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Via Electronic Mail

January 16, 2025

The Honorable Board of Supervisors
County of Sonoma
575 Administration Drive
Room 100 A
Santa Rosa, CA 95403
bos@sonoma-county.org

Re: Appeal of Sonoma County Board of Zoning Adjustments Decision; File No. UPC19-0012;
Board of Supervisors Meeting January 28, 2024

Dear Supervisors:

On behalf of appellants Allan Kipperman, M.D. and Ayris Hatton, we are providing this letter as a supplement to the attached PowerPoint Presentation already provided to staff for the January 28, 2024, Board of Supervisors meeting. This letter will expand on some of the issues in that PowerPoint.

This is an appeal of the decision by the Sonoma County Board of Zoning Adjustments (BZA) regarding the proposed cannabis project at 4707 Bloomfield Road, Petaluma, California. The project is proposed by Bloomfield Farms LLC/Michael Agins and includes 10,000 square feet of mixed light cannabis cultivation in a 12,960 square foot greenhouse, 5,000 square feet of indoor cannabis cultivation in a 6,480 square foot warehouse, and centralized processing of cannabis in a 10,000 square foot warehouse. The processing includes not only the applicant's own cannabis crops but also crops from other growers in Sonoma County. The Board of Zoning Adjustments approved the project on August 22, 2024, with operations permitted 24-hours a day seven days a week.

This project is incompatible with the surrounding area particularly with respect to issues concerning odor, light, noise, traffic and hours of operation. It is the appellants' position that the Board of Supervisors should **deny the project** as incompatible with the quiet rural community and reject the mitigated negative declaration. If the Board approves the project, it should only be approved with **additional conditions of approval** so that the project conforms to the Expanded Initial Environmental Study. The project should also include a detailed Odor Abatement Plan and Noise Abatement Plan with specific conditions to minimize odor and noise and to monitor the project for odor and noise violations. The hours of operation should be reduced to a more reasonable number. The Conditional Use Permit term should be reduced from five years to one year.

The appellants' property at 4760 Bloomfield Rd. adjoins the subject project property and is on a hillside overlooking the project. From their property, including their house on the property, the appellants will have a bird's eye view of the nearly 30,000 square feet of new commercial structures. The appellants' house is only 1,200 feet from the project site. In addition, there are 5 other properties that will also be impacted by this project with homes ranging from 330 feet to 2000 feet from the project.

Beginning with the **hours of operation**, the hours approved by the BZA exceed what the applicant requested and what was analyzed in the Expanded Initial Environmental Study. While everyone acknowledges that plants will be growing 24 hours a day with timers for lighting and irrigation, the applicant requested hours of operation seven days a week from 8 a.m. to 5 p.m. with extended hours of 7 a.m. to 7 p.m. during harvesting. The BZA approved hours of operation 24 hours a day, seven days a week as needed. A commercial operation running 24 hours a day every day would substantially impact the surrounding properties and is wholly unacceptable.

Moving to **traffic**, this impact was not adequately described by the applicant in the project proposal, and it does not appear to have been adequately analyzed in the Expanded Initial Environmental Study. Not only will there be additional traffic from employees and the usual business deliveries, but cannabis businesses have a more substantial impact on traffic due to the regulatory requirements for transporting cannabis. Growers cannot transport their own cannabis and third-party distribution vehicles will be required to transport cannabis to and from the project site including trips to manufacturers, distributors or testing labs. In addition, such vehicle trips will be necessary to transport cannabis to and from the other growers whose cannabis this project will be processing. The Expanded Initial Environmental Study does not specifically state whether the Study analyzed this additional traffic. The Study should be updated to determine if a mitigated negative declaration is appropriate.

As for **noise**, the staff recommendation and the applicant's proposal simply reference the Sonoma County Noise Guidelines. Superior noise protection is necessary to protect the community surrounding this project. This is a small quiet community with some farming and large animal grazing. The appellants' residence is on top of the hill overlooking the project site which puts them in the unique position of noise, light and odor impacting their property more than others. Noise can be generated from traffic, employees, and equipment such as HVAC, fans, circulation, ventilation, exhaust, blowers, heaters, etc.

