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February 5, 2023

Sonoma County Board of Supervisors

RE: Appeal of DRH22-0008 Regarding WCTA Project on APN 134-074-022


Dear Board of Supervisors:

For over twenty years, the WCTA has operated from its facility at 367 West Robles Avenue in Santa Rosa. As proposed, the new WCTA project is for a parking lot with 80 employee parking spaces and 71 school bus storage spaces on a parcel to the west. This western parcel has historically consisted of green fields and wetland. The proposed project is extraordinary for four reasons:

1. By a narrow 3-2 vote in 1999, the Board of Supervisors passed a resolution allowing an industrial use next to preexisting homes in a rural residential district. The resolution changed the zoning for the western parcel from rural residential zoning to public facilities zoning and granted a use permit for “a school bus storage yard.” The rural residential neighborhood will suffer severe negative impacts due to the new project.
2. The WCTA built its current facility on the eastern two parcels and abandoned the project on the western parcel approximately 20 years. It is now attempting to rely on a 1999 use permit and a 1999 CEQA determination for its new project on the western parcel.
3. The WCTA has already largely completed its new project on the western parcel before the design review process has completed. The WCTA has been subject to a correction notice and to two stop work orders as a result.
4. In 1999, the Board of Supervisors adopted 57 unusually lengthy and detailed conditions regarding nearly every aspect of the project. The intent of the conditions was to protect nearby homes by allowing extremely limited use of the western parcel and to concentrate more intensive use on the two industrially zoned eastern parcels where the current WCTA facility was built.
5. The WCTA has largely disregarded the 57 conditions. The new project is vastly in excess of what the Board of Supervisors intended in 1999 in terms of its size, intensity of use, and industrial character.

Because the WCTA noncompliance has been so extensive, it is difficult to address succinctly. We apologize for the length of this submission and thank you for your time and effort.

Sincerely,



Kent Lawson and Kasia Nowak

## List of Issues

### 1. Pursuant to Condition 57, the WCTA use permit should be revoked for noncompliance.

Commissioner Eric Koenigshofer commented at the last Planning Commission hearing regarding the project that he inspected the western parcel and was “shocked” at the amount of work that the WCTA has done in advance of the design review process. The WCTA has been subject to a correction notice and two stop work orders as a result. While this appeal was pending, the WCTA built a 9-foot-tall berm and graded the lot. It also installed many tons of fill, utilities, curbs, fences, and sprinkler systems, all in attempt to establish its design before the design review process is complete. Condition 57 reads:

**57. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. . .**

The WCTA has raced ahead to try and establish its design in advance of the design review process. It has argued many times that it should not be required to change items that have already been, designed, built, or ordered at public expense. Allowing the WCTA to break the law and to benefit from this sort of gamesmanship is unacceptable. The 1999 conditions have the force of law and intentionally violating them is a misdemeanor.

The Planning Commission / Board of Zoning Adjustments discussed its ability to conduct a hearing pursuant to Condition 57 and section 26-92-120. It decided not to do so. That decision is subject to appeal to the Board of Supervisors. Section 26-92-120 of the County Code requires that the Board of Zoning Adjustments conduct a public hearing regarding revocation whenever a condition of any permit issued pursuant to this chapter has been violated, or that the use constitutes a nuisance.” The Board of Supervisors must conduct a public hearing regarding revocation and should revoke the WCTA building permit instead of allowing the law to be violated with impunity.

### 2. Pursuant to section 26-92-130 of the Sonoma County Code, the use permit for the western parcel is “automatically void” and of no further effect because it “has not been used within two (2) years.”

Condition 1 requires that the WCTA obtain all required permits including use permits. Public Facilities zoning does not give the WCTA the ability to use the western parcel for “parking” as a matter of right. Section 26C-183(g) of the Sonoma County Code requires a use permit for “parking lots” in public facilities districts.

Section 26-92-130 of the Sonoma County Code applies to use permits that have never been used and to uses that have been started and then abandoned. It reads as follows:

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

In any case where a zoning permit, **use permit**, design review approval or variance permit **has not been used within two (2) years** after the date of the granting thereof or for such additional period as may be specified in the permit, such permit shall become **automatically void and of no further effect ...**  
(Emphasis added)

The fact that the WCTA made no progress toward using the parcel for approximately twenty years shows an intent to abandon the use. The WCTA may argue that its use of the eastern two parcels somehow constitutes use of the 1999 use permit on the western parcel. This argument disregards the fact that the western parcel has different zoning, a different permitted use, different conditions, and is physically separate from the eastern two parcels.

Because the use permit for the western parcel has not been used for over twenty years it is **“automatically void and of no further effect.”** Consequently, the WCTA is not in compliance with Condition 1 and should be required to obtain a new use permit.

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

Public Facilities zoning does not give the WCTA the ability to use the western parcel for a parking lot as a matter of right. Section 26C-183(g) of the Sonoma County Code specifically requires a use permit for “parking lots” in a public facilities zone. Because a use permit is specifically required for “parking lots” an employee parking lot is not part and parcel of the permitted use on the western parcel which is a “school bus storage yard”.

