school teacher
- a senior Santa Barbara County Public Health Department official
- a senior member of the Santa Barbara County Agriculture Commissioner staff
- a former Santa Barbara County Planning Commission member
- a local land use attorney
- a senior member of the Santa Barbara County Tax Collector staff
- a senior member of Santa Barbara County Air Pollution Control District staff
- a Cal OSHA staff member
- a UCSB professor of environmental science
- a senior member of the Santa Barbara County District Attorney staff
- Santa Barbara County residents
- Santa Barbara County avocado growers
- Santa Barbara County vineyard owners
- a Santa Barbara County cannabis cultivator
- a Santa Barbara County cannabis activist

The Jury also reviewed:

- Santa Barbara County Board of Supervisors meetings and supporting written material
- Santa Barbara County Planning Commission meetings and supporting written material
- numerous local, state and national news articles regarding cannabis
- scientific articles on cannabis

- in excess of one thousand documents produced by the County of Santa Barbara
- emails and texts produced by the County of Santa Barbara
- County Code of Ethics published by the Research Division of the National Association of Counties, County Services Department, 2009
- Santa Barbara County Board of Supervisors official website

BACKGROUND

On November 8, 2016, the voters of California passed Proposition 64, The Adult Use of Marijuana Act, which legalized non-medical adult use of cannabis.

In 2017, at the direction of the Ad Hoc Sub Committee made up of two members of the Board and pursuant to the California Environmental Quality Act (CEQA), a Program Environmental Impact Report (EIR) was prepared by the Santa Barbara County Planning and Development Department (P&D) for the Cannabis Land Use Ordinances and Licensing Program (Project).

The Project lists ten primary objectives. (See Appendix 1.) The first objective was “Develop a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and, as a public benefit, improve the County’s tax base.” The last objective was to “Limit potential for adverse impacts on children and sensitive populations by ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities and educational institutions.”

On February 13, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance 5026, adding Chapter 50A to the Santa Barbara County Code.

On February 27, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance 5028, amending the CZO, and adopted Ordinance No. 5027, amending the LUDC.

On May 1, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance No. 5037, adding Chapter 50, Licensing of Commercial Cannabis Operations, to the Santa Barbara County Code.

OBSERVATIONS AND ANALYSIS

The investigation was undertaken to examine various issues and the actions that were taken by the Board in the process of creating the ordinances. These issues include the following:

1. **Ad Hoc Committee** - The use of an Ad Hoc Sub Committee that was not open to the public and not subject to the Ralph M. Brown Act (Brown Act).²
2. **Robust Cannabis Industry** - The approval of the primary objective of the Cannabis Ordinance Project to be the development of a robust and economically viable legal cannabis industry.
3. **Access Granted To the Cannabis Industry** - The granting, by the Board, of nearly unfettered access to cannabis growers and cannabis industry representatives during the creation of the ordinances.

² The Ralph M. Brown Act, codified as California Government Code 54950 et seq.

4. **Significant and Unavoidable Environmental Impacts.**
5. **Rejection by the Board of Environmentally Superior Alternatives** - The rejection of Project Alternatives including the Environmentally Superior Alternative of Reduced Registrants.
6. **“Skunky” Smell** - The allowance of unpermitted operators to continue to operate with no effective odor control in place.
7. **Impact on Agriculture** - The failure to consider the impacts of cannabis cultivation on traditional agriculture knowing the State of California requirement of testing for pesticides on cannabis.
8. **Legal Non-Conforming Status.**
9. **Affidavit System** - The employment of an unverified affidavit system to qualify growers as legal non-conforming and the failure to determine the scope of the claimed qualifying use.
10. **Taxation** - Santa Barbara County was one of only a few counties within the State that did not tax cannabis cultivation on a square footage basis. In addition, the Santa Barbara County Treasurer-Tax Collector, an elected position, was excluded from the creation of the tax portion of the License ordinance. Also, the allowance for cannabis acreage far exceeded the demand in California.
11. **Statement of Overriding Considerations.**
12. **The Interference with the Santa Barbara County Air Pollution Control District** - The Santa Barbara County Chief Executive Office’s (CEO) staff and P&D staff interceded and revised the Cannabis Air Quality Advisory issued by the Air Pollution Control District (APCD), an independent agency.
13. **Ethics** - The acceptance of campaign contributions by Board members at or near the time the donor had a matter pending a decision before the Board.

Ad Hoc Committee

On February 14, 2017, the Board voted to establish an Ad Hoc Sub Committee (Ad Hoc) consisting of two Supervisors. The stated purpose was to review and create regulations for adult use and cannabis cultivation in the County.³ The Ad Hoc was created as a body not subject to the Brown Act and not open to the public.

The Board decision not to have open meetings on the ordinances created issues. One issue was the lack of transparency that inevitably results when the public is excluded from the process, especially on such a controversial matter as cannabis. In contrast, the 2015 Board, which included some current Board members, voted to create an Ad Hoc Sub Committee, subject to the Brown Act and open to the public, to engage in discussions with the Santa Ynez Valley Band of Chumash Indians regarding similarly controversial land use issues.

Of concern to the Jury was the fact that agendas were not prepared and minutes were not taken for the Ad Hoc meetings. The Jury learned that notes and minutes were not prepared in order to avoid any Public Records Act Requests for such documents. The lack of a paper trail does not fit with the concept of open government which seeks input from all interests. This unchecked process led to an imbalanced perspective.

³ February 14, 2017 Santa Barbara County Board of Supervisors meeting “Board Letter”
santabarbara.legistar.com/LegislationDetail.aspx?ID=2957248&GUID=605FD80A-4670-40ED-B1DD-EDBDB3C7A65D&Options=&Search=

A major issue according to witnesses interviewed by the Jury was that the process created by the use of the Ad Hoc resulted in a top down decision making process. The normal process provides for multiple public meetings held by the P&D staff with community input. The normal process allows for exploration of potential impacts to the various parts of the County prior to Board involvement. The Ad Hoc inserted the Board at the beginning of the process and not at the conclusion after community input.

A recent example of the normal process would be the proposed amendment of the LUDC to adopt new development standards, permit requirements and procedures regarding winery developments.

The Board directed P&D staff to update the then current winery regulations as part of the 2011/2012 Long Range Planning Annual Work Program.⁴

As the November 1, 2016 Board letter recounts, the staff conducted extensive stakeholder engagement and public outreach to gather information and discuss winery ordinance issues that should be addressed in the ordinance update. The public outreach included eighteen separate group meetings with wine industry and agricultural groups, neighborhood groups and non-profit organizations.

In addition, there were five public meetings, beginning in August 2012 continuing through February 2013, which discussed among other topics, neighborhood compatibility and wine ordinance structures, permitting, monitoring and enforcement. In March 2014, based on the community input received during the public outreach process, the P&D staff prepared draft ordinance language for public review. In June of 2014, the staff revised and finalized the draft ordinance.

There were hearings before the Planning Commission that occurred in August and September of 2016. The matter finally came before the Board on November 1, 2016.

In the matter of the cannabis ordinances, the Ad Hoc put the Board at the start of the process and not at the conclusion after community input. Public comment, for the cannabis ordinances, came after the forming of the ordinances had already occurred in the Ad Hoc. This is not good government, unsurprisingly leading to a seriously flawed law.

Robust Cannabis Industry

In 2017, P&D staff worked with the AD Hoc to determine the type of environmental document that would be required under CEQA to evaluate the environmental impacts associated with the new cannabis ordinance. The Ad Hoc concluded that an EIR was the appropriate document and directed staff to take the actions necessary for its preparation.

The purpose of this EIR was for use by government bodies to review and consider the environmental impacts of the Project as part of its decision-making process.

The P&D staff decided to consider the EIR a Program EIR. As was described in the Final EIR document, “As a Program EIR, the level of detail included in the project description and methodology for impact analysis is relatively more general than a project-level EIR, as individual cannabis activity site-level details are not available for prospective license applications or would be considered too speculative for evaluation. This approach allows the Board to consider broad implications and impacts associated with the project while not requiring a detailed evaluation of individual properties.”⁵

⁴ November 1, 2016 Santa Barbara County Board of Supervisors meeting “Board Letter”

<https://santabarbara.legistar.com/LegislationDetail.aspx?ID=2858292&GUID=882F40A4-1328-4B74-9465-CCE36E9E75C9&Options=&Search=>

⁵ Final Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program Volume 1

[http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final PEIR/Santa%20Barbara%20 Cannabis%20FE](http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final_PEIR/Santa%20Barbara%20Cannabis%20FE)

The Program EIR allowed for a more cursory analysis rather than project level as was performed in other counties. When considering the EIR was “cranked out in less than thirty days” by the P&D staff, the use of a Program EIR becomes telling.⁶

CEQA guidelines require that the EIR project description include a statement of the objectives of the cannabis Ordinance. The objectives were created in the Ad Hoc. A complete list of the objectives can be found in Appendix 1.

The first listed primary objective was as follows:

“Develop a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and, as a public benefit, improve the County’s tax base.”

This objective became the guiding principle for the Board. The many actions that were then taken along the way in the creation and passage of the cannabis ordinances reflect this objective including the allowance of an excessive amount of acreage and the excessive grants of business licenses.

The information reviewed by the Jury describes the Board being cautioned at a Board hearing on December 14, 2017 by their retained expert, a former Board member of Humboldt County and now member of Hinderliter, de Llamas & Associates Companies⁷ (HdL), that there was a glut of cannabis statewide. He testified that the statewide cannabis production level was 13.5 million pounds with a statewide demand between 1.6 and 2.5 million pounds.

In addition, the report prepared by HdL for the Board stated as follows: “Santa Barbara is just one of 58 counties in California, but with almost 500 registrants seeking as many as 1,365 separate cultivation permits, the County’s growers could potentially produce over 3.7 million pounds of cannabis per year, which is more than double the legal amount of cannabis consumed by the entire state.”

On matters regarding Planning and Zoning, County Counsel advised the Board that they must operate under the review standard that their decisions must have a rational basis.⁸ The decision by the Board that the primary objective of the cannabis ordinances was to develop a robust and economically viable legal cannabis industry in the face of that information does not appear rational.

Access Granted To the Cannabis Industry

The testimony obtained from witnesses during the investigation, as well as documents produced pursuant to a request by the Jury, describe the granting by the Board of easy and frequent access to cannabis industry lobbyists during the creation of the ordinances. The Jury sought to interview a cannabis industry lobbyist and additional cannabis growers, but received no response.

The Jury’s review of emails and interviews with Board members showed that cannabis industry lobbyists were very aggressive in their attempt to have the ordinances be as favorable as possible to the cannabis industry. This effort was amplified by some of the cannabis industry lobbyists having recently left the employment of Santa Barbara County. It was described to the Jury that some of these cannabis industry lobbyists could be regularly seen roaming the halls of the Board’s offices.

[IR-Volume%201.pdf](#)

⁶ Video of October 17, 2017 Santa Barbara County Board of Supervisors meeting
http://sbcounty.granicus.com/MediaPlayer.php?view_id=3&clip_id=3123&meta_id=345212

⁷ <https://www.hdlcompanies.com/>

⁸ Video of February 6, 2018 Santa Barbara County Board of Supervisors meeting
http://sbcounty.granicus.com/MediaPlayer.php?view_id=3&clip_id=3228&meta_id=354710

To be clear, this report should not be seen as commenting on the actions of the lobbyists. They are working to promote their clients' interests. Rather, this report demonstrates that the Board did not set reasonable limits as to the number of contacts, both written and in private meetings. Most importantly, there was an apparent lack of limits as to when these contacts occurred, including just prior to or even during Board meetings with cannabis decisions on the agenda

Evidence obtained in the Jury's investigation showed cannabis industry representatives had two meetings, one on January 30, 2017 and one on February 9, 2017, with a Board member prior to the matter of cannabis first being added to the Board agenda on February 14, 2017.

Further documents reviewed by the Jury show a Board member meeting with cannabis industry representatives throughout 2017 including on October 16, 2017 on the topic of non-conforming uses that was to be discussed by the Board on October 17, 2017. Another member of the Board met with different cannabis lobbyists on October 11, 2017 to discuss the same topic.

Other examples of meetings just prior to a Board meeting include a Board member having two meetings with different cannabis lobbyists on November 13, 2017, the day before a Board meeting on November 14, 2017 that was to hear discussion on Letters of Authorization for Temporary State Cannabis Licenses. Those two meetings repeated with the same Board member on December 13, 2017 for the Board hearing on December 14, 2017 where the Board approved the Santa Barbara County letter to the State of California regarding Temporary State Licenses and discussed the taxation of cannabis. Those meetings create the appearance of an imbalance of access and undue influence.

Perhaps most concerning to the Jury was a meeting by a Board member just before the Board meeting of February 6, 2018. The Board member accepted an invitation to tour a cannabis operation on February 1, 2018 to discuss with the owner the issue of how to measure the distance from a cannabis operation to a sensitive receptor, such as a school. On February 5, 2018, the owner sent an email to the Board member advocating for the measurement of the buffer distance to be the property line of the sensitive receptor to the premises of the cannabis operation instead of the Planning Commission recommended buffer distance of property line to property line. This would allow his cannabis operation to remain open. The Board rejected the recommended measurement procedure and instead voted to measure the buffer from the property line of the sensitive receptor to the premises of the cannabis operation.

Documents obtained by the Jury, that had not been previously disclosed to the public, show voluminous emails from cannabis lobbyists and cannabis growers to Board members. While the Jury understands that sending emails to advocate positions favorable to the interests of their client is part of the job of a lobbyist, it was unnerving to the Jury to see both the tone and timing of these emails.

The tone of these emails appeared at times as if to direct specific actions to the Board members and gave the perception of an attempt to command instead of recommend. Understanding that no such authority exists with the lobbyists, the Jury felt that limits on such direct conversations should have been established by the Board members receiving these emails.

The timing of these emails was also concerning to the Jury. The documents reviewed show many being sent the day before a Board meeting, with some confirming the discussions had that day at a meeting with a Board member. The Jury also found two emails sent from a cannabis lobbyist to a Board member the morning of a Board of Supervisors meeting. On March 20, 2018, the most extreme example was an email sent by a Board member to a lobbyist, during a Board meeting, asking the lobbyist if they agreed with a P&D staff recommendation.

This kind of direct access far outweighs the access of others which was typically through emails complaining of odor and other issues, or the three-minute public comment at a Board meeting, limiting the opportunity for exchange with the Board members.

Significant and Unavoidable Environmental Impacts

The EIR assessed potential environmental impacts that could occur with the implementation of the Project. These included potential direct, indirect, secondary and cumulative impacts. Four categories described as classes were used.⁹ This report will examine Class I.