If the project is approved, a new condition of approval should be added to require the applicant to prepare a **Noise Abatement Plan**, to be approved by the County, that prevents excessive noise from being experienced within neighboring properties. The Plan should include, among other things, installation of necessary equipment and soundproofing to limit any noise to 0 decibels of continuous noise 24 hours/day, proper maintenance of equipment, continuous monitoring by the applicant using noise detection equipment and maintenance of that noise monitoring data for 3 years, community participation and outreach to residents located within 1,000 feet of the project property line, and contact information for the applicant's Primary Noise Contact who shall be available by telephone on a 24 hour/day basis. The Plan should provide that Permit Sonoma staff shall monitor implementation prior to final building clearance and that staff may request additional measures necessary for corrective actions to be provided at the cost of the applicant.

If the project is approved, a new condition of approval should be added to address **sunlight glare and ambient light**. The new condition should require the applicant to utilize the appropriate roofing material and ambient lighting, to be approved by the County, that prevents any sunlight glare from any structure during the day or any light from any structure during the night. The Expanded Initial Environmental Study was specifically predicated on all indoor and mixed light operations being fully contained so that little to no light escapes, and on lighting not escaping at a level that is visible from neighboring properties between sunset and sunrise. As

the appellants' residence is on top of the hill overlooking the project site, the appellants will be uniquely impacted by any visible light.

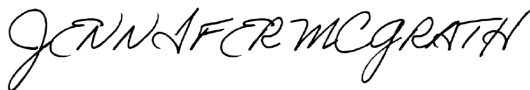
Odor control is one of the most critical elements of any cannabis business. This is a particularly acute issue for growing, harvesting and processing cannabis. Odor is one of the most common and frequent complaints by the local community. Cannabis odor has substantial negative impacts on the community ranging from public health to reduced property values. Cannabis odor often results in significant time and money spent by neighbors, operators, and county staff on complaints, litigation and appeals.

If the project is approved, a new condition of approval should be added to require the applicant to prepare an **Odor Abatement Plan**, to be approved by the County, that prevents odors from being experienced within neighboring properties. Most critically, the Odor Abatement Plan should specifically require the use of **carbon scrubbers** as stated in the Expanded Initial Environmental Study. The Plan should also address maintenance of equipment, continuous monitoring by the applicant using Nasal Ranger odor detection equipment, and maintenance of odor monitoring data for 3 years. The Plan should include community participation and outreach to residents located within 1,000 feet of the project property and provide contact information for the applicant's Primary Odor Contact, who shall be available by telephone on a 24 hour/day basis. The Plan should provide that Permit Sonoma staff shall monitor implementation prior to final building clearance and that staff may request additional measures necessary for corrective actions to be provided at the cost of the applicant.

In closing, it is the appellants' position that the Board of Supervisors should deny the project. If the Board approves the project, it should only be approved with the additional conditions of approval including a detailed Odor Abatement Plan and a Noise Abatement Plan, reduced hours of operation, and a reduction of the Conditional Use Permit term from five years to one year.

The appellants are available to respond to any questions or comments by individual Supervisors prior to the January 28, 2024, Board meeting, and they will also be available at the Board meeting.

Sincerely,

A handwritten signature in black ink that reads "JENNIFER MCGRATH". The signature is written in a cursive, slightly slanted style.

Jennifer McGrath & Edward Pinchiff
Attorneys for Appellants Allan Kipperman, M.D. and Ayris Hatton

cc: Haleigh Frye (Haleigh.Frye@sonoma-county.org); Crystal Acker (Crystal.Acker@sonoma-county.org)