The 1999 Board of Supervisors’ resolution granted use permits for all three WCTA parcels. It addresses the two eastern parcels first and then separately addresses the western parcel. Condition 31 reads:

31. The use permit is approved as requested for:

a) On APNs 134-072-025 & 048, **a school bus storage, maintenance, and administrative facility.**

b) On APN 134-074-022, **a school bus storage yard.** No employees shall be stationed on this parcel, no work shall occur on vehicles/equipment on this parcel, no hazardous materials shall be stored on this parcel, and no refueling activities shall occur on this parcel. All buses parked on this parcel shall be positioned so as to avoid the need for backing up when departing in the morning. Horn checks and backup beeper checks may not occur on this parcel.  
**(Emphasis added.)**

The permitted use on the western parcel is **“a school bus storage yard.”** It is not **“a school bus storage yard and an employee parking lot.”** The Board of Supervisors could have easily written

**“a school bus storage yard and employee parking lot”** if that is what they intended. It is not permissible for the WCTA to add words to the conditions of use that are not there. The WCTA has argued that “a school bus storage yard” somehow also requires an “employee parking lot” because the “bus drivers need somewhere to park.” For over 20 years, the bus drivers have been parking elsewhere.

The WCTA’s interpretation violates well established principles for interpreting legislative rules. As the California Supreme Court has said, **"Our role in construing a statute is to ascertain the Legislature's intent so as to effectuate the purpose of the law. In determining intent, we look first to the words of the statute, giving the language its usual, ordinary meaning. If there is no ambiguity in the language, we presume the Legislature meant what it said, and the plain meaning of the statute governs."** See Hunt v. Superior Court (1999) 21 Cal.4th 984, 1000, 90 Cal.Rptr.2d 236, 987 P.2d 705, followed in Curle v. Superior Court (2001) 24 Cal.4th 1057, 1063, 103 Cal.Rptr.2d 751, 16 P.3d 166; accord: Hoechst Celanese Corp. v. Franchise Tax Bd. (2001) 25 Cal.4th 508, 519, 106 Cal.Rptr.2d 548, 22 P.3d 324. Emphasis added.

The WCTA’s approach also violates the well-established principle that a text should be read as a whole. Instead of reading rules out of context, rules in a text should be read so that they are in harmony with each other. Please see the California Supreme Courts holding in Berkeley Hillside Pres. v. City of Berkeley 60 Cal.4th 1086, 1099 (Cal. 2015) citing People v. Pieters (1991) 52 Cal.3d 894, 899, 276 Cal. Rptr. 918, 802 P.2d 420. The Board of Supervisors wrote numerous lengthy and detailed conditions referring to buses on the western parcel and absolutely none referring to employee parking. For example, please see Condition 31 quoted above regarding the permitted use, Condition 37 quoted below regarding paving, and Condition 42 quoted below regarding landscaping. The fact that buses were discussed in such detail and employee parking was not demonstrate that employee parking was not intended on the western parcel by the Board of Supervisors in 1999.

The WCTA has argued that the 80-vehicle limit for the western parcel refers to vehicles rather than to buses and that the use of the word “vehicle” somehow implies that vehicles other than buses may be stored on the western parcel. This argument is illogical because the 80-vehicle limit prohibits rather than permits vehicles on the western parcel. The 80-vehicle is intended as a way of limiting the intensity of use rather than increasing it. It works in harmony with and reinforces the limited permitted use of a “school bus storage yard,” which was also intended to limit the intensity of use. If instead the 80-vehicle limit were worded as an 80-bus limit, the WCTA would be arguing that the an 80-bus limit does not apply to employee parking on the western parcel.

Given the historical context, the Board of Supervisors’ intent in 1999 makes sense. The primary purpose of land use policy is to minimize the effect of incompatible uses. In 1999, the western parcel was zoned as rural residential, and neighbored homes in a rural residential area. Having employees park on a street in an industrial area away from the homes is far more desirable than having them park next to homes in a rural residential area. The existing WCTA facility on the eastern parcel has operated for 20 years without an employee parking lot. The plans that were approved in 2000 for the existing WCTA facility on the eastern two parcels show only bus storage on the western parcel and no employee parking. The plan that was approved in 2000 is a good indication that no employee parking was intended on the western parcel by the Board of Supervisors in 1999. At any rate, there is no ambiguity in the way the permitted use is worded. We must

therefore presume that the Board of Supervisors meant what it said in 1999, and that the plain meaning of a “school bus storage yard” is controlling. Employee parking is prohibited.

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

The relevant part of Condition 31 states as follows:

The total site (APN’s 134-074-022 and 134-072-025 & 048) shall be restricted to a maximum of 110 buses on it at any one time.

The WCTA has historically parked more than 70 buses at the existing facility on the eastern two parcels. It currently has striping on the eastern two parcels for 75 buses. To respect the 110-bus limit it should only be allowed 35 more spaces on the western parcel because  $75+35=110$ . In attempt to manipulate the 110-bus limit, the WCTA recently submitted an updated site plan showing 39 bus parking spaces on the eastern parcels and 71 buses on the western parcel. The updated plan is inconsistent with the historical use of the existing facility as shown by the satellite photos included as part of the exhibits.