“Class I - Significant Unavoidable Adverse Impacts: Significant impacts that cannot be feasibly mitigated or avoided. No measures could be taken to avoid or reduce these adverse impacts to achieve insignificant or negligible levels. Even after application of feasible mitigation measures, the residual impact would be significant. If the project is approved with significant and unavoidable impacts, then the decision-makers are required to adopt a Statement of Overriding Considerations pursuant to CEQA Section 15093. This CEQA section requires the explanation why benefits of the Project outweigh the potential damage caused by these significant unavoidable impacts.”

The analysis completed in the EIR found that implementing the proposed Project would create significant and unavoidable direct or indirect impacts. Two of the impacts were:

“Agricultural resources - the loss of prime soils due to the unavoidable installation of greenhouses and similar agricultural structures for agricultural uses.”

“Air quality and greenhouse emissions - cannabis activities involve emissions from additional vehicle travel as well as ongoing stationary operations. In addition, the scent of cannabis plants can produce a variety of odors, especially during the flowering phase, which is often considered and perceived by some individuals as objectionable or offensive. Despite mitigation implementation, this nuisance may not be entirely removed and this impact would remain significant and unavoidable.”

Documents reviewed by the Jury demonstrate that P&D and the Board were made aware in a presentation at the February 14, 2017 Board hearing by a member of the CEO’s office that the State of California would require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it could be sold by licensed businesses.

With that information in hand, the Jury questions why the issue of the conflict between traditional agriculture and cannabis grows was omitted in the EIR. It was hardly a secret that traditional agriculture in Santa Barbara County necessarily utilizes insecticides in dealing with destructive pests and fungicides for mold and mildew. That glaring omission is very hard to understand and is very troubling. It will be discussed separately in this report.

The EIR acknowledges that the odor of cannabis plants is a significant and unavoidable impact on the environment. The odor issue is of such consequence that it also merits separate discussion in this report.

⁹ Final Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program Volume 1
[http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final PEIR/Santa%20Barbara%20 Cannabis%20FEIR-Volume%201.pdf](http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final_PEIR/Santa%20Barbara%20Cannabis%20FEIR-Volume%201.pdf)

Rejection by the Board of Environmentally Superior Alternatives

Section 15126.6(d) of the State CEQA Guidelines requires the EIR to assess a reasonable range of alternatives to the proposed Project. These included alternatives that could feasibly attain most of the basic objectives while avoiding or substantially lessening one or more of the significant effects of the proposed Project.

Alternatives typically involve changes to the location, scope, design, extent, intensity, or method of construction or operation of the proposed project. A fundamental mandate of CEQA is that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of the projects.”¹⁰

The EIR analyzed four alternatives to the Project. These are described as follows:

The No Project Alternative

Alternative 1: Exclusion of Cannabis Activities from the AG-1 Zone District

Alternative 2: Preclusion of Cannabis Activities from Williamson Act Land

Alternative 3: Reduced Registrant Alternative

Each of the alternatives was evaluated based on significance, location, extent and magnitude of impacts, potential benefits, and relative impacts in comparison to other alternatives. The alternative with the fewest adverse impacts was then considered the Environmentally Superior Alternative.

The No Project Alternative was rejected in the EIR. The finding was that under the No Project Alternative, the banning of cannabis, the direct impacts associated with licensing of an expanding cannabis industry would not occur. This alternative, however, would not address unregulated and illegal cannabis activities. Further, it would not offer an avenue for licensing and permitting, thus it was likely that illegal cannabis activities would continue to exist.

Under the No Project Alternative, the EIR found that aesthetic and agricultural resources impacts would likely be reduced but other environmental impacts would not be due to the illegal cannabis operations.

The EIR stated that the Project, Alternative 1 and Alternative 2 would all result in significant and unavoidable impacts to agricultural resources, air quality, noise, and transportation. Only Alternative 3 would reduce impacts to agricultural resources to a less than significant level.

Alternative 1: Exclusion of Cannabis Activities from the AG-1 Zone District. Under this alternative cannabis related activities would not be allowed within the AG-1 zone districts throughout Santa Barbara County. This alternative would reduce the areas of eligibility in the County, in particular the Carpinteria Valley and the Santa Ynez Valley.

The EIR found that Alternative 1 would reduce the total amount of eligible area and sites as compared to the proposed Project and would require substantial relocation or abandonment of existing cannabis operations. Existing cultivators would need to find locations within the reduced area of eligibility.

While adoption of Alternative 1 would achieve most of the Project objectives, the EIR found that it failed as it would not achieve Project Objective 1, the development of a robust and economically viable legal cannabis industry or Objective 4, encouraging businesses to operate legally and secure a license to operate in full compliance with County and State regulation. The EIR states that Alternative 1 also

¹⁰ California Public Resources Code section 21002.

does not achieve Objective 6, the minimization of adverse effects of cultivation, manufacturing and distribution activities on the natural environment.

Next, consideration was given to Alternative 2: Preclusion of Cannabis Activities from Williamson Act Land. Under this alternative, cannabis activities would not count towards the minimum cultivation requirements to qualify for an agricultural preserve contract pursuant to the Williamson Act.¹¹

While under this alternative cannabis activities would be considered compatible uses on lands that are subject to agricultural preserve contracts, they would be limited to a maximum of 22,000 square feet of cannabis canopy cover for each Williamson Act contract premises.

The EIR notes that this alternative would result in limiting the potential for cannabis activities on over 50 percent of eligible County area and would eliminate hundreds of potential operations from occurring on Williamson Act lands.

Although adoption of Alternative 2 would have met some of the Project objectives, such as a permitting process, the regulation of sites and premises to avoid degradation of the visual setting and neighborhood character, odors, hazardous materials, and fire hazards, it was rejected.

The failing of Alternative 2 was that it did not achieve some of the basic Project objectives namely those related to development of a robust and economically viable legal cannabis industry, Objective 1. That is understandable considering this alternative limits how robust the cannabis can then become. What is unclear is how this alternative prevents the accomplishment of Objective 4, encouraging businesses to operate legally and secure a license to operate in full compliance with County and State regulations, or Objective 6, minimization of adverse effects of cultivation and manufacturing and distribution activities on the natural environment.

The last alternative considered was the Reduced Registrant Alternative. As described in the EIR, this would limit the total number of licenses issued by the County to one half of the number of each category of licenses that were listed as part of the 2017 Cannabis Registry. This would limit the representative buildout of the Project analyzed in the EIR by a commensurate 50 percent. The EIR goes on to state that existing cannabis operators that were identified in the registry would be prioritized for licensing, which would substantially reduce the net new buildout, while allowing for limited growth.

Selection of Alternative 3 would result in substantial reductions in the severity of most impacts compared to the proposed ordinances. This alternative would reduce significant and unavoidable impacts to agricultural resources to a less than significant level. However, the EIR found that it would not achieve the most basic Project objectives of the development of a robust and economically viable and legal cannabis industry, Objective 1, and encouraging businesses to operate legally and secure a license to operate in full compliance with County and State regulations, Objective 4.

Alternative 3 was found to be the Environmentally Superior Alternative to the Project, as it would result in less severe impacts to the environment due to the limited extent of cannabis development and limited granting of licenses by the County. As stated in the EIR, “With implementation of mitigation measures, the Reduced Registrants Alternative provides a balance between meeting Project objectives, including quality of life concerns and addressing environmental impacts and allowing for limited amounts of growth in the cannabis industry.”

Despite this statement, Alternative 3 was rejected in the EIR, as this alternative was found to not adequately meet Objective 1 of the Project, the development of a robust cannabis industry, and

¹¹ The California Land Conservation Act of 1965

Objective 4, encouraging businesses to operate legally. Therefore, the EIR found the Environmentally Superior Alternative was infeasible.

Skunky Smell

The most complaints the Jury received about cannabis involved the skunky smell that is produced by cannabis operations. Perhaps the most surprising discovery was the willingness of the Board to justify subjecting Carpinteria, and the rest of the County, to a condition that affects the health and enjoyment of residents. This was not an unexpected result of the Board's actions in creating the cannabis ordinances. They knew about the quality of life concerns and chose the revenue potential of cannabis instead.

Board members received many emails, reflected in submissions for Board meetings from Carpinteria residents, explaining how this skunky smell was impacting their lives. The residents described that their health was being impacted. They told the Board that the way of life that they so cherished in Carpinteria was being ruined. They feared their property values were declining. There was no shortage of complaints, including from the City of Carpinteria itself, through its six letters to the Board.

Most startling was that the Board received two letters from the Carpinteria School District prior to the passage of the cannabis ordinances. The letters detailed that the air quality in Carpinteria High School was being compromised by strong cannabis odors to the point that by afternoon the students and staff were reporting ill effects, such as headaches from the nauseating odor. The Jury found no evidence of a Board member contacting the Carpinteria School District to discuss the buffer zone distances and measurements prior to the passage of the ordinances. The School District sought buffers of 1,000 feet to 1,500 feet from the high school to the cannabis operation. The Board approved 600 feet from nursery operations and 750 feet from cultivation operations, ignoring Planning Commission and staff recommendations.

Carpinteria was not the only victim. The Santa Ynez Valley including Buellton, the Santa Rita Hills AVA wine tasting rooms, Cebada Canyon and Los Alamos residents also voiced their complaints at Board meetings and through emails. There can be no doubt that the Board knew the extent of the odor problem.

So why would the Board ignore this obvious concern? The answer is found in the Program EIR cannabis project objectives that were created by the Ad Hoc, made up of two Supervisors, and a staff support group. The decision to make the development of a robust cannabis industry the first primary objective of the cannabis ordinances project meant that known serious problems such as odor were not sufficiently important to derail their goal.

This is not speculation on the part of the Jury. The EIR, certified by the Board, describes cannabis odor as a significant and unavoidable impact. Instead of choosing environmentally superior alternatives that would lead to smaller and better located operations, the Board chose to proceed with these cannabis ordinances. The most telling document though was the Board's finding of overriding considerations.

In the CEQA required Statement of Overriding Considerations, as in the rejection of Environmentally Superior Alternatives, the first stated reason to choose these ordinances was the goal of developing a robust cannabis industry, despite the odor issue. That goal overrode the complaints of the residents.

Impact on Agriculture

The action of the Board in allowing cannabis operations to be located in close proximity to traditional agriculture has led to disastrous results. That action is very distressing to the Jury as the members of the Board knew of the incompatibility of cannabis. They knew about the odor issues. They knew about the

State rules regarding pesticides and cannabis. Their response was to change the County Uniform Rules, against staff recommendations, that would have allowed for such a compatibility analysis prior to approval. If that was not enough, they certified an EIR that did not even address this known incompatibility.

The February 6, 2018 Board hearing was a pivotal moment for Santa Barbara County. At this hearing, which unfortunately was held shortly after the mudslides in Montecito, the Board certified the cannabis EIR and began the process of amending the LUDC. The amendment of the LUDC provided for cannabis permit applications to be governed by the land use permit requirements rather than by the more exacting conditional use permit process, except if said cannabis operations are located near an existing developed rural neighborhood.

The EIR that was approved and certified by the Board did not address the incompatibility issue between traditional agriculture and cannabis. On February 14, 2017, the Board was advised by CEO senior staff that the State would be testing cannabis for pesticides. The Board knew, or certainly should have known, that many crops in Santa Barbara County from lemons, to avocados, and grapes require effective insecticides and fungicides to survive.

These crops are valuable. According to the Santa Barbara County Agricultural Production Report, avocados were valued at more than \$38 million in 2017 and \$52 million in 2018. Lemons were valued at over \$15 million in 2017 and \$17 million in 2018. Wine grapes were valued at more than \$146 million in 2017 and \$121 million in 2018.

The P&D response to the issue of pesticides in the EIR, as recently as the Board letter of March 10, 2020, was “CEQA requires the assessment of a project’s impact on the environment. The issue of pesticide drift is an important issue but it would not be considered an environmental impact resulting from the project”.

The EIR fails to consider the impossible situation in which traditional agriculture finds itself when using approved pesticides, applied by licensed pesticide applicators. Post application winds or even insects or birds can transfer pesticides on to the cannabis. As the State has set extremely low pesticide tolerances for cannabis, it seems clear that this known incompatibility left cannabis the chosen winner and traditional agriculture the chosen loser in the Board certified EIR.

For vineyard and winery owners in the Santa Rita Hills AVA,¹² the area between Buellton and Lompoc, the issues of odor and terpenes, an aromatic hydrocarbon obtained from plant oils, are severe. Vintners have been growing in the Santa Rita Hills since 1971 and the area finally became recognized as a coveted AVA in 2001. There are now 2,700 planted acres by 59 total wineries.

The sense of smell, or olfaction, is evoked by scents, which are airborne molecules that are volatile enough to reach the olfactory receptors located at the top of the nostril. Volatile stimuli can be perceived directly via the orthonasal pathway, directly through the nostrils, or indirectly, via the retro-nasal pathway when the wine is already in the mouth.

These two factors contribute to why experts state that wine perception is 80 percent olfactory. Flavors inherent in wine, much like food, rely heavily on sense of smell to produce a favorable experience while consuming. When other strong odors are introduced, it obviously changes the perception of the taster.

¹² American Viticultural Area

Winery operations, including tasting facilities and vineyards, have been prevalent in the Santa Rita Hills long before the AVA designation. Winery and vineyard operators have spent millions of dollars developing and building their operations and brands. The proposed introduction of over 625 acres of open air cannabis grows, with the ever-present north and west winds averaging between 9.1 to 10.5 MPH daily,¹³ makes it virtually impossible for these two types of operations to co-exist, weighing heavily against the viability of the wine industry. The heavy skunky odor, of even just a few cannabis plants, can elicit a strong response from people nearby. Olfactory molecules do not stop at the property line. Several hundred acres of cannabis will be devastating to the region's wine reputation, tourism and sales.

The issue of terpene drift from cannabis to grapes was another issue not adequately considered by the hastily crafted EIR. Currently, there are studies underway being conducted by the wine grape¹⁴ and cannabis industries to determine the impact of terpenes on the characteristics of grapes, and the cannabis skunky smell on the taste of wine. It is of note to consider that two other famous wine growing regions of California, Napa County and Sonoma County, have taken steps to protect their wine industries by either banning cannabis (Napa) or severely limiting it (Sonoma). In comparison, the Board has set a cap of 1,575 acres of cannabis in the County plus 186 acres in the Carpinteria greenhouses.

On March 20, 2018, the Board approved amendments to the Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules) that regulate allowed uses on lands that are subject to agricultural preserve contracts. Consequently, by making these amendments, the Board chose to ignore the recommendations of P&D staff and the County's Agricultural Preserve Advisory Committee (APAC) whose duties include reviewing proposed projects for compatibility to neighboring agricultural properties.