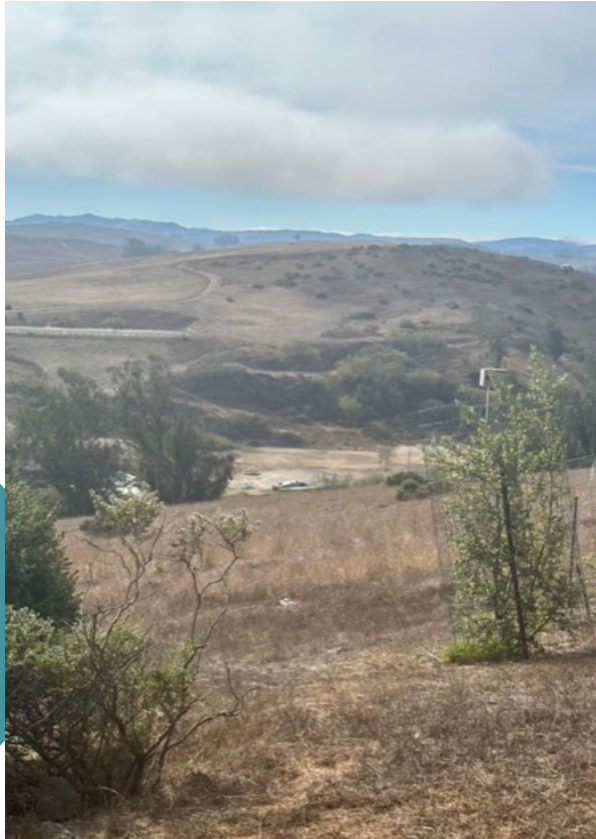


UPC19-0012
(4707 BLOOMFIELD RD)
APPEAL OF BZA DECISION

Project As Approved by the Board of Zoning Adjustments 8/22/2024

- **Five-year limited-term Conditional Use Permit**
- **10,000 square feet mixed light cultivation (12,960 sq. ft. greenhouse)**
- **5,000 square feet indoor cultivation (6,480 sq. ft. warehouse)**
- **Centralized processing of cannabis (10,000 sq. ft. warehouse)**
(their own crop and the crops from other growers in Sonoma County)
- **Operations are permitted 24-hours a day seven days a week as needed**
- **Adopted the Mitigated Negative Declaration**

**View from Master
Bedroom, Kitchen,
Family Room,
Dining area and Deck**



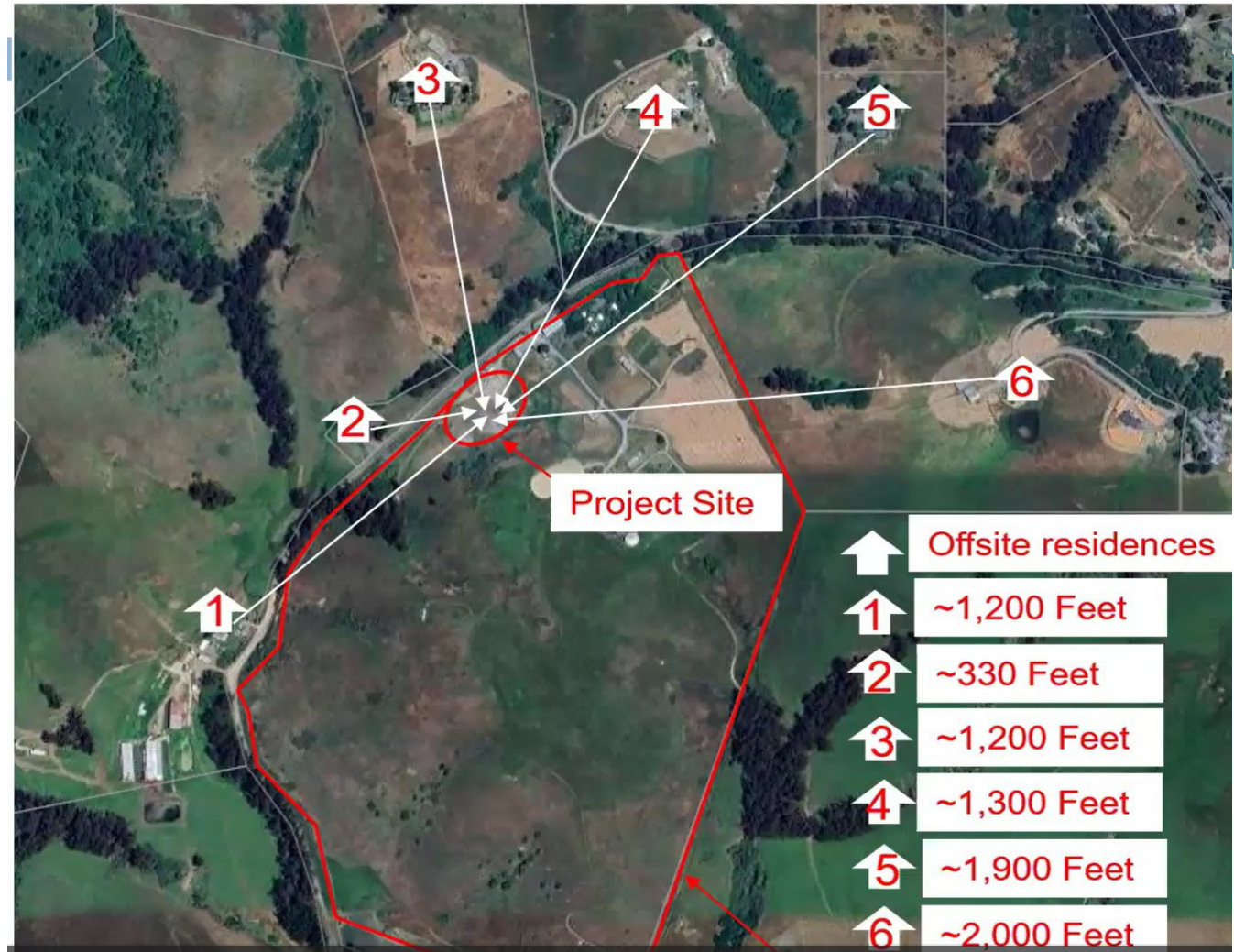
View from Appellants' Property. Property Line is at Bloomfield Road.