The WCTA should not be allowed to redesignate bus parking spaces as employee parking spaces without following the required land use procedures to do so. The existing facility is in an M1 limited urban industrial zoning district. Parking is neither a permitted use nor a conditional use in an M1 zone, rather the rules for industrial zoning invoke Article 86 of the Sonoma County Code, which controls the amount of parking. Please see section Sec. 26-12-040 of the Sonoma County Code. Section 26-86-010(g) explains parking for uses “not specifically enumerated {...} shall be determined by the board of zoning adjustments or the planning commission.” The WCTA’s permitted uses on the eastern two parcels are not specifically enumerated and therefore changes in the amount of parking on the eastern two parcels should be determined by the board of zoning adjustments or the planning commission.

Moreover, design review is required for all allowed uses in an M1 zone pursuant to Sonoma County Code Sec. 26-12-030. Consequently, the WCTA also cannot change the parking layout of the eastern parcels without applying for separate design review permits for the eastern two parcels. The WCTA should not be allowed to manipulate the 110-bus limit by redesignating spaces that have historically been used to park buses as employee parking. The WCTA should be limited to 35 new bus spaces on the western parcel.

**5. The proposed project violates the 80-vehicle limit on the western parcel pursuant to Condition 31 because “80 vehicles” means “80 vehicles” and not “160 vehicles.”**

Condition 31 of the 1999 conditions reads in pertinent part:

31. The western lot (APN 134-074-022) shall be restricted to a maximum of 80 vehicles on it at any one time.

The WCTA has completely disrespected the intent of the 80-vehicle limit. It has focused on the words “at any one time” and has argued that spaces for 160 vehicles are allowed on the western

parcel because the buses will leave when the bus drivers park their cars in the morning and the cars will leave when the buses return in the afternoon.

If a rotating arrangement of 80 buses and 80 cars is what the Board of Supervisors intended in 1999, it would have said so expressly and imposed detailed conditions in this regard. It did not do so because no employee parking was intended on the western parcel. The Board of Supervisors went into great detail about every aspect of the project.

The WCTA argument makes no sense. A game of rotating cars and buses benefits no one. There is no reason why the Board of Supervisors would have intended it. It is extremely difficult if not impossible operationally to stagger arrivals and departures to constantly stay under the 80-vehicle limit. Schools tend to start and end around the same time of day. In the middle of the day, bus drivers will also be coming and going around the same times of the day due to split shifts. Bus drivers will also be coming and going constantly due to field trips and special events. An 80-vehicle limit is also extremely difficult if not impossible to enforce. Staggering arrivals and departures would actually increase rather than decrease the intensity of use because it would stretch out arrivals and departures over a longer period of time. It is clearly not what the Board of Supervisors intended in 1999.

The WCTA is distorting the meaning of the words “at any one time” by taking them out of context. The words depend on their context for their meaning. For example, “at any one time of the day,” “any one time of the month,” and “any one time of the year,” all have different meanings. The words “at any one time” must be interpreted in context to ascertain the intent of the Board of Supervisors in 1999. The intent then was not to create a bizarre game of rotating cars and buses that benefits no one. The intent was clearly to limit the size of the project in order to reduce the impact on the environment and to protect the rural residential character of the neighborhood. Consequently, the words “at any one time” should not be read to allow no more asphalt than is necessary for 80 vehicles to park on the western parcel at any one time. The Board of Supervisors intended “80 vehicles” when it said “80 vehicles” not “160 vehicles,” as misconstrued by the WCTA. The 80-vehicle limit should be enforced as intended by the Board of Supervisors in 1999.

## **6. The proposed project violates Condition 37 which limits the amount of paving on the western parcel to the minimum needed for bus parking.**

The intent of the Board of Supervisors in 1999 was to limit the amount of paving on the western parcel only to what is needed for buses. Condition 37 reads as follows:

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

The WCTA has not demonstrated any actual need to use new bus spaces on the western parcel. The impetus for their project seems to be employee parking, which is prohibited as explained above. The WCTA should not be allowed to pave the western parcel unless it demonstrates the need to park buses there.

Areas on the western parcel other than “where buses are driven and parked” must have landscaping or natural grass. Condition 37 refers only to buses and not to employee parking. Paving for an employee parking lot violates Condition 37.

In addition, the WCTA plan has large areas to the west of the lot where parking spaces have been eliminated, but the paving has not been removed. In attempt to comply with this condition, trees in containers have been placed on the paving in the north west corner of the lot. This approach was clearly not the intention of Condition 37 which was intended to minimize the amount of paving and maximize the amount of landscaping and grass on the western parcel.