The Board amended the Uniform Rules by declaring cannabis to be an agricultural use instead of the recommended compatible use. That decision was significant as it allowed cannabis growers to obtain the benefits of the property tax breaks under the Williamson Act. Perhaps of even more calculated significance was the designation of cannabis as an agricultural use thereby removing the APAC review for compatibility with adjacent agricultural properties which would have been required if cannabis had been designated as a compatible use.

Thus, the framework of these decisions had been established by the Board. The results are the approvals by the Board of large cannabis operations in the Santa Rita Hills region with many more already in the pipeline. The Board has created a situation where the court system is likely the only hope for relief for traditional agriculture, at a huge legal cost and possible damages to taxpayers.

Legal Non-Conforming Status

In January 2016, the Board approved the creation of a legal non-conforming use exemption for then existing medical marijuana cultivation operations that were in compliance with State laws. To be legal, the cultivation was limited to 100 square feet on a lot with a residential structure. The Board failed to insist on a process that would have identified those that claimed this status. Thus, the County had no idea how much cannabis was being grown by claimed medical marijuana growers.

¹³ www.weatherspark.com/y/1262/Average-Weather-in-Lompoc-California-United-States-Year-Round#Sections-Wind

¹⁴ May 5, 2020 Santa Barbara County Board of Supervisors meeting "Public Comment - University of California, Davis" <https://santabarbara.legistar.com/LegislationDetail.aspx?ID=4430356&GUID=4C9684C9-80B0-4D18-AEBC-4772570E1BB7&Options=&Search=>

This status allowed the cannabis operations to continue without a County permit and thus not subject to the requirements that follow with a permit. This status created a myriad of problems that continue to the present.

A major problem that developed with the legal non-conforming use status was the illegal expansion of the use. The expansion of acreage, while enjoying this status, was improper and unpermitted. The reaction of P&D staff to complaints in this regard was to forgive as long as an application was in preparation instead of moving to eradicate the illegal expansion. It is not surprising that this position by P&D staff was, and remains, problematic, as the allowance of continued operation removed the incentive to complete the permit application.

Even more of a problem resulting from the legal non-conforming status being authorized was the fact that only those growers who followed through and obtained a permit are subject to regulations to control the odor from cannabis operations that remains such a problem countywide.

A memorandum of January 15, 2020 to the Planning Commission from a senior member of P&D describes the issue clearly. Most cannabis cultivation that currently exists within the County consists of medical cannabis activities which operators assert are legal non-conforming pursuant to Article X of the Land Use Code¹⁵ (Article X) and, consequently, are allowed to operate pursuant to Article X and the non-conforming regulations of the zoning ordinances. Specifically, out of the 270 acres of cannabis that currently exist within the County, approximately 199 acres, 74 percent, consist of legal non-conforming cannabis cultivation subject to Article X, and the remaining approximately 71 acres, 26 percent, consist of cannabis cultivation that is subject to the current County zoning and licensing requirements.

The memorandum continues on to remind the Planning Commission that these legal non-conforming commercial cannabis cultivation activities are not currently subject to the cannabis zoning regulations which are designed to control the adverse impacts of commercial cannabis activities. Thus, when the Planning Commission is considering the efficacy of commercial cannabis regulations, the focus should be on examples of commercial cannabis activities that are operating in compliance with cannabis regulations that apply to the 26 percent of acreage and not the unregulated 74 percent.

Under this poorly constructed scenario, the unpermitted cannabis operations continue to operate without mandatory odor control.

Affidavit System

Without question, one of the most perplexing decisions made by the Board was the utilization of an unverified affidavit system to qualify applicants who claimed to be existing medical cannabis growers and thus eligible to apply for licenses to continue to grow cannabis.

This affidavit system was the creation of a senior member of the CEO's staff, not the result of a group process. The affidavit executed by the cannabis grower, under penalty of perjury, was in lieu of a formal permit or license as required by the State. The affidavit was then submitted to the State of California by the applicant as part of the process to obtain a temporary State license.

The major and obvious flaw of this affidavit system was the lack of any required verification as to the veracity of whether the applicant had indeed been growing cannabis as of January 19, 2016. This concern was noted by the Planning Commission that recommended a process that included a public hearing wherein the applicant could prove their affidavit was truthful.

¹⁵ library.municode.com/ca/santa_barbara_county/codes/code_of_ordinances?nodeId=CH35ZO_ARTXMEMARE

Despite a comment by a Board member, at a Board hearing, that a verification process was needed, “I trust some cannabis operators but not all”, the Board member still voted with the majority and declined to follow the Planning Commission recommendation of a verification process. The Board’s disregard for potential abuse is incomprehensible.

This serious error was compounded by the Board’s failing to require those who claimed to have been medical cannabis growers as of January 19, 2016 to prove the extent of their acreage as of that date. The absence of a verified benchmark encouraged the expansion of the grower’s acreage beyond what was in the ground on January 19, 2016, if any. Once again, the Board’s decision in this regard is truly baffling.

As there were no enforcement procedures established, complaining neighbors were left to report suspected violators to P&D, both as to eligibility and expansion of operations. Even when shown that the suspicions were indeed correct, P&D staff simply allowed the operation with the expanded acreage to continue if the operator had begun the application process for a County permit. It is not surprising that claimed legal non-conforming operators have been less than diligent in getting their applications ready for approval.

By requiring only a signature, many of the same people previously involved in illegal activities were given an unverifiable opportunity to legitimize their cannabis operations. The purpose of a law, any law, is to regulate human behavior. Laws should punish bad behavior and reward good behavior. The affidavit system and the cannabis ordinances do exactly the opposite.

Taxation

Work on the taxation components of the ordinances began in early 2017. One of the first steps was to hire the consulting firm of Hinderliter, de Llamas & Associates (HdL) to assist the County with, among other things, the development of application fee structures, taxation structure options and fiscal analysis based on a variety of assumptions for medical and recreational cannabis in Santa Barbara County.¹⁶ HdL has provided revenue management services, including sales, property, lodging, business license, cannabis regulation and tax strategies to nearly every county in California.

HdL’s report, dated October 14, 2017 was presented to the Board on December 14, 2017.¹⁷ The report noted that a Standardized Regulatory Impact Assessment prepared for the California Department of Food and Agriculture estimated statewide cannabis production at 13.5 million pounds, though the estimate of cannabis consumption by California residents at just 2.5 million pounds.¹⁸ The report also mentions that a separate study performed for the California Cannabis Industry Association put statewide consumption even lower, at 1.6 million pounds. HdL estimated that “the County’s growers could potentially produce over 3.7 million pounds of cannabis per year.”

An important consideration of any cannabis tax is the ability to help create a legal market that attracts customers and discourages them from buying on the illicit market. Cannabis users are willing to pay more for the convenience, selection, and quality-control benefits offered by legal businesses, however there is a limit to how much more they are willing to pay.¹⁹ If an important goal is to significantly

¹⁶ “Contract For Marijuana Consulting Services”, approved and signed April 10, 2017

¹⁷ santabarbara.legistar.com/LegislationDetail.aspx?ID=3289847&GUID=70A26A7A-4031-43B3-A0B8-24A6BAC7A074&Options=&Search=

¹⁸ Duncan McEwan, et al (January 2017) “Economic Impact Analysis of Medical Cannabis Cultivation Program Regulations” California Department of Food and Agriculture

¹⁹ Michael Amlung, Derek D. Reed, Vanessa Morris, Elizabeth R. Aston, Jane Metrik, James MacKillop. “Price elasticity of illegal versus legal cannabis: a behavioral economic substitutability analysis,” Society for the Study of

diminish the illicit market the cumulative cannabis tax levied must not be so high as to be greater than the benefits provided by a legal cannabis industry.

The report lists four main approaches to taxing the various cannabis commercial activities:

- Taxation on cultivation area by square foot
- Tax on gross receipts of a cannabis business
- Per-Unit tax on the product by weight or volume
- Retail sales tax at point of sale

The first two of these relate to cultivation, and will be the focus of the rest of this section.

Square Footage Tax – A square footage cultivation tax is based on the activity of growing cannabis. It is the most commonly used method for the taxation of cultivation in California. Santa Barbara County is one of only a few counties within California to not use that method. An advantage of this method is that it allows the grower and the county to know upfront exactly how much the annual tax will be at the time the permit is issued. This also allows the grower to make the required payments at any time up until the end of the fiscal year. A downside for the grower to this method is that it does not account for variations in yield, so if the grower has crop loss or reduced yield they still pay the full tax. An upside for a grower is that if there is higher yield, or several crops, the tax remains constant. HdL stated in their report that this method is the easiest and most reliable to administer.

Gross Receipts on Cultivation – A cultivation tax based on gross receipts is a tax on production or earnings, rather than activity. This form of taxation, while less common, has the advantage that if production is high and gross receipts follow then higher revenue would be collected by the County. Growers may prefer this method as it ties the taxes due to actual production. This method, however, presents problems with verification of the volume of the actual cannabis grown and sold, and could be subverted by growers who try to hide their actual yield and sales. In their report, HdL stated that this method can be difficult to administer, as the County must verify the business’s reported earnings or production.

The Jury learned that Santa Barbara County is one of a few counties within California that exclusively uses the Gross Receipts method for cannabis cultivation. The Jury asked those interviewed as to why the County did not follow the path that was more reliable and easier to administer and that many other counties in California were using. The answer the Jury received was that the Gross Receipts method had the potential to be much more lucrative than the Square Footage method. To date, the belief that using the Gross Receipts method would result in more taxes has not proven to be true. While the County initially predicted cannabis tax revenues as high as \$25 million, in 2018-19 the actual revenue was only \$6.8 million.²⁰ Monterey County, which until this year only allowed indoor grows and uses the Square Footage method, had 2018-19 cannabis tax revenues of \$15.4 million.²¹

This difference in revenue collected is more alarming when compared to the number of acres of permitted cultivation in each county. Santa Barbara County has 217 permitted acres compared to Monterey’s 62.

Addiction,114(1):112-118 (2019).

²⁰ Santa Barbara County Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2019
https://www.countyofsb.org/uploadedFiles/auditor/content/FY2018_19CAFR.pdf

²¹ Monterey County Budget End of Year Report, Fiscal Year 2018-2019
<https://www.co.monterey.ca.us/home/showdocument?id=84679>

The Jury also learned that some of the assumptions supporting the use of the Gross Receipts method over the Square Footage method were flawed. The Jury was told that verification would be easy, accurate and complete, using the State of California's METRC 'Track & Trace' system. METRC is intended to be used to track commercial cannabis activity and movement across the distribution chain from "seed-to-sale".²² The concept of METRC is that every plant is 'tagged' with a tracking number and can be followed from seed germination, through cultivation, manufacturing and retail sale. It appears that Ad Hoc had not adequately investigated the METRC 'Track and Trace' system and accepted at face value promises made and sales materials provided. There are two significant problems with the decision to rely on this system. First, the system is still being tested and has not been proven to work to the levels promised. Santa Barbara County has been accepted as a Beta tester but that process has only begun. Secondly, except for surprise visits to cultivation sites to audit the METRC system tagging, there is no way to assure that all plants are properly tagged and tracked, or that all product harvested is accurately reported to the taxing agencies. Just this past January, Deputies from the Santa Barbara County Sheriff's Office served a warrant and raided a cannabis farm in Carpinteria and found 'off-book' sales.²³ How can the County be certain that other growers are not doing the same?

The Ad Hoc appeared to not be interested in the Square Footage method, which is a more reliable and safer method of taxing cultivation and is used nearly ubiquitously in California. It was also the preferred method by most within County government whom the Jury interviewed. The Jury was told that a member of the Ad Hoc working group led the charge for using the Gross Receipts method and even had asked HdL to revise an early draft of its report to focus more on that tax method.

The Jury was also told that a senior member of the CEO's office did not include the Santa Barbara County Treasurer - Tax Collector (Tax Collector) when the Ad Hoc was working on the taxation portions of the cannabis ordinances. Additionally, the Jury learned that the two members of the Board assigned to Ad Hoc took no steps to override the decision by the staff member and took no action to include the Tax Collector in the drafting of the taxation portion of the cannabis ordinances. The Jury found that the Tax Collector, an elected official, failed to insert himself in the process to draft the taxation portion of the cannabis ordinances. The Jury was told that it was known to the Ad Hoc that the Tax Collector did not favor the use of the Gross Receipts method as it made it harder, or nearly impossible, to audit.

Even with the apparent bias of Ad Hoc toward using the Gross Receipts method, the Board had adequate warning that using that method may not have been in the best interests of the County. In its report to the Board, HdL stated it "has commonly recommended cultivation taxes based on square footage, as they are simple, predictable and easy to administer." While HdL also stated, "A single, all-encompassing tax on gross receipts may allow greater flexibility for cultivators to structure their business more competitively", this statement is more favorable to the growers, and not necessarily in the best interest of the County.

Further, using a Gross Receipts method subjects the County to the challenges of market prices. As cannabis revenues fall, so will the related taxes. In Colorado, wholesale cannabis prices have dropped 61 percent from their peak in 2015.²⁴ With the excess of cannabis supply to cannabis demand in California, it is highly likely the same fate will befall California and the County.

Furthermore, during the first year of the program, most of the revenue generated by cannabis taxes was

²² <https://www.metrc.com/california>

²³ <https://www.latimes.com/california/story/2020-02-14/carpinteria-pot-farm-accused-of-selling-on-black-market>

²⁴ https://itep.org/taxing-cannabis/#_edn49

spent on enforcement of the cannabis ordinances. Since then, this revenue is being considered to help solve many of the current budget difficulties. A robust cannabis industry requires a robust enforcement process. No apparent consideration has yet been given to the costs of actual enforcement costs. These costs must be factored in prior to diverting one penny to existing budget problems.

Statement of Overriding Considerations

The Board, faced with the knowledge that the proposed cannabis Project would cause significant and unavoidable impacts on the environment including air quality and odor, found reasons to justify their decision to proceed forward. The methodology for this was the Statement of Overriding Considerations.

The first listed justification is that the Project provides for a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands and as a public benefit, improves the County's tax base. The next listed justification is that the Project enhances the local economy and provides opportunities for future jobs, business development, and increased living wages. Moreover, the Project promotes continued agricultural production as an integral part of the region's economy by giving existing farmers access to the potentially profitable cannabis industry, which in turn will provide relief for those impacted by competition from foreign markets and rising costs of water supply.

The Jury investigation confirmed that the farmers being referenced were the flower growers in Carpinteria. Their ability to grow cannabis was deemed an overriding consideration by the Board paramount to the skunky smell endured by the residents of Carpinteria. The Board found that the benefits of giving flower growers access to growing cannabis "outweigh the unavoidable adverse environmental effects and therefore the adverse environmental effects may be considered acceptable." Amazingly, the Board went on to find that this reason alone would be enough to justify the approval of the cannabis ordinances, even if all other reasons were struck by a court.