***Appellants:*
Allan Kipperman and Ayris Hatton
4760 Bloomfield Rd.**

Grounds for Appeal

1. Hours of Operation
2. Traffic
3. Non-Traffic Noise from equipment and operations
4. Sunlight Glare and Ambient light at night
5. Odor

Appellants' Property is #3. The property line is at Bloomfield Road directly across from the proposed use and they will have a bird's eye view of nearly 30,000 square feet of the three new commercial structures from their home on the hilltop.



Hours of Operation

STAFF RECOMMENDATION

14. Hours of Operation. Indoor and mixed light cultivation and processing activities are allowed to occur 24 hours per day, seven days a week as needed, although general use will occur during daylight hours. All vendor deliveries and shipping activities shall be limited from 8:00 am to 5:00 pm Monday through Friday, year-round.

APPLICANT'S PROPOSAL STATEMENT

The project will operate from 8:00 a.m. to 5:00 p.m. with longer days from 7:00 a.m. to 7:00 p.m. during harvest periods.



The right to operate 24 hours per day, seven days a week as needed, is wholly unacceptable to the surrounding properties.

1. It exceeds what the applicant requested and what was analyzed in the Initial Study. The applicant requested:

- **Plants will be growing 24 hour/day with timers for lighting and irrigation.**
- **Hours of Operation will be seven days a week 8 a.m. – 5 p.m., with extended hours of 7 a.m. – 7 p.m. during harvesting.**
- **Shipping and Deliveries Monday through Friday 8 a.m. – 5 p.m.**

2. Neighbors concerned about noise, lights, and traffic all night.



Traffic

STAFF RECOMMENDATION

None.



APPLICANT'S PROPOSAL STATEMENT

None.

Initial Study:

Most employees would work during daytime hours and deliveries would occur between the hours of 8:00 am to 5:00 pm.

- 1. It is unclear if “delivery” includes the distribution vehicles of the licensed third-party company.**
 - Distribution vehicles transporting applicant’s product to manufacturers, distributors or testing labs.**
 - Distribution vehicles to and from the property for other cultivators.**
- 2. If they were not included, then the Initial Report should be updated to determine if a mitigated negative declaration is appropriate.**




Distribution is a key component of the cannabis supply chain. Growers cannot transport their own product to a testing laboratory, manufacturer, or distributor.