Trees sitting in containers on an asphalt parking lot is an ugly and sad attempt at landscaping design. This approach also makes Condition 37 unenforceable because the planters are designed so that they can be moved at a later date. The intent of Condition 37 was to protect the environment and the rural residential character of the neighborhood. Paving should be kept to the minimum necessary for buses, which requires eliminating the employee parking lot and any unnecessary spaces.

**7. The proposed project violates the 1999 Board of Supervisors’ lighting restrictions pursuant to Condition 46.**

The WCTA lighting plan will have a severe and negative impact on the surrounding homes and the rural character of the neighborhood. It includes 37 lights on tall poles, many as high as 27 feet not including the concrete bases and the arms that extend from the poles. The poles hold multiple lights each. The proposed height is a huge contrast to the existing 16-foot-tall lights on the eastern two parcels, which do not have lighting restrictions. The WCTA has proposed leaving lights on five 27-foot poles on all night for security purposes. These lights will shine off the tops of white school buses and will be visible from throughout the neighborhood, including from our second-story bedroom windows.

Condition 46 states:

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

Only “**security lighting**” at “**the periphery**” of the western parcel was intended by the Board of Supervisors in 1999. No lighting for purposes other than security purposes was intended by the Board of Supervisors. If other lighting was intended, the Board of Supervisors would have said so expressly in 1999 and imposed similarly detailed conditions. All lighting for other purposes must be eliminated.

The 1999 conditions restrict the hours of operation on the western parcel from “Monday through Friday from 6:00 a.m. to 6 p.m.” During almost all of the year, there will be enough natural light for a school bus storage yard during these hours of operation. Bus drivers will very seldom if ever be working at 6:00 am and 6:00 pm. If there is ever a need to park before sunrise or after sunset, it would likely only be for an occasional special event and the bus drivers can park at the existing facility on the eastern two lots which does not have restrictions on its hours of operation.

Lighting should be allowed only to the extent it has proven necessary for security purposes. The WCTA has not shown that any security lighting is necessary. The WCTA has only been able to point to one minor incident of vandalism at the existing facility in over twenty years of operation. The WCTA have offered vague and unsubstantiated comments about their “insurance” that do not seem credible. The security threat to locked school buses behind a locked fence seems minimal. In the first Planning Commission hearing regarding this appeal, the director of the WCTA said hiring a security guard would be an alternative to security lighting and that the WCTA does so at another facility. Eliminating the lighting and hiring a security guard seems like a more reasonable alternative than having lighting that detracts from the rural residential character of the neighborhood. If the lighting is not eliminated it should be restricted to short bollard lights on motion sensors and all lights on the “**periphery**” should be eliminated as required by Condition 42.

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

Condition 42 of the 1999 Board of Supervisors conditions requires:

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

It is important to point out that the wording of this condition is very specific and unusual. It requires that the screen “**shall shield the buses from view.**” This requirement is a condition that must be met “**prior to any use of the lot.**” The WCTA landscaping plan relies on small trees in 15-gallon containers that will only be a few feet tall. Much larger plants are required or they will not provide the required screening for years to come, if ever. Larger and more mature landscaping should be used.

Larry Reed, the landscape architect on the Planning Commission stated that it will be 4-5 years before the 15-gallon plants grow together to create a screen. He did not seem to realize that there is

a requirement that the screen be effective “**prior to any use of the lot.**” He also did not seem to factor in that the larger school buses are 13 feet high, and that we will be able to see them for decades if not forever from our second story windows. The WCTA has had over twenty years to start growing an adequate screen. It has done the exact opposite. In fact, the WCTA bulldozed five redwood trees that were planted twenty years ago. The redwood trees were planted in a row along the west property line to make a screen and were part of a larger row of 23 redwood trees.

At the Design Review Committee Hearing, the WCTA stated that bulldozing the 20-year-old redwood trees was a mistake and offered to replace the trees. The Board of Supervisors should require them to do so with similarly sized trees. Redwood trees would make a better screen than the proposed design with oaks and pepper trees because redwood trees are taller and can be grown to create a giant hedge. A similar redwood tree hedge surrounds the existing WCTA facility and is a good indication of what the Board of Supervisors intended in 1999.

A tall screen is necessary because we will see over short trees from our upstairs windows. With global warming redwood trees will require more irrigation than they would have in the past. The need for irrigation should not be prohibitive because the 1999 conditions require the WCTA to irrigate the landscaping and there is good ground water in the area. The WCTA should be required to plant additional large redwood trees to make the screen sufficiently dense to comply with the 1999 conditions. They should be similar in size to the redwood trees that the WCTA bulldozed.

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

The purpose of the berm and the setback is to grow the required screen to protect the homes to the north and the west. The current berm and set back are inadequate to accommodate the required screening discussed above. The berm should be redesigned and relocated. There are three problems with the current design:

1. The setback on the western property line is too narrow to grow landscaping, especially because this setback contains a fence and a drainage swale that flood when it rains. Any landscaping in this area is likely to be washed away.
2. The side of the berm is too steep for trees to grow. The WCTA engineer has stated that the berm will have a 2:1 slope. Don MacNair, the landscape architect on the Design Review Committee, stated that anything steeper than a 3:1 slope makes it difficult to plant trees because a tree needs a flat spot at the base to absorb water. He also stated that he was trying to avoid requiring trees on the berm as a result. Trees on the side of the berm will grow slowly, if at all, due to water runoff. The slope should be reduced to at least a 3:1 slope.
3. The berm is also only 2 feet wide on the top, which is also too narrow to plant trees. The top of the berm should be made wide enough so that it has a natural appearance when planted with trees.