For a full list of all Overriding Considerations see Appendix 2.

The Interference with the Air Pollution Control District

One of the most disturbing matters that came to the attention of the Jury was the interference by the CEO senior staff and P&D senior staff in the operations of the Santa Barbara County Air Pollution Control District (APCD).

An independent agency since 1994, the mission of the APCD is: "To protect the people and environment of Santa Barbara County from the effects of air pollution". In furtherance of that mission the APCD issues air quality advisories to the public.²⁵

On Friday, April 26, 2019, the APCD issued online an APCD Advisory (Advisory) titled Air Quality and Cannabis Operations. Among a number of matters discussed in the Advisory, the issue of buffers from outdoor cannabis operations was raised. The APCD advised that with outdoor grows, a reasonable buffer should be established between the grow site and any residential, commercial or public access point with the APCD "strongly encouraging large buffer zones (e.g., 1 mile) to allow for maximum odor dispersion, as well as other odor abatement strategies, to avoid nuisance odors".²⁶

Within a few days, a senior member of the CEO's office contacted the APCD about the Advisory. This

²⁵ <https://www.ourair.org/>

²⁶ APCD Advisory, April 26, 2019 advisory (updated May 7, 2019) <https://www.ourair.org/wp-content/uploads/APCD-Cannabis-Advisory-v2.pdf>

was followed by phone calls from this individual to the APCD the next day requesting the APCD take down the Advisory. The Jury learned that the APCD refused to remove the Advisory.

What followed were communications from a senior member of P&D that convinced the APCD to remove the Advisory. The senior member of P&D then sent the APCD a rewording of the Advisory that included the removal of the language cited above, including “strongly encouraged large buffer zones (e.g. 1 mile)”. The Advisory now only states that the district encouraged the use of buffer zones. No recommended distance of a buffer remained in the replacement Advisory. The various changes were made and a revised Advisory was issued on May 7, 2019. The Jury was told that no such request had ever previously been made to the APCD.

Ethics

Santa Barbara County has been in turmoil since the legalization of recreational cannabis in 2016. There has been public protest over cannabis odor, controversy between the cannabis industry and traditional agriculture, the appearance of financial irregularities and accusations of undue influence. Rarely a day goes by without media coverage of some aspect of the Santa Barbara cannabis industry.

The Santa Barbara County Board of Supervisors does not have a formal code of ethics to inspire and guide the conduct of its members and staff. It relies instead on a simple statement of mission, as reflected below:

“Provide quality public services to the people of Santa Barbara County in response to their need for a healthy, safe and prosperous environment; and to establish and maintain a workforce which reflects the diversity of the community.”²⁷

While these statements lay a sound foundation, they are insufficient to provide detailed guidance to a powerful and influential Board that governs the everyday life of approximately 450,000 local citizens. The challenges of governing a constantly evolving Santa Barbara County demand a more powerful statement and oversight of ethics for the future.

Counties throughout the nation have chosen to establish Codes of Ethics to promote ethical decision making and conduct, and increase public trust in their elected leaders. Such Codes frequently address issues such as:

- Conflict of interest: Potential conflicts are defined
- Acceptance of gifts: Dollar and timing limits are put into effect
- Exploitation of official position: Personal influence and hiring friends and relatives is restricted
- Financial disclosure reports: Disclosure requirements and reporting frequency are defined
- Limitations on campaign contributions: Dollar caps and timing relative to issues under consideration are defined
- Declaration of contact outside of public hearings with subjects of prospective legislation is required
- Outside employment: Disclosure and authorization for outside employment is required
- A “two-year rule”: Establish time limits before which government officials can seek employment with entities they’ve worked with after they leave government service

²⁷ <https://www.countyofsb.org/bos>

Many counties also establish independent Ethics Commissions to provide oversight of government functions and transparency to the general public. These commissions develop and publish a Code of Ethics, review and assess the performance of government functions against those ethical standards, and report their findings to the public. Such commissions are an excellent tool for assuring accountability of government officials.

CONCLUSION

The 2019-20 Santa Barbara County Grand Jury began an investigation initiated by concerns of residents over the influence of the cannabis industry on the creation of the cannabis ordinances. The Jury discovered unequal access was granted to the cannabis industry representatives by the Santa Barbara County Board of Supervisors to the point of allowing email communications during a Board of Supervisors meeting.

A more sobering realization for the Jury was that the governance in this matter took the form of some Supervisors aggressively pushing through their own agendas while other Supervisors meekly followed or resigned themselves to the inevitable.

Some senior staff in the office of the Santa Barbara County Chief Executive Office and the Santa Barbara County Planning and Development Department became cannabis advocates, losing their objectivity to the point of interfering in the responsibilities of independent agencies and elected officials.

The Board of Supervisors rushed through the cannabis ordinances, ignoring the Santa Barbara County Planning Commission and staff recommendations on verification of applicants claiming eligibility to grow cannabis, to buffer distances for odor, and to not establishing cannabis as a compatible use that would allow for an analysis of compatibility with traditional agriculture. The actions of the Board resulted in the picking of winners and losers.

The Board of Supervisors used the mechanism of an Ad Hoc Sub Committee to craft the cannabis ordinances out of public view. These ordinances are now the cautionary tale for other counties in the State of California on what *not* to do.

The Ralph M. Brown Act, codified as California Government Code 54950 et seq., declares as follows:

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards, and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

The Jury believes the Board of Supervisors, in their hubris, failed the people of Santa Barbara County. Now they must amend the cannabis ordinances to regain the people’s trust.

FINDINGS AND RECOMMENDATIONS

Finding 1

The impact of cannabis production on the health and welfare of Santa Barbara County residents was inadequately weighed and considered by the Santa Barbara County Board of Supervisors.

Recommendation 1a

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to prepare Environmental Impact Reports addressing each region of Santa Barbara County after holding public hearings to evaluate public concerns.

Recommendation 1b

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to develop Project Objectives for the Environmental Impact Reports that reflect a balance between cannabis, traditional agriculture, and the residents of Santa Barbara County.

Finding 2

The creation of a non-Brown Act Ad Hoc Sub Committee that was not open to the public led to a lack of transparency and distrust by Santa Barbara County residents.

Recommendation 2

That the Santa Barbara County Board of Supervisors require all future Ad Hoc Sub Committees be open to the public and subject to the Brown Act.

Finding 3

The Board of Supervisors granted nearly unfettered access to cannabis growers and industry lobbyists that was undisclosed to the public during the creation of the cannabis ordinances.

Recommendation 3

That the Santa Barbara County Board of Supervisors develop standards that require Santa Barbara County Board of Supervisors members to publicly disclose all access granted to lobbying individuals or groups, especially while a matter involving these individuals or groups is before the Board of Supervisors.

Finding 4

The conflict between cannabis production and traditional agriculture is a major concern for the continued existence of certain segments of traditional agriculture in Santa Barbara County.

Recommendation 4a

That the Santa Barbara County Board of Supervisors amend the Land Use and Development Code and Article II, the Coastal Zoning Ordinance to require all pending cannabis land use permit applications be subject to a Conditional Use Permit review.

Recommendation 4b

That the Santa Barbara County Board of Supervisors amend the County's Uniform Rules for Agricultural Preserves and Farmland Security Zones to declare that cannabis cultivation and related facilities are compatible uses on contracted land instead of as an agricultural use.

Finding 5

The amount of cannabis production allowed under the current cannabis ordinances is excessive and has led to overconcentration in some portions of Santa Barbara County.

Recommendation 5a

That the Santa Barbara County Board of Supervisors require all applicants with cannabis use and development permit applications and licenses pending, who claim legal non-conforming status, to prove their claimed status before the Santa Barbara County Planning Commission.

Recommendation 5b

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director, in conjunction with the Santa Barbara County Sheriff's Office, to eradicate all cannabis grown on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Recommendation 5c

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to deny permits for the growth of cannabis on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Finding 6

The approval by the Santa Barbara County Board of Supervisors of an unverified affidavit system does not require proof of prior cannabis operations to establish eligibility to continue to grow cannabis as a legal non-conforming use.

Recommendation 6

That the Santa Barbara County Board of Supervisors require all applicants with cannabis use and development permit applications and licenses pending, who claim legal non-conforming status, to prove their claimed status before the Santa Barbara County Planning Commission.

Finding 7

The affidavit system does not require proof of prior scope of the cannabis acreage.

Recommendation 7a

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director, in conjunction with the Santa Barbara County Sheriff's Office, to eradicate all cannabis grown on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Recommendation 7b

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to deny permits for the growth of cannabis on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Finding 8

The option taken by the Santa Barbara County Board of Supervisors to tax cannabis cultivation using a Gross Receipts method was less reliable than the Square Footage method used by the vast majority of California counties.

Recommendation 8

That the Santa Barbara County Board of Supervisors amend Ordinance 5026 to tax cannabis cultivation using the Square Footage method.

Finding 9

The Santa Barbara County Treasurer-Tax Collector was not included in the creation of the tax portions of the cannabis ordinance.

Recommendation 9

That the Santa Barbara County Board of Supervisors require that all future ordinances that involve taxation require the Santa Barbara County Treasurer-Tax Collector be involved in the creation of the ordinance.

Finding 10

Members of the Santa Barbara County Chief Executive Officer's office and Santa Barbara County Planning and Development staffs unduly and without apparent Board knowledge successfully sought changes to the April 26, 2019 Cannabis Advisory from the Santa Barbara County Air Pollution Control District, an independent agency, eliminating a one mile buffer recommendation.

Finding 11

There has not been effective odor control at the boundary of cannabis cultivation and related activities, resulting in significant public outcry about odor, quality of life and health concerns.

Recommendation 11

That the Santa Barbara County Board of Supervisors suspend all County unpermitted cannabis operations until proof of odor control at the boundary of their operation is accepted by the Santa Barbara County Planning Commission.

Finding 12

The Santa Barbara County Board of Supervisors does not have a written Code of Ethics to formalize its ethical standards and guide its decision making processes.

Recommendation 12a

That the Santa Barbara County Board of Supervisors establish, staff and empower an independent Ethics Commission with oversight over the Board and its staff members.

Recommendation 12b

That the independent Ethics Commission develop a Code of Ethics, review Board activities on a periodic and as needed basis for compliance, and share its findings with the public.

Recommendation 12c

That the Santa Barbara County Board of Supervisors require all its members to publicly disclose receipt of campaign contributions from donors who have matters pending a decision by the Board.

Recommendation 12d

That the Santa Barbara County Board of Supervisors require those members receiving campaign contributions from donors with matters pending a decision, to recuse themselves from those matters or return the campaign contributions.

This report was issued by the Grand Jury with the exception of a grand juror who wanted to avoid the perception of a conflict of interest. That grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

Santa Barbara County Board of Supervisors – 90 days

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12

Recommendations 1a, 1b 2, 3, 4a, 4b, 5a, 5b, 5c, 6, 7a, 7b, 8, 9, 11, 12a, 12b, 12c and 12d

Appendix 1

Project Objectives of the Cannabis Land Use and Licensing Program

1. Develop a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands and, as a public benefit, improve the County's tax base;
2. Provide opportunities for legal commercial cannabis cultivation, testing, packaging, transportation, distribution, manufacturing, and retail sale in appropriate unincorporated areas of the County, consistent with state law and County regulations;
3. Develop a new regulatory program allowing for the orderly development and oversight of commercial cannabis activities and businesses, consistent with state law and existing agricultural industry practices, standards, and regulations;
4. Encourage commercial cannabis businesses to operate legally and secure a license to operate in full compliance with County and state regulations, maximizing the proportion of licensed activities and minimizing unlicensed activities;
5. Provide an efficient, clear, and streamlined commercial cannabis licensing and permit process and attainable regulations and standards to facilitate participation by commercial cannabis business in the unincorporated areas of the County;
6. Minimize adverse effects of commercial cannabis activities on the natural environmental, natural resources, and wildlife, including riparian corridors, wetlands, sensitive habitats, and water resources;
7. Promote energy and resource efficiency in all cannabis activities, consistent with existing agricultural and any other industry practices, standards, and regulations;
8. Establish land use requirements for commercial cannabis activities to minimize the risks associated with criminal activity, degradation of visual resources and neighborhood character, groundwater basin overdraft, noise nuisances, hazardous materials, and fire hazards;
9. Develop a regulatory program that protects the public health, safety, and welfare through effective enforcement controls(i.e., ensuring adequate law enforcement and fire protection services) for cannabis activities in compliance with state law, to protect neighborhood character and minimize potential negative effects on people, communities, and other components of the environment; and
10. Limit potential for adverse impacts on children and sensitive populations by ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities, and educational institutions.

Appendix 2

Statement of Overriding Considerations

Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines sections 15043, 15092, and 15093, any unavoidable adverse environmental effects of the project (as modified by incorporation of EIR mitigation measures, and development standards shown in RV 01) are acceptable due to the following environment benefits and overriding considerations:

A. The project provides for a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and, as a public benefit, improves the County's tax base.

B. The project enhances the local economy and provides opportunities for future jobs, business development, and increased living wages. Moreover, the project promotes continued agricultural production as an integral part of the region's economy by giving existing farmers access to the potentially profitable cannabis industry, which in turn would provide relief for those impacted by competition from foreign markets and rising costs of water supply.

C. The project expands the production and availability of medical cannabis, which is known to help patients address symptoms related to glaucoma, epilepsy, arthritis, and anxiety disorders, among other illnesses.

D. The project allows for the orderly development and oversight of commercial cannabis activities by applying development standards that require appropriate siting, setbacks, security, and nuisance avoidance measures, thereby protecting public health, safety, and welfare.

E. The project provides a method for commercial cannabis businesses to operate legally and secure a permit and license to operate in full compliance with County and state regulations, maximizing the proportion of licensed activities and minimizing unlicensed activities. Minimization of unlicensed activities will occur for two reasons. First, the County will be providing a legal pathway for members of the industry to comply with the law. Secondly, the County will use revenue from the project to strengthen and increase code enforcement actions in an effort to remove illegal and noncompliant operations occurring in the County unincorporated areas.

F. The project establishes land use requirements for commercial cannabis activities to minimize the risks associated with criminal activity, degradation of neighborhood character, groundwater basin overdraft, obnoxious odors, noise nuisances, hazardous materials, and fire hazards.

G. The project minimizes the potential for adverse impacts on children and sensitive populations by imposing appropriate setbacks and ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities, and educational institutions.

H. The project provides opportunities for local testing labs that protect the public by ensuring that local cannabis supplies meet product safety standards established by the State of California.

I. The project protects agricultural resources, natural resources, cultural resources, and scenic resources by limiting where cannabis activities can be permitted and by enacting development standards that would further avoid or minimize potential impacts to the environment.