- BASIC OVERVIEW - CALIFORNIA SUPPLY CHAIN

CULTIVATION

GREENHOUSE
INDOOR
OUTDOOR

- FLOWER
- BIOMASS



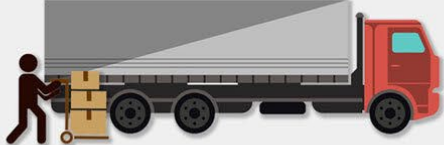
MANUFACTURING

TYPE 6 (NON-VOLATILE)
TYPE 7 (VOLATILE)
EDIBLE KITCHEN



DISTRIBUTION

- POST PROCESSING
- PACKAGING



TESTING

- PRODUCTS MUST PASS LAB TEST TO ENTER
- FAILED PRODUCTS MUST BE DESTROYED OR REMEDIATED BY DISTRIBUTION/MANUFACTURING




DELIVERY

PRODUCTS SOLD TO END USER



CONSUMPTION LOUNGE



RETAIL

PRODUCTS SOLD TO END USER



PRODUCTION DISPOSAL

THIRD PARTY CONTRACTOR TO DESTROY PRODUCT



KEY

ARROW =
PRODUCT MOVING FROM ONE LICENSE TO ANOTHER



Noise from equipment and operations

STAFF RECOMMENDATION

96. Noise shall be controlled in accordance with Table NE-2 (or an adjusted Table NE-2 with respect to ambient noise, as described in General Plan 2020, Policy NE-1c), as measured at the exterior property line of any affected residential or sensitive land use:

APPLICANT'S PROPOSAL STATEMENT

r. Noise Limits. The proposed operations will not exceed the General Plan Noise Standards Table NE-2 and in accordance with the Sonoma County Noise Guidelines.

Non-Traffic Exterior Noise Exposures

TABLE NE-2: Maximum Allowable Exterior Noise Exposures

Hourly Noise Metric ¹ , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (4 minutes 48 seconds in any hour)	60	55
L02 (72 seconds in any hour)	65	60
<p>¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level.</p>		

Superior Noise Protection is necessary for this community.



- 1. Small, quiet community with some farming and large animal grazing.**
- 2. Appellants' property line is across the street. Their residence is on top of the hill overlooking the project site which puts them in the unique position of noise and odor impacting their property more than others.**

- **Traffic Noise.**
- **Equipment Noise such as HVAC, fans, circulation, ventilation, exhaust, blowers and heaters, etc.**
- **Employee Noise.**



A new condition of approval should require an applicant to prepare a **Noise Abatement Plan, to be approved by the County, that prevents excessive noise from being experienced within residential areas.**

Noise Abatement Plan

- **Install necessary equipment and soundproofing to limit any noise to 0 decibels of continuous noise 24 hours/day prior to the commencement of cultivation activities**
- **Maintenance of Equipment**
- **Continuous Monitoring by the Applicant using noise detection equipment**
- **Maintenance of noise monitoring data for 3 years**
- **Community participation and outreach to residents located within 1,000 feet of the Property line**
- **Provide contact information for the Applicant's Primary Noise Contact, who shall be available by telephone on a 24 hour/day basis**
- **Permit Sonoma staff shall monitor implementation prior to Final Building Clearance and request additional measures necessary for corrective actions, provided at the cost of the Applicant**



Sunlight Glare and Ambient Light

STAFF RECOMMENDATION

None.



APPLICANT'S PROPOSAL STATEMENT

None.

MND Facts for Finding No Substantial Impact

The conditions of approval do not include any conditions consistent with the Initial Study related to roofing and walls to prevent sunlight glare or ambient light emanating from any structure.



1. The proposed mixed light greenhouse buildings would **use frosted composite material as roofing and walls, which will limit potential for daytime glare associated with sunlight striking the roof. . .** However, as a **condition of approval**, the project would be required to comply with the following Zoning Code lighting requirement:
 - **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 (Sec 26-88-254(f)(19)).**
2. Nighttime lighting and preservation of nighttime skies and visual character of rural areas (General Plan Goal OSRC-4, Objective OSRC-4.1, Objective OSRC-4.2, Policy OSRC-4a, Policy OSRC-4b, and Policy OSRC-4c): The project would use **minimal, motion-activated exterior lights and all night lighting from mixed light greenhouse will be contained within the structures, which would comply with County requirements related to location, shielding, and light levels.**

Sunlight Glare and Ambient Lighting

A new condition of approval would require an applicant to utilize the appropriate roofing material and ambient lighting, to be approved by the County, that prevents any sunlight glare from any structure during the day or any light from any structure during the night.



Odor

The Initial Study analyzed a “project including a self-contained closed-loop climate control systems, including carbon filtration to clean the air and control odor, for all cultivation and processing structures in order to contain odors. Therefore, regular project operation would result in less than significant odor impacts.”