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

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

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

The appearance of the berm as currently constructed, defeats the main purpose of the berm and landscaping which is to make the WCTA project as visually appealing as possible for the neighboring homes. The berm should be made much less steep and much wider on the top so that it is **“blended with adjacent natural terrain to achieve a consistent grade and natural appearance”** as required by code.

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

The new WCTA berm and raised grade blocks water that previously would have overflowed from the drainage ditch on the western property line into the historical wetlands on the western parcel. The drainage ditch drains much of the neighborhood, including approximately 20 acres of pasture to the north through a culvert under Oasis Drive. Please see the photos included with the exhibits in this regard. In the photos, water can be seen backing up against the berm. In 1999, the Board of Supervisors found that there were wetlands on the western acre that provided endangered species habitat and required wetland mitigation for purposes of CEQA.

Both sections 11.14.040 and 11.14.020(C)(8) of the Sonoma County code also require maintaining **“existing drainage patterns.”** They also require calculations regarding water absorption and storm drain capacity. The current calculations do not account for water from the drainage ditch, which is absurd, given recent flooding. At the planning commission hearing regarding this appeal, the WCTA engineer claimed that it was not necessary to consider water coming from the ditch because there was not that much of it. The photos show otherwise. A huge amount of water flows through the ditch when it rains. The WCTA’s calculations were proven totally inadequate by the storms in the winter of 2022/20223 and should be revised.

The WCTA project has significantly changed existing drainage patterns and worsened flooding in the neighborhood. Our 91-year-old neighbor’s son in law testified at the second Planning Commission hearing that his family has never seen worse flooding coming from the drainage ditch than in the winter of 2022/2023 and that it was so bad that his father-in-law was unable to leave his house and was unable to attend a medical appointment. He is very concerned that at some point his father-in-law will need emergency medical attention and will not be able to access it due to flooding.

The following drainage improvements are necessary to maintain existing drainage patterns and to prevent flooding:

1. Debris from the WCTA project is blocking the drainage ditch and should be removed. At the design review committee hearing in August of 2022, the WCTA engineer stated that the debris in the ditch was mostly from building the berm and that the WCTA would remove the debris and conduct regular maintenance to keep the ditch clear. Despite several complaints over six months, the WCTA has done nothing to remove the debris. The Board of Supervisors should require a

condition that the WCTA conduct annual maintenance to keep the drainage ditch unobstructed and sloped so that the ditch flows properly.

2. The WCTA has raised the grade of its setbacks next to the western and northern berms by several inches. The grade should be returned to historical levels. Doing so would allow storm water to overflow into the large WCTA drainage swale that runs along the northern berm before the drainage ditch overflows the neighboring parcels to the west.

3. The western berm must also be moved back away from the property line to restore historical drainage patterns. The 1999 conditions noted that the western acre of the western parcel was wetland and provided wetland mitigation procedures. This area previously absorbed overflow from the drainage ditch. The berm now acts as a dam that prevents water from flowing to the wetlands where it went historically.

4. Currently, the drainage ditch and the small WCTA drainage swale on the western property line run parallel to each other and are just a couple feet apart. When it rains the drainage ditch and the small swale combine to form a single body of water. A proposed fence that was the subject of a stop work order runs inbetween the two. The fence should be removed. The drainage ditch and the small swale should be combined to form a single, large, well-landscaped, drainage swale by widening the drainage ditch onto the western lot.

5. The WCTA storm drain in the southwest corner of the western parcel is the right height for the small WCTA drainage swale, but the opening is so high that it only takes the very top portion of the water from the drainage ditch. The opening of the storm drain should be lowered so that it drains to the bottom of the drainage ditch.

6. A larger storm drain also should be installed so that it is appropriate in size to handle storm water flowing from the 20 acres of pasture to the north of Oasis Drive. The storms of January 2023 proved that the current storm drain is too small in this regard.

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

While this appeal was pending, the WCTA began installing a fence along the property line of the western parcel even though it knew that the location and design of the fence was a subject of this appeal. The WCTA was subject to a stop work order as a result. At the design review hearing, the WCTA offered to put the fence inside the berm. The WCTA now maintains that putting the fence outside the berm instead of inside the berm is unnecessary for security purposes. There is no rational basis for this argument. As currently installed, the fence is inappropriate for a rural area. The fence looks like it was designed for a prison and is massively overbuilt with huge eight-foot-tall galvanized steel posts. Please see the photograph included with the exhibits. It is designed to handle the wind loads created by plastic slats. At the last planning commission hearing regarding this appeal, the WCTA offered to remove the plastic slats from its design but refused to put the fence inside the berm where it belongs.