Everett Louie <elouie@migcom.com>

mitigated declaration

mfoster363@aol.com <mfoster363@aol.com>
Reply-To: mfoster363@aol.com
To: "elouie@migcom.com" <elouie@migcom.com>

Sat, Jul 18, 2020 at 9:44 AM

July 18, 2020

regarding: UPG18-0001
9:30 am, August 12, 2020

Dear Mr.Louie:

I am writing to express my concern to allow the mitigation of a negative declaration on the above property and business of Misty Mountain Services, LLC.

This manufacturing operation is located in a Diverse Agricultural region of the county that is surrounded by neighborhood residential properties - each property with family wells for their source of water.

My concern is that the outdoor "grow" of the magnitude described in the Notice of Intent will need to an abundant amount of fertilizer and pesticide to support such an outdoor operation. We know the problem that this has created in covert isolated operations. I'm concerned that the runoff water and the need for recycling the water has not been addressed.

If the indoor grow is permitted, the air and water can be recycled to a less offensive operation.

I see the possibility in the future that the DA designation may be amended and adjusted to a RR designation: therefore' granting a five year permit to this area might present a problem. Perhaps a shortened time on the permit would be better.

The days and hours of operation are excessive. This operation could be limited to 8:00am -5:00pm and delivery activities suspended on the weekends. This is in keeping with the neighborhood activities.

Sincerely,

Marilyn Foster



Everett Louie <elouie@migcom.com>

UPC 18-0001 / Aug 12, 2020 9:30 AM

Marshall Behling <marshall.behling@ymail.com>

Sun, Jul 19, 2020 at 4:34 PM

Reply-To: Marshall Behling <marshall.behling@ymail.com>

To: "elouie@migcom.com" <elouie@migcom.com>, "bos@sonoma-county.org" <bos@sonoma-county.org>

Dear Everett and Board of Supervisors,**The cannabis operation at 885 Montgomery Road is another example of the wrong place to issue cannabis permits.****The growers and the county are benefiting from these permits at the expense of the surrounding neighbors loss of the value of our property, the tranquility of our West County setting, the security of our neighborhood, the quality of our air... .****One only needs to look at the permit's security system requirements to know that there are significant security risks associated with growing cannabis. Who wants to willingly live next door to this? If/when we go to sell our homes we are all required to disclose material facts including cannabis permits. Such disclosure will adversely decrease our property value.****Please set things right by denying the permit for 885 Montgomery Road.****Sincerely,****West County Home Owner**



Everett Louie <elouie@migcom.com>

UPC 18-0001/ Aug.12, 2020 9.30pm

Joseph Howard <ggparbor@gmail.com>
To: "; bos@sonoma-county.org" <elouie@migcom.com>

Sun, Jul 19, 2020 at 4:59 PM

Dear Mr Louie and Board of Supervisors,

As someone who voted to legalize Cannabis I am shocked that this application is even being considered. It appears that the County has allowed the applicant to break several of it's own laws with impunity and and there has been zero thought as to the neighbors.

As the County has stated in the past, the biggest complaint they hear is the skunky smell during the warm Summer and Autumn days, and yet this problem has not been addressed at all - in fact has been dismissed with such comments as " it's subjective "," I didn't find it bad" etc. It appears that our County officials have no sense of smell, although anyone with a few plants in their garden can attest to the fact that it definitely has a pungent odor.

The Cannabis Industry is well aware that odor can be measured and often uses the companies that do this to help them in places that have stricter requirements for odor control - they sometimes also have to pay for the study!!! Again, Sonoma County is still not using science, to either measure or create buffer zones to protect neighbors. Staff is still suggesting that planting trees and hedges etc. will help mitigate the odor, although, this has been proved to be ineffective - time for some help from science.

This large outdoor commercial operation surrounded by homes is the perfect example of what I did not vote for - and that the County would even think that the neighbors should be subjected to the smell, noise, generated here is inconceivable. (Not to mention all the broken permitting laws!!!) Neighborhood Compatibility and science have been ignored for too long and these poor neighbors have had to suffer unnecessarily for too long.

Thank you
Bridget Beytagh



Everett Louie <elouie@migcom.com>

Comments for 885 Montgomery, UPC18-0001

Deborah Eppstein <deppstein@gmail.com>

Sun, Jul 19, 2020 at 4:44 PM

To: Everett Louie <elouie@migcom.com>, bos@sonoma-county.org

July 19, 2020

Re: Pubic Hearing for Cannabis CUP for Misty Mountain Services, LLC at
885 Montgomery Rd, Sebastopol, CA UPC18-0001

From: Deborah Eppstein, PhD

To Mr. Louie and County Supervisors,

In accordance to the Cannabis Ordinance #6245 and the Penalty Relief Resolutions #17-0233 and 17-0319, I respectfully request that this application must be denied due to numerous violations that, due to the nature of the violations, cannot be remedied.

The MND written by Everett Louie is factually incorrect in multiple areas, based on his personal opinion for many comments, counters scientific evidence and ignores four years of real-life data. I hope you will carefully read the July 19, 2020 letter written by Robert Guthrie that details these specific factual inaccuracies.

Below I have described three areas of major deficiency in this application that, if Sonoma County follows its laws, require that this application be rejected and denied.

1. Violations of PRP Resolution 17-0233(3) and 17-0319 (10)(b) and Cannabis Ordinance Development Criteria 26-88-254 (10), (12), (17)

Grading violations, tree removal violation, unpermitted buildings, planting violations, and providing false information.

Aerial satellite photos definitively show that in May-June 2017 the applicant illegally graded his land and illegally removed trees after Dec 2016, in violation of both the PRP Resolutions, the Cannabis Ordinance, and his application. Satellite photos also clearly show that the applicant did not get his plants into the ground by July 5, 2017, as required to be included in the PRP. He furthermore increased his planting area again in 2018. This documentation confirming these violations was provided by Robert Guthrie to the county in Sept 2018, with multiple follow up emails but with no action taken by the county.

The applicant stated and signed **under penalty of perjury** that he was in compliance with all Development Criteria, yet he was in clear violation of § 26-88-254 (10), (12) and (17) concerning unpermitted buildings, tree removal and grading. The written statement submitted by the county to the state licensing agency CalCannabis also states that the applicant certifies that he met all Development Criteria, again a false statement. This misrepresentation was also pointed out to the county, but the county ignored this information and allowed the applicant to obtain a state license.

The PRP application as well as the cannabis ordinance in effect at the time of his application stated "Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit." **Based on the above documentation of multiple instances of the applicant providing false information, this application needs to be rejected.**

It is worth noting that this kind of false information involving lying by growers and ignoring of the evidence by county supervisors was included in the recent Civil Grand Jury criticism of the actions by Santa Barbara County Supervisors. I urge our county supervisors to not ignore this provision of false information by the applicant in order to qualify for the PRP program.

2. Violations of Cannabis Ordinance § 26-88-250(f) Health and Safety. "Commercial cannabis activity shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts ..."

You are well aware that odor from this cannabis cultivation site has and continues to cause major public nuisance to nearby residents. The above section 26-88-250(f) of the cannabis ordinance has to be met in order for an application to be approved. This section trumps other sections such as meeting 'minimum' setbacks. The minimum setbacks were arbitrarily chosen, based on no scientific data and no real-life data. I am not aware of any situation where the minimum setbacks for an outdoor cultivation site have been sufficient. In fact its just the opposite, with neighbors being subjected to overpowering odors and many associated deleterious physical and biological effects, including nausea, sore throat, headache, and respiratory distress, at distances far in excess of the 100 or 300 ft minimums, even at 700 ft.

The MND incorrectly addresses this situation and glosses over it, saying that topography and planting more trees will solve the problem. Mr. Louie also stated that the odor is only an issue for 3-5 weeks, and in another section says 4-6 weeks. These statements and numbers are completely false.

The pungent, skunk-like cannabis odor becomes overpowering as early as June, and continues through harvest and processing, lasting into November. It travels hundreds of feet, up to 3000 ft depending on prevailing winds.

Trees do not mitigate the odor. This is evidenced by actual situations- eg 885 Montgomery has trees separating the outdoor cultivation from neighbors, who are unable to use their yard. I can also personally attest to a situation where I live of a 10,000 sq ft outdoor cultivation site, 150 ft lower in elevation and separated by the grower's home plus thick forest, from a neighbor 700 ft away. The odor at 700 ft was overpowering, not prevented by the presence of a home and thick forest (this site has been shut down).

Importantly there are scientific methods and data confirming how far cannabis odor travels, and what can be done to mitigate odor from an outdoor cultivation site. The company Ortech has researched this extensively and has developed algorithms and models based on actual measurements of cannabis odor-causing terpenes for different planting configurations, topographies, vegetation, prevailing winds and temperature. I introduced Ortech to Permit Sonoma (Milan Nevajda and Amy Lyle) in Aug 2019, and we had a meeting (including Scott Orr) in Dec 2019. Here is a brief summary from my email to Milan on Aug 25, 2019, which was also discussed in the Dec 2019 meeting with Ortech:

" In our experience the minimum set back distance is at least 1000 meters."

Mr. Syed [Ortech] confirmed that planting trees does not mitigate the odor. Likewise, we also know from real life experience that thick conifer cover does not prevent overpowering odor at least 700 ft away from a 10,000 sf grow. The only mitigation for outdoor cultivation is separation distance which varies in conjunction with winds, as confirmed by Ortech.

"In terms of odor controls, there isn't much that can be done for outdoor farms except to optimize plant layouts with prevailing wind directions during the most odorous part of the growing cycle."

We have an opportunity to scientifically evaluate any proposed outdoor grow site to determine what setbacks are needed to protect neighbors from overpowering odor; the cost is ~\$6000 per site. The applicant would cover the costs. Unfortunately Permit Sonoma has chosen not to conduct such an evaluation. I suggest that this rigorous evaluation be included for all outdoor cannabis cultivation applications.

In the case of 885 Montgomery, however, there are **4 years of real-life data, confirming that the location of the outdoor cultivation field does not meet the Health and Safety requirement of not causing public nuisance due to excessive odors.** We often hear the argument that odor is subjective. Sadly the county has chosen not to utilize scientific methods to quantitate the odor. Despite that, it is an empirical fact that the odor levels experienced by neighbors have been so overwhelming that they prevent them from using their yards in the summer and fall, or opening their windows. I hope that each supervisor will personally visit these neighbors to experience the odor first hand. The odor varies with time of day, often being most intense in the late afternoon as the day warms up.

3. Wrong Location for a Cannabis Operation- Surrounded by Residential Neighborhood

The subject parcel at 855 Montgomery is surrounded by residential neighborhoods, many on RR zoning. **When the county supervisors agreed to exclude cannabis cultivation from RR zoning, the intent was clear: residential neighborhoods should not be subject to such a commercial operation,** with 24/7 activities, noise, security, increased crime and overpowering skunk-like odor for the summer and fall months. It was understood that such operations would cause a public nuisance to residential neighborhoods on multiple fronts. The intent of that ruling is not met by allowing a cannabis operation on a DA parcel surrounded by RR parcels. Fortunately the cannabis ordinance also prohibits this due to its causing a 'public nuisance' to 'nearby residents' [Health and Safety Clause 26-88-250(f)].

4. Conclusion

There are multiple factual reasons why this application for UPC18-0001 needs to be denied as discussed above and summarized here.

- a) The applicant provided false information on his application, he did not qualify for the PRP and also provided false information contradicting his violation of several of the Development Criteria, all of which are stated to cause his application to be rejected.
- b) The cannabis operation produces a very strong skunk-like odor for the summer and fall months, violating the Health and Safety clause by causing major public nuisance to near by residents. This has been confirmed for the 4 years of operation. This odor cannot be mitigated other than by increasing the setback to neighboring properties to at least 1000 ft, which is not possible on this parcel. Planting trees, or adding berms or fences, has been scientifically shown to not dissipate the odor to a non-offensive level.
- c) The location of a commercial cannabis operation on a 10 acre DA parcel surrounded by residential parcels with minimal setbacks violates the Health and Safety clause.

Thank you for your careful consideration.

Respectfully,

Deborah Eppstein



855 Montgomery Violations Eppstein letter 7-19-20.pdf

88K



Everett Louie <elouie@migcom.com>

Pot permit for parcel UPC 18-0001

Lisa Galea <lagalea@att.net>
To: elouie@migcom.com, bos@sonoma-county.org

Sun, Jul 19, 2020 at 4:06 PM

Hello:

You do know that these people already have an existing pot farm and it has been havoc for this neighborhood. This type of business should be in an industrial or commercial part of the county not a residential area where people want to raise their children, pets, livestock and go to nice schools.

When you have businesses like this it just drives people away to other areas because we don't want to live around or near pot farms. We have lived here for over 20 years and these type of people are ruining our way of living. What gives these people more rights than us when we were here first? Their kickbacks to you?

We have all bought our property to raise our families in a healthy environment with good schools. Since they bought that piece of property it has been a pot farm. There has been a lot more traffic on-a very small 25 mile per hour country road. I walk everyday along with several neighbors and the employees that work at this pot farm drive way over the speed limit and don't even slow down when they see you or approach you, they just keep driving. My daughter jogs this road daily and their employees "cat-call" (the males) at her all of the time. This type of business attracts disrespectful, rude, out of town individuals who do not care how they treat people or how they drive on public roads. We have a new family with 2 little kids that ride their bikes up and down the road. Are you going to wait until one of those little kids gets killed by these employees to open your eyes? It will be too late by then. People like you don't care about families and the quality of life you just care about greed.

It has been a nuisance since they started the pot farm when they purchased it and now your are going to give them a 5 year permit. You are not for the people you are for pot farms which are in the drug category. There is no difference between you and the cartel in our eyes!

Whoever wrote the document on buffering with trees and bushes on door does not know anything about science and how it works. The pot odor stinks so bad that nothing can tone it down but an all enclosed building with air purifiers. And what about our water and our wells? Are you going to guarantee our water from our wells that we have had all of the previous years and pay for all of our new water systems and wells? Pot farms use a lot of water, you know it and I know it.

There has been garbage thrown out on the street from this address. Since they don't want to go to the dumps, they just litter and throw their garbage out on the road which can cause accidents.

I guess we should stock up on AR-15s since the crime rate is going to increase dramatically. Have you looked at the crime rate increase from these type of business? Why would you care if you don't live next to them? Right?

Well, we have rights too! Don't you forget them!

Lisa
UPC-18-0001
9:30 am on August 12

Sent from my iPad



Everett Louie <elouie@migcom.com>

Comments - Proposed MND - UPC18-0001; 885 Montgomery Road, Sebastopol

Robert Guthrie <robert.guthrie@gmail.com>
To: Everett Louie <elouie@migcom.com>, bos@sonoma-county.org
Cc: Robert Guthrie <robert.guthrie@gmail.com>

Sun, Jul 19, 2020 at 3:15 PM

Hello, everyone.