STAFF RECOMMENDATION

19. Odor Control System. The applicant/operator shall install and maintain an odor control air filtration and ventilation system in each structure containing cannabis products to control off-site odor generated by the cannabis operation. This requirement shall apply to all permanent structures used in the operation, including mixed light greenhouses, processing, and product storage structures. Verification of compliance shall be required prior to issuance of the Use Permit Certificate or operation of the use, either by photographic documentation or site inspection by the Project Planner, at the discretion of Permit Sonoma staff.

The Staff Proposed Condition of Approval did not sufficiently condition the project to meet the mitigation measure as described in the Initial Study.



Examples of Carbon Scrubbers

A new condition of approval should require an applicant to prepare an **Odor Abatement Plan, to be approved by the County, that prevents odors from being experienced within residential areas.**

Odor Abatement Plan

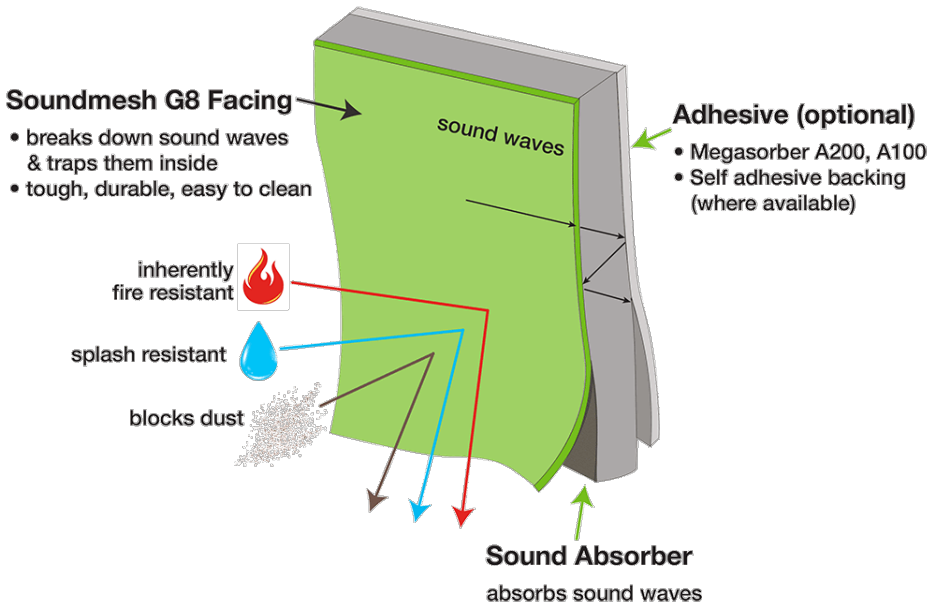
- **Carbon scrubbers must be used**
- **Installed prior to the commencement of cultivation activities**
- **Maintenance of Equipment**
- **Continuous Monitoring by the Applicant using Nasal Ranger odor detection equipment**
- **Maintenance of odor monitoring data for 3 years**
- **Community participation and outreach to residents located within 1,000 feet of the Property**
- **Provide contact information for the Applicant's Primary Odor Contact, who shall be available by telephone on a 24 hour/day basis**
- **Permit Sonoma staff shall:**
 - **Monitor implementation prior to Final Building Clearance**
 - **Request additional measures necessary for corrective actions, provided at the cost of the Applicant**

1. DENY THE PROJECT AS INCOMPATIBLE WITH THE QUIET, RURAL COMMUNITY AND REJECT THE MITIGATED NEGATIVE DECLARATION

OR

2. ADD THE REQUESTED CONDITIONS OF APPROVAL TO CONFORM WITH THE INITIAL STUDY AND APPROVE THE PROJECT WITH A REDUCED TERM TO ONE YEAR FROM FIVE YEARS

Proposed Conditions of Approval



Example of Interior Sound Attenuation Materials

- 1. Hours of Operation to be as applicant requested with a limit of three days a month for harvesting**
- 2. Limited hours and number of distribution vehicles per week**
- 3. Specific sound attenuation materials for equipment and the interior of all structures and noise monitoring as described on Slide 13**
- 4. Specific odor and ventilation equipment and monitoring as described on Slide 19**
- 5. All Conditions of Approval shall comply with the Project as described in the Initial Study**

Thank you