In 1999 the Board of Supervisors did not intend to have a fence along the north and west property lines. Please see the text of Condition 42 quoted above which requires a fence to the south and east

and a landscaped berm to the north and west. The purpose for the berm and the landscaping was to help preserve the rural residential character of the neighborhood.

A massive industrial looking chain-link fence is unappealing, and inappropriate facing homes in a rural residential area. Because the WCTA project will harm the neighbors' enjoyment of their property and their property, values the project should be made as nice as possible.

As explained in the section above about drainage, it is absurd to have a fence in the middle of what is essentially a creek when it rains. The fence catches debris and obstructs the flow of water. The fence will also make maintenance of the drainage ditch difficult if not impossible because it will hinder the movement of personnel and equipment. The WCTA promised to maintain the drainage ditch at the Design Review Committee hearing. WCTA personnel need to be able to access the ditch from the WCTA side of the property line. In the past, a mini backhoe was used to maintain the drainage ditch, which will no longer be possible with the fence in its current location. It would be desirable to grow a vine on the fence, but any vines will be washed away if the fence remains in the middle of the creek.

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

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

Condition 34 applies to all three parcels and requires as follows:

34. No engines, motors, generators, power tools, etc. that produce noise shall be allowed to operate on site except during normal business hours of operation as established in this use permit.

EV charging stations also often create a humming noise. Electric vehicles often run their fans while they are charging, which creates noise. After the WCTA's transition to electric buses, there would be 71 electric buses charging and making noise. The charging would take place at night and on weekends, which is outside the 6:00 am to 6:00 pm Monday through Friday permitted hours of use for the western parcel pursuant to Condition 36.

EV charging should be expressly prohibited with a new condition that expressly states that EV charging is prohibited by Conditions 31, 34, and 36. Moreover, the WCTA should not be allowed to build the bus storage yard on the western parcel unless it agrees to never seek future changes to the 57 conditions. The WCTA has argued multiple times that it should not be required to comply with the 57 conditions in instances where it has already spent public funds. The WCTA already has plans to transition to electric buses. If nothing is done, the WCTA will be arguing in the future to the Board of Supervisors that the 57 conditions should be changed because the bus storage yard has already been built. The Board of Supervisors should put a stop to this sort of gamesmanship before it can occur.

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

Sonoma County Code. Section Sec. 26-82-050 of the Sonoma County Code requires that the Board of Supervisors protect the “**character**” of the neighborhood and to protect the “**desirability of investment or occupation in the neighborhood.**” (Emphasis added.)

The Board of Supervisors should require:

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

A back-up beeper is a piercing sound that is designed to trigger a person’s response to danger. The beepers would be a nuisance in any residential neighborhood. We have been able to hear the back-up beepers from the WCTA construction equipment inside our home all summer even with closed, double-pane windows. The noise is even worse when we are outside in our garden or on our deck. The backup beepers from a relatively small amount of equipment have been destroying the quiet rural character of the neighborhood during the construction process. The noise will be far worse if 71 school buses are allowed to come and go constantly from the western parcel.

At the first Planning Commission hearing regarding this appeal, one of the commissioners made the point that back-up beepers will only be a problem when the buses return in the afternoon because the 1999 conditions require that buses be parked so that the back-up beepers are not triggered when departing in the morning. It is true that the 1999 conditions include this condition and made this assumption.

However, the WCTA drivers currently work split shifts which means they work a couple hours in the morning and then work a couple hours in the afternoon. Only some bus drivers have enough seniority to be assigned field trips and special events that allow them to work mid-day. As a result, buses and employee cars will constantly be coming and going throughout the day, especially if arrivals and departures are staggered in attempt to respect the 80-vehicle limit as proposed by the WCTA. Split shifts will greatly intensify the use of the western parcel beyond what was intended by the Board of Supervisors in 1999. The project should be conditioned to prevent the western parcel from being used for split shifts so the intensity of use remains consistent with what the Board of Supervisors intended in 1999.

In 2000, a plan for phase one of the WCTA project was approved. It also included a preliminary plan for phase two on the western parcel. The striping layout in the plan for the western parcel was designed so that the buses could pull straight into their parking spots in the afternoon and straight out of their parking spots in the morning without triggering their backup beepers. The Board of Supervisors has the discretion to impose a new condition that requires a similar layout. It should do so now.

Moreover, it would cost very little to install switches to turn off the back-up beepers when they are on the bus storage lot. It would also cost very little to install wireless back up cameras on the buses. The Board of Supervisors should use its discretion to impose a new condition that prohibits the use of backup beepers and requires the use of backup cameras unless back-up beepers are expressly required by law.

#### **15. California Public Resource Code section 2116 requires new CEQA review.**

By law, the CEQA review from 1999 cannot be relied upon because: (1) substantial changes are proposed in the project, and (2) substantial changes have occurred with respect to the circumstances under which the project is being undertaken, and (3) new information has become available. Please see California Public Resource Code section 2116.