Per the email below, I'm sending you my comments on the proposed MND.
UPC18-0001 - 885 Montgomery Road, Sebastopol

Thanks for the opportunity, and thanks for reading my document.
Robert

On Sat, Jun 20, 2020 at 12:35 AM Arielle Wright <Arielle.Wright@sonoma-county.org> wrote:

Good afternoon,

See attached notice regarding the project referenced in the subject line.

Please direct questions or comments to the project planner at elouie@migcom.com.

Thank you,

Arielle Wright

Administrative Assistant

County of Sonoma

[2550 Ventura Avenue, Santa Rosa, CA 95403](https://www.permitsonoma.org)

Direct: 707-565-1947 |

Office: 707-565-1900 | Fax: 707-565-1103

www.PermitSonoma.org



OFFICE HOURS: Permit Sonoma's public lobby is open Monday through Friday from 8:00 AM to 4:00 PM, except Wednesdays, open from 10:30 AM to 4:00 PM.

UPC18-0001 proposed MND -- Robert Guthrie comments

We live adjacent to the 885 Montgomery Rd cannabis business; we share a north eastern wall.

I'd like to submit my comments to Everett Louie's **Proposed Mitigated Negative Declaration**, across two sections:

- I. The location of this commercial cannabis cultivation business in relation to its surround neighborhood
 - II. Several incorrect statements made by Everett Louie in the MND
-

I. The location

885 Montgomery Rd:

- Is a 10-acre lot surrounded on all sides by smaller lots (2, 2.5, 2, 8, 3.4, 7, 3 acres)
- Borders multiple Rural Residential (RR) and Agriculture Residential (AR) parcels
- Is at the western border of a **large Rural Residential** neighborhood

Surrounding 885 Montgomery Road are our small parcels, with our backyards within 100 feet of the outdoor grow—about 6.5 car lengths away. We are not on 10-20 acres ourselves and we cannot escape to other parts of our parcel to BBQ or to swim. Their indoor grow buildings are as close as 10 feet from their property line.

885 Montgomery Rd is the wrong location for a commercial cannabis business. Everyone knows that cannabis odor is pungent and travels far across property lines. Supervisor Lynda Hopkins on May 25, 2018, while visiting our home commented on the pungent odor, and even relayed this comment to the Press Democrat for an article¹. She was about 450 feet from the eastern edge of the outdoor cannabis site at that moment.

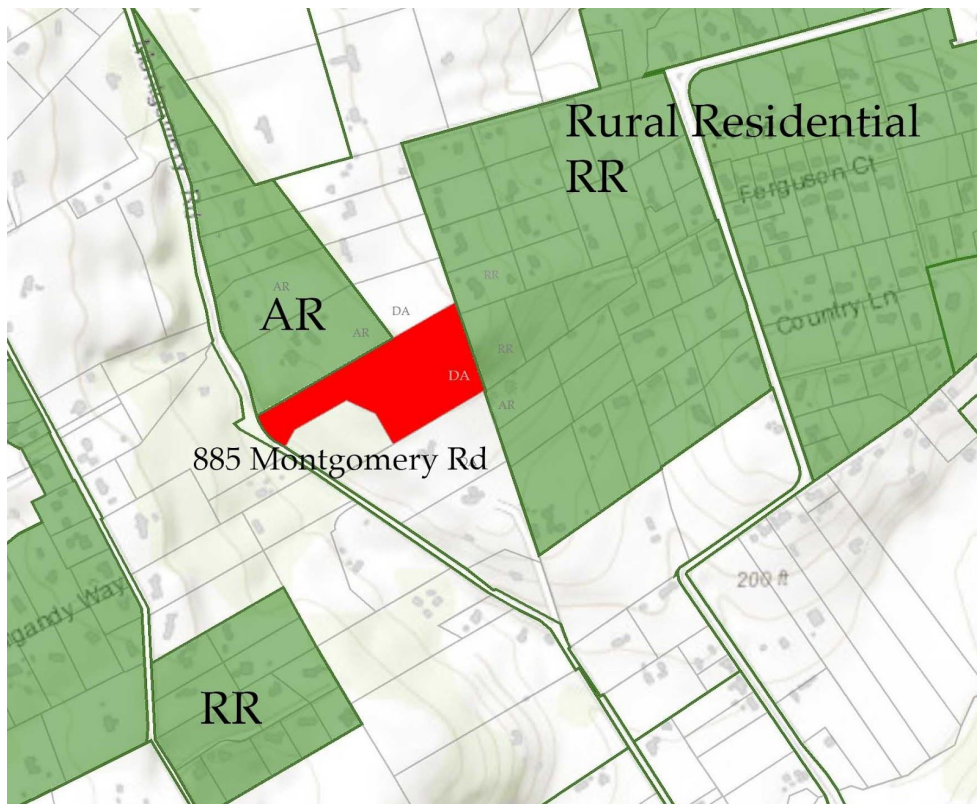
Below is an image that depicts 4 of the 7 properties that surround 885 Montgomery Rd (downhill from it).



Below is an image that describes the adjacency to Rural Residential neighbors. The indoor structures do not have setback requirements so the campus is close to the property line.



Below is another image about adjacency to a Rural Residential neighborhood. 885 Montgomery is adjacent to small-sized residential parcels.



885 Montgomery Rd has 38,484 open-air square feet of thousands of cannabis plants. There is absolutely no method to mitigate cannabis odor emanating from these plants.

The cannabis plants are on an exposed hillside at the end of a ridge that faces both hills of Gold Ridge and Grand View Road. Winds swirl all around, and I've talked to neighbors 1,000 feet behind the cannabis (over the hill near Ferguson Road) who smell cannabis odor. You may think the odor seems weak and might dissipate that far away, but it traps in garages or an open window, thus it overwhelms the neighbor in due time.

There's a reason Sonoma County created 1,000-foot setbacks to schools and parks, where children spend much of their time. But, it's counterintuitive to create that law and explain to parents that "it's perfectly okay" to live, play, swim only 100 feet away from the same cannabis business.

Why does Sonoma County protect people in schools from cannabis businesses but not in their own residence?

Per Sonoma County: 885 Montgomery Rd falls within the technical compliance of its cannabis ordinance for lot size (10 acres), complies with the setbacks to homes and property lines, and the land zoning (DA) for cannabis cultivation. But **technicalities** must be subordinate to the neighbors' right to enjoy their own property.

Everett Louie's Proposed Mitigated Negative Declaration finds that potential environmental impacts have been fully mitigated to "less-than-significant" level. I'd like to present an argument counter to Everett Louie's statements.

II. Comments on the Proposed Mitigated Negative Declaration

Fallacy #1

Everett's attempt to sell the idea to his readers that 885 Montgomery Rd is in a rural area with many agricultural crops, fields, orchards, forests, **but neglects to mention that many people live in the neighborhood.**

Section 1(c) Page 12

“There are rural properties on all sides of the project parcel, with a mixture of residential and agricultural structures, fields with crops, forested areas, and some orchards.”

Section 3(c) Page 20

“The project site is located in a rural area”

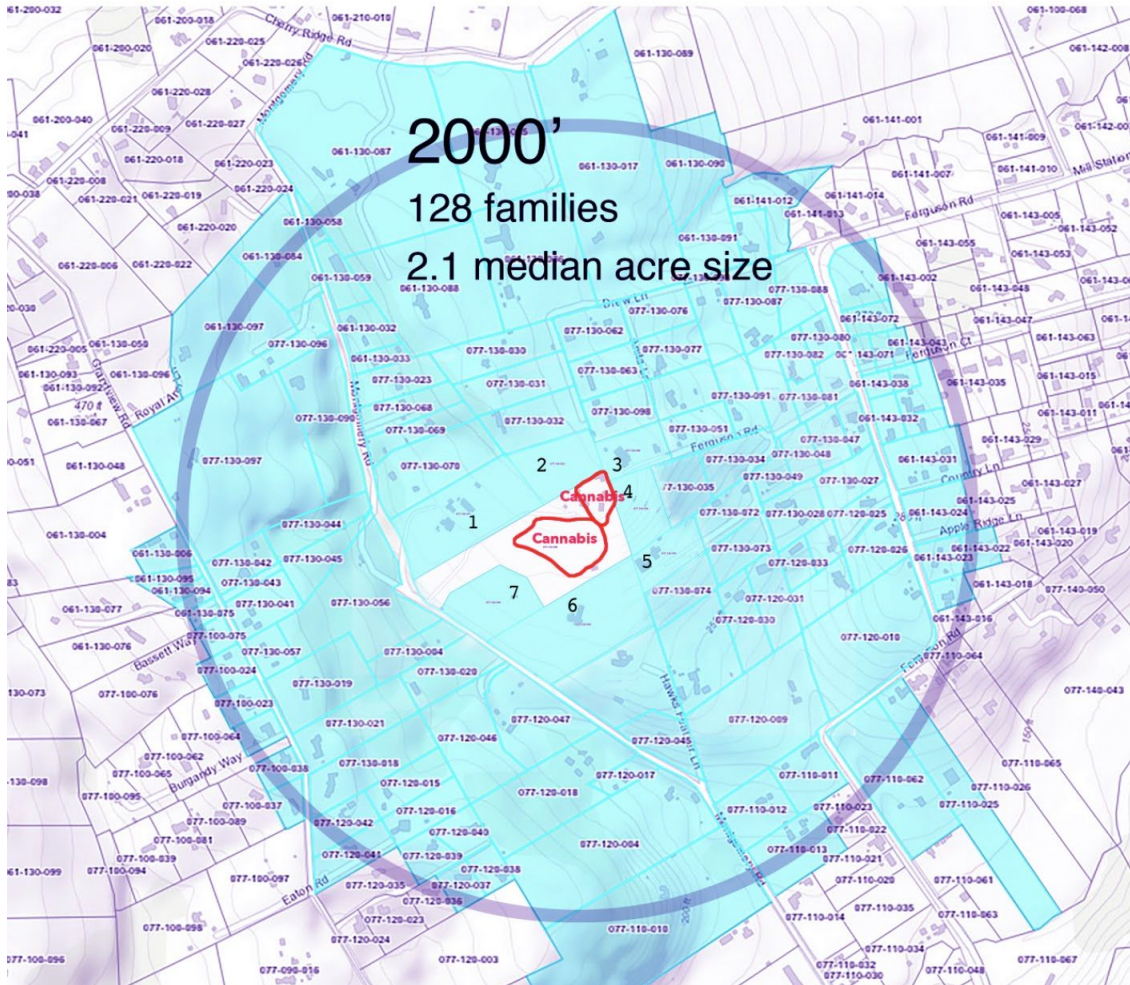
We are a neighborhood. To help you understand the location and the impact of this cannabis business in our neighborhood, the following image highlights that 7 families border the huge cannabis facilities on all sides.



From a wider neighborhood viewpoint, the below photo demonstrates that we have many small-sized lots in our neighborhood. The circle represents a 2,000-foot radius and the 128 lots inside that radius.

There are wineries, horses, pools, BBQ areas, apple orchards, chickens. But this is a small-lot residential area, **not** a commercial farmland with a pre-existing odor nuisance that was present when everyone bought their property.

The cannabis footprint alone is **half** the size of a whole typical property size here.



We want you to understand that this commercial cannabis business is in the middle of a full neighborhood.

Fallacy #2

Everett's attempt to sell the idea that 885 Montgomery Rd has natural topographic and atmospheric conditions which **deflects** cannabis odor away from neighbors.

Section 3(d)

Page 22

“The proposed outdoor cultivation area is separated from adjoining properties by distance (setbacks), topographic formations such as elevations, existing mature vegetation, intervening structures and fencing. This combination of buffering elements will deflect odors upward where they are able to diffuse into the atmosphere and be further dispersed along the predominant wind direction.”

Page 22

“The prevailing wind direction during September-October is from the coast, west to east. The outdoor cultivation site is located 50 feet below the northern portion of the site, where three residences are located. This increase in elevation will assist in deflecting odor into the atmosphere much like vegetative buffers. Additionally, the northern portion of the site contains the residence and accessory structures. These structures will act as additional buffers, deflecting odor into the atmosphere where it is diffused.”

We request that Everett include in the MND the scientific evidence of a study conducted at 885 Montgomery Rd that validates his claims that this topographic formation shoots cannabis odor into the air and away from neighboring properties. I sincerely hope that Everett and MIG use scientific evidence responsibly in relation to their attestations to Sonoma County which impact the lives of people around this property.

Everett claims that odor going **uphill** deflects into the atmosphere. We know that is **incorrect** since we and our neighbors are on the other side of the hill and we smell the odor down to Ferguson Road.

The MND for 885 Montgomery Rd must have scientific data to prove Everett's claims about its topography and atmospheric interactions with its cannabis plant odor which supposedly deflects it enough to qualify for a “Less Than Significant Impact”.

If no study was conducted, then his assumptions and unproven theories don't belong in the MND.

As a resident in the area, I can tell you with certainty and experience that all of Everett's claims in this section are without scientific merit, or logic.

Fallacy #3 - trees block cannabis odor

The entire buffer/windbreak strategy is a fallacy in the context of 885 Montgomery Rd and its surrounding neighbors.

Section 3(d)

Page 22

In addition to distance, landforms and vegetation provide buffers or windbreaks that can successfully reduce odors generated by agricultural activities including poultry and swine operations. The buffer/windbreak strategy is most effective when parcels are large (at least 10 acres) and land uses are far apart, maximizing the distance for odor dissipation. Odor plumes generally travel along the ground in the direction of the prevailing winds. Vegetative buffers deflect the odor plume above the vegetation layer, where the odor is then diffused into the atmosphere (USDA NRCS 2007).

This entire paragraph should be stricken from the MND because it's solely based on an unqualified assumption as opposed to scientific data about 885 Montgomery Rd. It also tricks the county and residents to experiment with an assumption for TBD years while residents continue to deal with the odor.

Deferring odor mitigation strategy to a USDA NRCS 2007 study to use in Sonoma County's cannabis odor mitigation is wrong. The below table compares the Maryland flat land, indoor chicken coop study to the Sebastopol hillside of an exposed ridge of an outdoor cannabis field.