As will be explained below, several of the 57 conditions are not being followed and as a result the project is vastly in excess of the Board of Supervisors' intent in 1999. Many of these 57 conditions were intended as CEQA mitigation measures. The failure to follow these conditions creates substantial changes in the proposed project and requires new CEQA review. In this regard, please see sections 3 - 14 above.

As explained below, Sonoma County, the WCTA, and school busing have changed dramatically in the past twenty years causing substantial changes to the circumstances under which the project is being undertaken. The past 20 years have also brought important new information.

#### **A. Climate change and depletion of Sonoma County's deep aquifers requires new CEQA review.**

Due to climate change, there are more extremes in weather. The state cycles through floods and drought. As a result, Sonoma County's deep aquifers are being depleted and are not recharging. During the winter storms of 2022/2023 a huge amount of water went into the new WCTA storm drain that would have been previously absorbed by the wetlands on the western parcel. As explained in the section below about drainage, the project does not comply with new rules in the County Code to protect the aquifer. Climate change and the depletion of the aquifer was not considered in 1999 and should be reconsidered as part of a new CEQA review.

#### **B. The lack of anticipated demand for additional school bus storage requires new CEQA review.**

Another major assumption that should be reconsidered as part of a new CEQA review is the assumption that a "school bus storage yard" on the western parcel is necessary to meet demand from a growing population. The past twenty years have also shown that a "school bus storage yard" on the western parcel is unnecessary. If it was necessary, it would have been built long before now. Enrollment in Sonoma County schools has peaked and is now declining. Population growth in Sonoma County was rapid in the 1980's and 1990's. It has now leveled off and the population is growing older. As a result, the number of school-aged children is declining. The primary reason for the WCTA project now seems to be an employee parking lot rather than an actual need for the permitted use of a "school bus storage yard." An employee parking lot is also unnecessary, or it, too, would have been built years ago.

At the First Planning Commission hearing regarding this appeal, the director of the WCTA explained that with the exception of federally mandated busing for students with disabilities, demand for school busing has declined precipitously. Unlike in the 1990's when the project was approved only a very small percentage of students now use the school buses. The director of the WCTA also explained that smaller buses are now being used to accommodate students with disabilities and that larger buses that carry many students are becoming obsolete.

**C. Increased traffic and drastic changes in WCTA service areas require new CEQA review.**

In 1999 the Board of Supervisors analyzed traffic patterns and the WCTA service area and determined that locating the WCTA facility in the southwest Santa Rosa area would minimize traffic. Conditions were also imposed on the WCTA routes to minimize traffic. Traffic in south Santa Rosa is far worse than it was twenty years ago and the WCTA is serving service areas that were not anticipated in 1999. The expansion of the 101 corridor, new housing in the south Santa Rosa area, and the rise of big box shopping centers, like Costco, on Santa Rosa Avenue have caused an extreme amount of traffic at the freeway exits and overpasses for Hearn Avenue and Todd Road.

In the 1999 resolution, the Board of Supervisors pointed out that a third of the WCTA riders lived in the southwest Santa Rosa area and it was also its fastest growing WCTA service area. Since then, the WCTA service area has changed dramatically. When the WCTA began in 1988 it started with 7 school districts and has now grown to 16. A prime example of unanticipated growth, is the addition of Santa Rosa City Schools in 2016, which essentially doubled the number of students served by the WCTA. Very little of the area served by Santa Rosa City Schools is near the WCTA facility in southwest Santa Rosa. It is largely to the North and to the East.

**D. The transition to smaller school buses with different routes and increased use of public transit requires new CEQA review.**

The 1999 resolution also made the assumption that “the use of school buses results in an overall net decrease in traffic volumes, by reducing the number of individual car trips going to and coming from local schools.” It is no longer the case that the use of large school buses consolidates many trips into one bus. Only a very small percentage of students now ride school buses. Moreover, if small school buses are traveling a long way to get to their service area before they start serving just a few disabled students it does not follow that the buses reduce traffic, especially because WCTA bus drivers work split shifts which means that they go back and forth to the WCTA facility throughout the day.

The small percentage of students who take a bus to school are increasingly taking public buses instead of school buses to school. For example, starting on July 1, 2021 the Santa Rosa City Bus became free for students. Santa Rosa City Schools only allow students to ride the WCTA bus if they are:

- Elementary students who live more than 1 mile from school
- Middle and high school students who live more than 3 miles from school
- Special education students

Other students are directed to ride the Santa Rosa City Bus if they want to take a bus to school. The Santa Rosa City Bus is just one example of how public transit is replacing school buses. Petaluma Transit also provides buses to and from high schools and junior high schools in its service area. It is a growing trend. Los Angeles Unified, the second-largest district in the nation, does not provide a daily bus service for the general student body. In 2021, the district launched a program that provides free bus and train passes to all its students. It does not reduce traffic or pollution for school buses to duplicate routes already served by public transit. This shift from school buses to public buses approach makes good environmental sense and was not anticipated in 1999.