Studies an indoor, enclosed chicken coop	Is an outdoor cannabis field with 38,484 square feet of open-air, space -- not an enclosed building
Uses exhaust fans	Is on an exposed hillside at the end of a ridge, with winds coming from every direction.
Focuses on ammonia, odors, dust	There's no reference or proof that the same trees, bushes in the study would work for cannabis odor
Recommends berms	Everett does not mention berms or where they would need to be installed
Recommends a distance between the chicken exhaust fans of a 130 feet to trees.	Doesn't specify the distance between the trees and the open-air cannabis field
Recommends spacing of 16-20 feet between rows of trees and vegetation, and it looks like a depth of 150 feet total	Doesn't specify which property is to grow the vegetation screen. Setbacks are 100 feet, so what happens there?
Requires lots of water to grow trees	Doesn't specify the number of trees needed to mitigate the odor at 885 Montgomery Rd, or the water necessary to sustain growth to maturity
	Doesn't state at which point do the shrubs and trees start to be effective in their screening? Is it 5 years, or 20 years?
	No mention of the wind speed variables for which the vegetation screen loses efficacy. Will the trees block odor from 10-20 MPH afternoon winds?
During the summer, trees reduced dust by 49% and ammonia by 46% downwind of the trees	Doesn't specify any efficacy.

This study's efficacy to trap **dust** is **49%**. We don't consider that a successful result. We're perplexed on why this unrelated study is even in this MND to act as a serious justification for "Less Than Significant Impact".

The photo below shows the vegetation and the structures between our house and the outdoor cannabis canopy. We smell the odor so Everett's idea of vegetation screening is a failing idea. And he doesn't specify any details on how to properly mitigate cannabis odor at this particular location.



This is our current vegetation screening, and such a system doesn't reduce cannabis odors

We're 450 feet away from the cannabis plants. It appears to me that Everett and Sonoma County are telling me to wait 5-10 years for another set of bushes and trees to mature enough to block 5%, 40%, TBD???

I'm also interested to see Everett include his scientific studies that reveal the required distance between the cannabis plants, vegetation screen, and the residents' homes to measure the success of this screening deflection.

This simply cannot be a method that Sonoma County tells the surrounding neighborhood to follow.

The long wait to grow water-needy trees and vegetation is just a stalling tactic, and there's no proof available for its efficacy on cannabis odor.

Ever sit at a campfire and try to avoid smoke from the firepit? It swirls all around the campfire. The smoke doesn't go straight up all the time. And it doesn't need 'prevailing afternoon winds' for the smoke to change direction. Cannabis wafts the same way.

If the trees and shrubs really work, then I'm wondering why Everett isn't requiring a similar perimeter around the indoor cultivation sites as opposed to expensive carbon filtration systems that require maintenance and monitoring. The vegetation screen fallacy is so obvious, I can't believe it's in official Sonoma County documents.

Fallacy #4

Everett's attempt to sell the idea to his readers that 885 Montgomery Rd cannabis odor occurs a few weeks per year.

Page 21: "typically generate odors for an approximate 4-6 week period"

Page 23: "generates odor for a limited duration (3-5 weeks or approximately 10% of the year)"

Whichever time frame Everett is guessing at this point, his opinions about **when** neighbors smell cannabis odor are incorrect. It's quite easy to smell the odors since we have small parcels and thousands of cannabis plants can grow just 100 feet from a neighbor's backyard.

The odor occurs all summer and most of the fall. Basically, this duration is about 50% of the year, not the 10% of the year like Everett assumes.

Furthermore, the cannabis odor occurs **100%** of the "good-weather" period -- the time we all spend outdoors.

Those who can attest to smelling the cannabis odor from 885 Montgomery Rd during their visit to our house

1. **May 25**, 2018: Supervisor Lynda Hopkins
2. **July 5**, 2018: Tennis Wick, code enforcement director, visited our house and smelled the odor
3. **Sept 7**, 2018: Tim Ricard, then the cannabis program director for the county. He also smelled the odor while walking on our property.

Fallacy #5

Everett continues to paint the area of 885 Montgomery Rd as rural with large parcel sizes, so I provide clarifying facts supported by data to refute Everett's misleading opinion.

Page 78:

“Although there are small parcels in the area, (1-9 acres), the overall parcels within a 2-mile radius are rather large (10-50 acres).....The large average parcel size in the surrounding area reduces potential...”

I used Sonoma County's GIS to provide Staff and the Board of Supervisors these clarifying facts:

Within 2-miles of 885 Montgomery Rd:

- 90% of the parcels are **under** 10 acres
- 10% of the parcels around it are 'rather large' (10+ acres)

Further data:

1 mile radius from 885 Montgomery Rd	Under 10 acres	760	parcels	90%
	Over 10 acres	77	parcels	10%
2 mile radius from 885 Montgomery Rd	Under 10 acres	2,310	parcels	90%
	Over 10 acres	241	parcels	10%

Table data in appendix

Everett has repeatedly used personal opinion to infer that few people reside in the area around 885 Montgomery Rd, and that few people would be impacted by a commercial cannabis business odor.

The below image is a 2 x 2 mile block of the area surrounding 885 Montgomery Rd (arrow).

The commercial cannabis operation at 885 Montgomery Rd is in the middle of a neighborhood that contains parcels smaller in size -- 90% of the parcels are "under 10 acres" (green), with an average size of 2.2 acres.

885 Montgomery Rd is the wrong place for a commercial cannabis business. Perhaps the business would be better suited in the parcels depicted in orange (10+ acres sized parcels).



Fallacy #6 -- “terracing onsite pre-dates the current tenant”

Everett neglected to discuss in the MND the fact that 885 Montgomery Rd had extensive, non-permitted grading, land terracing, and tree removal in May-June 2017, while the applicant hides this act from the county in plain sight. And because of this, various sections of the permit application, referral comments, and the MND are false. Below are a list of comments and their source documents that point to the ‘hidden’ grading.

Everett’s MND

Page 34

“nor does the project propose to **remove any trees.**”

Page 41

“the proposed project **does not include** any building or grading that could destabilize slopes or result in slope failure”

“The outdoor cultivation area would be located on **previously graded terraces**”

“As discussed in the project description, **grading would be limited** (approximately 235 cubic yards) and would only be necessary for the two water tanks.”

Pinecrest Environmental Consulting referrals comments:

Darren Wiemeyer:

“The terracing onsite pre-dates the current tenant”

Northwest Information Center referrals comments

Brian Denham, NWIC Researcher

“The proposed project area is located in an area of moderate archaeological sensitivity. However, based on the current project description, **no ground disturbance is proposed. Therefore,** no further study for cultural resources is recommended at this time.”

Misty Mountain Service’s cannabis permit application

Page 4: “There is no intent to remove trees on the land as related to proposed cannabis project.”

Page 5: “There is no proposed grading for cannabis cultivation development of property.”

I’ve submitted to Permit Sonoma and to Everett proof, using Google Earth.

This is not consistent with county code. These acts do not follow the Sonoma County’s best management practices



In general, aside from the setbacks compliance, the MND has **one true statement** among all the subjective, unproven opinions and theories on which the MND is based:

“Generally, odors dissipate with the greater the distance from the source of the odor.”

Correct. Being 100 feet from thousands of cannabis plants is too close. Nothing mitigates its odor in any direction.

That parcel in the middle of a dense neighborhood -- among small, green parcels



885 Montgomery Rd is the wrong place for a commercial cannabis business. That's what the MND is supposed to state.

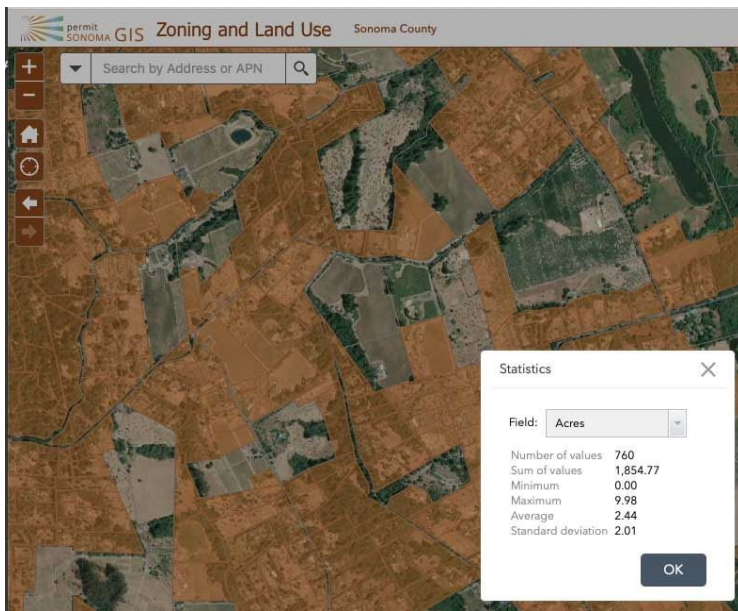
Appendix

1 Press Democrat article

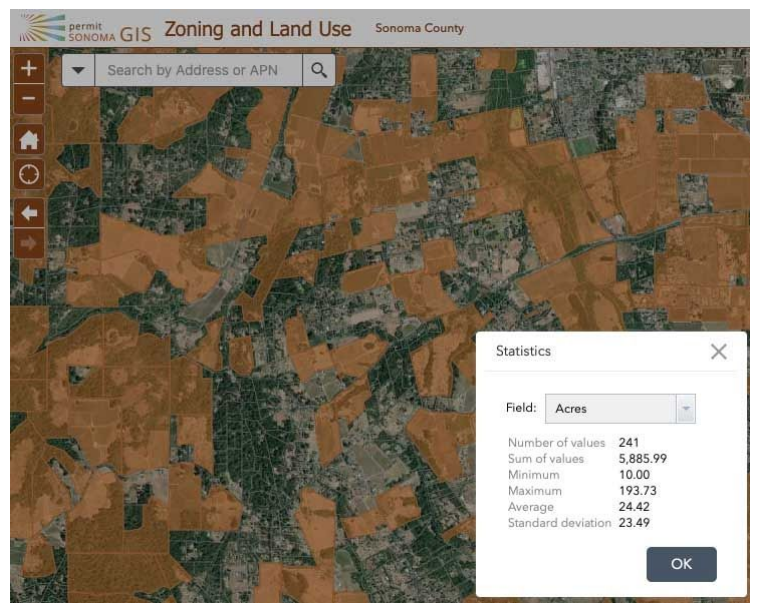
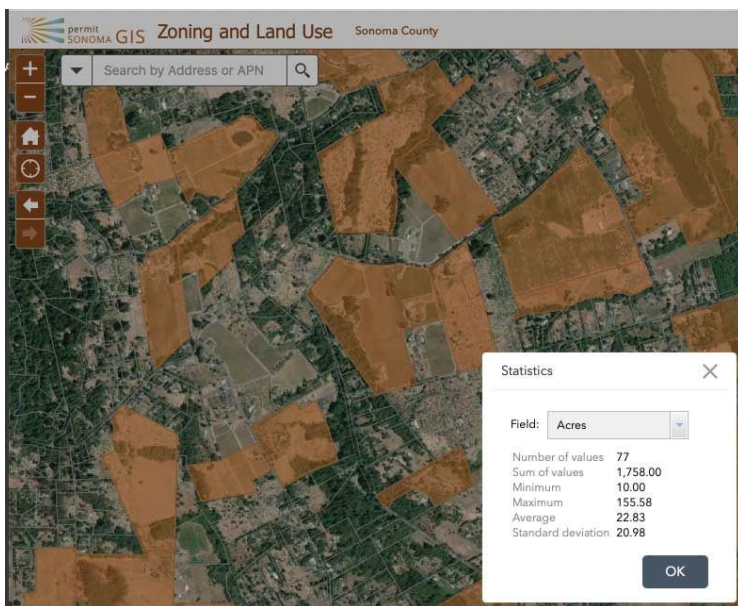
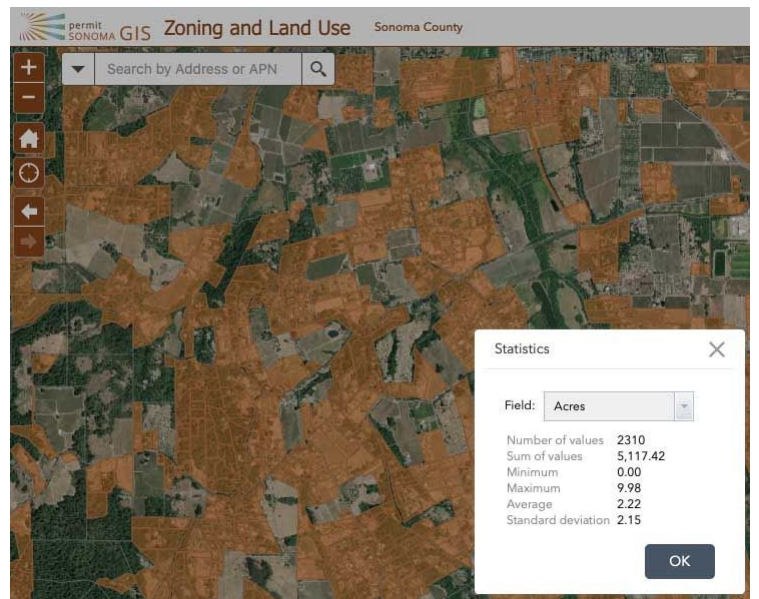
<https://www.pressdemocrat.com/article/news/press-democrat-poll-finds-sharp-division-in-sonoma-county-over-cannabis-cul/>

Data for the parcel sizes

1 mile square



2 mile square





Everett Louie <elouie@migcom.com>

UPC 18-0001 / Aug 12, 2020 9:30 AM

Bill Krawetz <billkrawetz@comcast.net>

Sun, Jul 19, 2020 at 12:08 PM

To: Everett Louie <elouie@migcom.com>, bos@sonoma-county.org

Dear Everett and Board of Supervisors,

A commercial-scale cannabis business at 885 Montgomery Road is an inappropriate and inconsistent operation for this residential neighborhood. There is no migration possible to reduce the loss that the many neighboring families will incur if this cannabis operation is allowed. Their losses are many, from reduced quality of live, to reduce safety, to reduced property values. Who wants a neighbor that runs a business that requires 24x7 security? There are 7 families with their backyards within 100 feet of thousands of cannabis plants! 100 feet is nothing!. This is the wrong place of a commercial, high risk business.

Please protect our rural way of life and deny this permit.

Thanks Bill Krawetz



Everett Louie <elouie@migcom.com>

UPC 18-0001

Janus MATTHES <bjmatthes@comcast.net>

Sun, Jul 19, 2020 at 12:05 PM

To: "bos@sonoma-county.org" <bos@sonoma-county.org>, "elouie@migcom.com" <elouie@migcom.com>

Please find pasted below Wine & Water Watch's letter written previously about neighborhood compatibility of cannabis production in our county. You all were very aware that there was going to be nothing but problems when the regulations were changed by lobbyists to allow the production next to communities trying to raise their children and have quality of life that had in the past brought so many to the County. The writing is on the wall as **7,648 more people left the county last year than moved in.**

We urge you to deny this project for **an acre-sized cannabis business that is surrounded by 7 small-sized neighbors with pools, stables, and playgrounds within feet from the indoor and outdoor plants.** Would you want to live next to this or buy property in this area? Documentation by neighbors show graded areas without permits should deny this automatically. Mendocino, Trinity and Lake counties all have exclusion zones; why doesn't Sonoma have them? This area has water issues, road safety issues and is a difficult road to negotiate should there be a fire.

Thank you for your time and due diligence protecting the Public Trust.
WWW Board

To: 'Niki Berrocal' <Niki.Berrocal@sonoma-county.org>

Cc: 'district4' <district4@sonoma-county.org>, 'Lynda Hopkins' <Lynda.Hopkins@sonoma-county.org>

April 1, 2020

Subject: PHASE 2 - NEIGHBORHOOD COMPATIBIITY ISSUES

"Wine and Water Watch is a local organization of over 250 citizens concerned with the over-development of the wine/tourism industry, promotion of ethical land use, climate change action, conservation of our water resources and social justice issues. We work to ban synthetic pesticides from our vineyards and public spaces. WWW has given voice to nonprofits working for common goals on our website, Facebook and Twitter. We work to create a healthy and vibrant world for future generations.

We write to you today regarding your work on the Phase 2 regulations governing the cannabis and hemp industries in Sonoma County. As we see it, complaints and problems between residents and the cannabis industry will abound until zoning requirements keep the two separated. **It is well-documented that cannabis facilities lower residents' property values and essentially are a "taking" of property. Frustrated homeowners around the country are beginning to use this to push back.** According to the Press Democrat on 1/19/20, "In the past two years, the county's population has declined by an estimated 4,700 people, according to the state Department of Finance, which conducts population estimates using federal income tax information and state public health, education and motor vehicles data. Also during that period, 7,648 more people left the county than came here to live." **Cost of living is only one factor; residents are tiring of the quality of life being trampled in favor of corporate want lists.** Mendocino, Trinity and Lake counties all have exclusion zones; why does not Sonoma have them?

To exacerbate the situation, impairment of watersheds has been recognized by the state and yet no EIR will be required. By giving the ag commissioner the authority to regulate, the County again bypasses CEQA, which violates the public trust and the spirit of the state law. We deserve transparency, not obfuscation of this serious planning issue. Decision-making should be a knowledge-based action, taking into equal consideration the needs of the residents as well as the growers.

Ever-increasing droughts and fires are becoming a way of life. Our group requests that cannabis grows be kept away from schools, parks, residential homes and unsafe back roads where fires can easily start. We opposed a cannabis grow and manufacturing facility off Bennet Valley Road, a small road with no fire safety, for example. One of our members lives on a road where an illegal THC oil operation exploded and burned earlier this year. Had it been October, the entire southern end of Sebastopol could have been decimated.

As the Board of Forestry has yet to certify approval of the County's Fire Safe Roads regulations, it appears a better and scientifically based study is needed before proceeding on any planning decisions that have generational impacts.

Also, the State has listed **5 impaired watersheds in the county**. These must be exclusion zones and Wine and Water Watch asks that an EIR be done before anything proceeds. When developing the General Plan 2020 we are hoping the county has thoroughly looked at land use patterns and will adjust for climate change realities. This must be part of these regulations.

Sincerely,

Wine & Water Watch Board

Pamela Singer, Deb Preston, Judith Joinville, Janus Matthes, Charlotte Williams



Everett Louie <elouie@migcom.com>

UPC18-0001 Public Hearing August 12, 2020

perryj4@comcast.net <perryj4@comcast.net>
To: elouie@migcom.com, bos@sonoma-county.org

Sun, Jul 19, 2020 at 6:01 PM

Board of Supervisors - Public Comment Re: the proposed grow at 885 Montgomery Road in Sebastopol

I agree with the statements from MR. and Mrs. Brantly Richardson.

As you know we live next to [8105 Davis Lane, Penngrove](#) and again this year Natasha Kaloof has been permitted to grow cannabis at 300 foot from our back door. Today we had a party on our deck and there was already the stench of Cannabis at times when the wind would change. Come smell the odor for yourself from our deck!!!

If you vote to approve this application on August 12th, at the same time please make a public statement and explain to your constituents that your primary goal is a robust cannabis industry and you intend to pursue that goal and will do nothing about quality of life issues for residents. Certainly, the Board is aware of the overwhelming skunky smell this project emits. Be honest and tell those seven neighbors that you are perfectly willing to subject them to a condition that affects their health and the enjoyment of their homes. Tell the public that you intend to continue to prioritize the cannabis industry and disregard the serious problem of odor. Do not pretend there is no odor, or that the odor is negligible, or that it only lasts a short period of time or that fences and vegetation will absorb the smell and mitigate it to an insignificant level. It is time to state your primary goal publicly and drop the pretense of being concerned about neighborhood compatibility.

Everyone knows there is a scientific measurement of odor. Follow the science.

The parcel may be adequate for an indoor grow in a suitable structure but certainly not in an unpermitted barn sitting on the property line with a fan blowing the smelly unfiltered air into the neighbors back yard. Choosing environmentally superior alternatives will lead to better located operations.

The location of this proposed project is the poster child showing where a cannabis operation should NOT be located. Deny this application.

Mr. and Mrs. S. Brantly Richardson

Santa Rosa

Thank You

Joseph and Barbara Perry

707-477-3862



Everett Louie <elouie@migcom.com>

885 Montgomery road

Pamela RESS <pamress@me.com>
To: elouie@migcom.com

Sun, Jul 19, 2020 at 6:55 AM

Dear Mr. Louie,

My family objects to the commercial cannabis cultivation permit application at 885 Montgomery Road, UPC18-0001. The pungent odor overwhelms our home and has adversely impacted our livelihood and our ability to enjoy our property.

From June to early November, the cannabis odor from 885 Montgomery Road traps in our garage and enters our backyard windows into our home. This is a nuisance to us.

Facts about where we live in relation to the outdoor grow site:

- Our house is **630 feet away** from outdoor cannabis grow (per Google maps)
- Our parcel is on the backside of the hill from 885 Montgomery Rd
 - o Cannabis odor **floats uphill** from 885 Montgomery Rd, **then downhill** to our property

In your MND (page 22), you mention that the slope of the land at 885 Montgomery Road and its natural topography deflects the cannabis odor up into the atmosphere, thus reducing its impact on surrounding neighbors. You are very incorrect. Recall where we live: **up, over, and downhill** from the outdoor grow site. Your knowledge about how wind and topology interact with each other at 885 Montgomery Rd is incorrect. A breeze changes direction here all day and night, year round.

In your MND (page 23), you are mistaken that odor from 38,484 square feet of outdoor cannabis plants occurs only 10% of the year, or between 3-5 weeks or 4-6 weeks as you switch between the two timeframes in your MND. We've lived next to this grow business since 2017 so we know when the odor occurs – June to late October / November. That's at least 25 weeks, or 50% of the year. We've already communicated this to you and Staff.

We have lived at this house in Sebastopol since 1998, well before the introduction of cannabis cultivation laws. We spend a lot of time outside at our pool, entertaining friends and family, and tending to our gardens. This cannabis business does not belong in this rural residential and small-

7/19/2020

MIG, Inc. Mail - 885 Montgomery road

sized DA-zoned neighborhood. The cannabis permit must be denied. We claim that it's a nuisance and impedes on our right to enjoy our property.

Thank you,

Pam Ress and Ress family

Anita Lane, Sebastopol

Sent from my iPad



Everett Louie <elouie@migcom.com>

UPC18-0001 Public Hearing August 12, 2020

Nancy and Brantly Richardson <nrchrdsn@sonic.net>
Reply-To: nrchrdsn@sonic.net
To: Everett Louie <elouie@migcom.com>, bos@sonoma-county.org

Sun, Jul 19, 2020 at 9:20 AM

Board of Supervisors - Public Comment Re: the proposed grow at 885 Montgomery Road in Sebastopol

If you vote to approve this application on August 12th, at the same time please make a public statement and explain to your constituents that your primary goal is a robust cannabis industry and you intend to pursue that goal and will do nothing about quality of life issues for residents. Certainly, the Board is aware of the overwhelming skunky smell this project emits. Be honest and tell those seven neighbors that you are perfectly willing to subject them to a condition that affects their health and the enjoyment of their homes. Tell the public that you intend to continue to prioritize the cannabis industry and disregard the serious problem of odor. Do not pretend there is no odor, or that the odor is negligible, or that it only lasts a short period of time or that fences and vegetation will absorb the smell and mitigate it to an insignificant level. It is time to state your primary goal publicly and drop the pretense of being concerned about neighborhood compatibility.

Everyone knows there is a scientific measurement of odor. Follow the science.

The parcel may be adequate for an indoor grow in a suitable structure but certainly not in an unpermitted barn sitting on the property line with a fan blowing the smelly unfiltered air into the neighbors back yard. Choosing environmentally superior alternatives will lead to better located operations.

The location of this proposed project is the poster child showing where a cannabis operation should NOT be located. Deny this application.

Mr. and Mrs. S. Brantly Richardson

Santa Rosa



Everett Louie <elouie@migcom.com>

UPC 18-0001

storms <storms@sonic.net>
To: elouie@migcom.com

Sun, Jul 19, 2020 at 2:10 PM

Dear Mr. Louie:

The permit for this Sebastopol grow site should be denied.

I am not across-the-board against medicinal pot.

But I am wholeheartedly against a pot grow next to a person's home and residence.

The negative consequences to a pot "farm" are numerous & you know them well.

Criminal activity is high on this list. Numerous violent incidents around the marijuana "business" have already occurred in Sonoma County. Many serious incidents have gone unreported & the general public is largely unaware. I have personal knowledge of one such lawless episode in Occidental.

My fear is that local government officials and planners are either naive to this ongoing threat or wish to look the other way. It is no secret that the pot entrepreneurs are powerful & persuasive.

This should NOT stand in the way of our local leaders & planners performing their jobs judiciously, protecting and serving their communities in Sonoma County.

Sincerely,
Ann Storms
Santa Rosa



Everett Louie <elouie@migcom.com>

UPC 18-0001

Carol V <carolvsr@sonic.net>
To: bos@somona-county.org, elouie@migcom.com

Sun, Jul 19, 2020 at 12:01 PM

Dear Everett and Board of Supervisors,

I want to go on record asking you to **deny** this permit. I am keeping this letter short and want you to know that I agree with all the letters sent asking you to deny this permit and stating their objections.

You have received many letters describing what it is like living next to a commercial grow.

I have country property and know 1st hand how the skunk smell from cannabis penetrates through the forest.

Do you really think that planting trees will be an odor buffer? That reasoning is incredibly incorrect. These subjective opinions and wild theories are not a mitigation strategy. I have heard this stated before and I beg you not to believe it.

Regards, Carol

Carol Vellutini
610 Willrush St.
Santa Rosa, Ca 95401
707-546-6308



Everett Louie <elouie@migcom.com>

UPC18-0001 Public Hearing August 12, 2020

Anna Ransome <ransome@sonic.net>

Sun, Jul 19, 2020 at 4:57 PM

To: Everett Louie <elouie@migcom.com>

Cc: Lynda Hopkins <District5@sonoma-county.org>, David Rabbitt <David.Rabbitt@sonoma-county.org>, James Gore <district4@sonoma-county.org>, Susan Gorin <Susan.Gorin@sonoma-county.org>, "Shirlee.Zane@sonoma-county.org" <Shirlee.Zane@sonoma-county.org>, "Jenny.Chamberlain@sonoma-county.org" <Jenny.Chamberlain@sonoma-county.org>, "Pat.Gilardi@sonoma-county.org" <Pat.Gilardi@sonoma-county.org>, "Andrea.Krout@sonoma-county.org" <Andrea.Krout@sonoma-county.org>, Tracy Cunha <tracy.cunha@sonoma-county.org>, Leo Chyi <Leo.Chyi@sonoma-county.org>, Irene Hays <Irene.Hays@sonoma-county.org>

It certainly wasn't very helpful when Ag Commissioner Tony Linegar informed the public that the ..."whole county is going to stink and you're just going to have to get used to it," but here it is, his pessimistic comment being put to the test. Any Google search will show hundreds of articles that point to the main neighborhood compatibility issue for cannabis - odor, a stinky resinous smell that can permeate every home in proximity to a grow. There is now the science available to study and measure odor, but the only remedy for outdoor grows is distance from residences. In this case, the grow is too close to the homes and yards of this West County neighborhood. The solution is to carefully vet every application and to reduce the scale according to the proximity to neighbors and to also judge each application but the track record of the applicant, which in this case is abysmal.

I have seen how this project is situated, surrounded by homes and yards and have talked with neighbors who describe not being able to open windows in the summer or fall and being made ill from the smell. Setbacks seem to have been abandoned for cannabis projects at great detriment to neighbors' quality of life.

This project is an attempt to maximize the money-making potential of a property in a neighborhood, *regardless of the impacts*. If you approve this, as is, it will serve as a bellwether project for all cannabis applications in Sonoma County. I would urge you to deny this application and any others that have the potential to destroy your constituents' peaceful enjoyment of their properties.

Anna Ransome for Friends of Graton (FOG)

From: [Eric Gage](#)
To: [Arielle Wright](#)
Subject: FW: 10-acre pot farm at 885 Montgomery Road...(UPC18-0001)
Date: Wednesday, July 22, 2020 10:34:57 AM

-----Original Message-----

From: Farm <chalicefarm@gmail.com>
Sent: Monday, July 20, 2020 10:09 PM
To: district5 <district5@sonoma-county.org>; Planner <planner@sonoma-county.org>
Subject: 10-acre pot farm at 885 Montgomery Road...(UPC18-0001)

EXTERNAL

Greetings, Supervisor Hopkins and Planner!

Hope you are well.

I just got the notice today, July 20, 2020 (it was sent to my partner and was just delivered to me), the last day of public comment on

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION PURSUANT TO CEQA
(UPC18-0001)

I don't know what this actually means (I tried calling the number printed on the notification, but it had been disconnected), but I do have reservations about having a pot farm on this road for environmental reasons: Cannabis is known to be extremely water intensive; and turning another ten acres of what could or would be wilderness in our hilly, riparian terrain into monoculture is a travesty.

I own and operate a five-acre, wildlife-friendly polyculture farm at 636 Montgomery Road and have watched wildlife dwindle as more and more of their habitat is fenced and developed in this way...

I am against this use.

This constitutes my public comment, but am not sure where to send it.

The tentative Board of Supervisors hearing date is August 4, which is my sister's birthday and I will be spending it quarantined with her and other family members at her ranch in New Mexico.... I hope I can attend the final public meeting.

Sincerely,

Mary Bull
415-509-1188

Sent from my iPhone

THIS EMAIL ORIGINATED OUTSIDE OF THE SONOMA COUNTY EMAIL SYSTEM.

Warning: If you don't know this email sender or the email is unexpected, do not click any web links, attachments, and never give out your user ID or password.