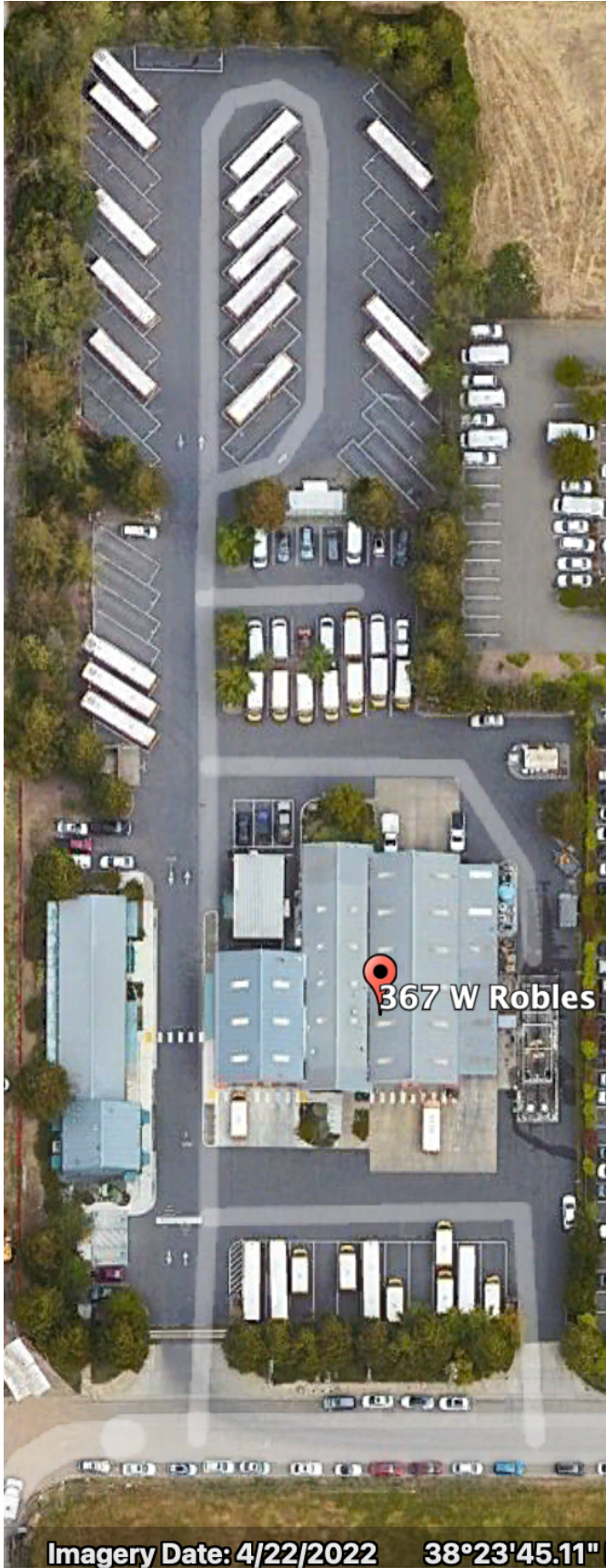
**E. The transition away from CNG powered buses to battery powered electric buses requires new CEQA review.**

The 1999 resolution also made the assumption that the “bus storage yard” on the western parcel would contribute to a substantial cost savings because the buses could be refueled with CNG from the nearby Sonoma County Transit facility. It also assumed that there would be a benefit to sharing maintenance facilities and expertise with CNG buses. The 1999 resolution noted that the CNG facility cost 1.3 million dollars at the time it was built and that there would be additional savings on the cost of CNG going forward. In 1999, CNG buses were considered a form of clean energy compared to diesel buses. However, a transition to zero emission buses is now mandated by the California Air Resources Board. See California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.3, Part 2023.1 (d). Both the WCTA and Sonoma County Transit are planning the transition to battery powered electric buses. The WCTA has 50 CNG buses, which it stores at the existing facility on the eastern parcel and will not order more. As a result, the WCTA does not need additional bus storage near the Sonoma County Transit CNG facility.

Electric bus chargers do not need to be in a single, centralized facility like the existing CNG facility. Electric buses also require much less maintenance, which also decreases the need for a centralized facility. It makes much more environmental sense to have electric bus facilities spread across the county closer to the routes that they serve than to concentrate them at the existing WCTA facility. A recent study of electric busing for the WCTA found that one of its routes was not suitable for electric buses because it was over 140 miles each day. That bus should likely be stored closer to the students that it serves. The transition from CNG buses to electric buses is new information that was not anticipated in 1999. Consequently, new CEQA review is required.

Attachments:

1. Screen shots of bus parking on existing facility from Google Earth
3. Photos of flooding from drainage ditch along the western property line
4. CEQA exhibits



Imagery Date: 4/22/2022 38°23'45.11"



Imagery Date: 2/25/2021 38°23'46.81" N 12



367 W Robles

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Imagery Date: 10/2/2020 38°23'46.65"



367 W Robles Ave

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Imagery Date: 9/29/2020 38°23'46.73" N 122°43'



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Imagery Date: 7/28/2019 38°23'46.43"

