

Attachment O Addendum 3

Public Comment Received

May 12 & May 13, 2021

From: [China Dusk](#)
To: "[Arielle](#)"; [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Draft Cannabis Ordinance re: "Parks"
Date: Wednesday, May 12, 2021 9:29:18 PM

EXTERNAL

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and not to accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "***all land or water owned, leased, managed, or controlled by the Sonoma County park system.***" They do not need further clarification or codification.

China Dusk
Steven Tierra

Graton

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From: [Clara Enriquez](#)
To: [Arielle Kubu-Jones](#); [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000" setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 9:50:49 AM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Clara T Enriquez
Graton CA 95444

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From: [Diana Van Ry](#)
To: Kubu-Jones@sonoma-county.org; [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000" setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 6:17:23 AM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance, and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*"

Sincerely,

Diana R. Van Ry
Allan G. Tilton
2573 Greenvale Lane
Santa Rosa, CA 95401
707-541-6670
707-799-8113 (c)
vantilton@comcast.net

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From: [Gina Cloud](#)
To: [Cannabis](#); [Susan Gorin](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#)
Subject: Cannabis cultivation in residential areas
Date: Wednesday, May 12, 2021 3:47:05 PM
Attachments: [Dear Sonoma County Supervisors.docx](#)

EXTERNAL

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Dear Sonoma County Supervisors:

I am writing today on behalf of my community of Bloomfield, but my concerns go beyond my own small community. All of Sonoma County seems to be under threat of having cannabis cultivation move too close to residential areas.

I have been observing existing cannabis cultivation sites near Bloomfield such as on Spring Hill Road, Roblar Road or Gericke Road, and while they are startling in their immensity and worrisome in their huge reliance on plastic sheeting, (which cannot be recycled), none of them are close to a community, especially one as densely populated as Bloomfield. From what I've seen, most of the above mentioned grows appear to be at least a mile from homes.

I know you have heard all of the reasons communities are wary of cannabis encroachment, (odor, water, scenic blight, traffic, environmental damage) and I am concerned about all of them, but I want to bring up one more that does not seem to have been talked about much.

It is widely known that in November of 2019, our neighbor and long-time resident of Bloomfield, David Ward was killed here in a tragic mistaken identity incident. We were all very traumatized by his death and the surrounding circumstances which were predictive of the tragedy. David's father, Richard Ward died a number of years ago, and things rapidly deteriorated at the Ward house where David continued to live. David was disabled, ill, and heavily dependent upon pain medication. In addition, his autopsy report found methamphetamine in his system. David was a kind, erratic, and increasingly frail man. Without his dad, his place became a site of increasing concern. There was activity inside and outside his house at all hours of the day and night as more and more people came.

Soon changes were noticed in town. Unknown people who were clearly high began wandering the streets. We are a small, close knit community and tend to keep an eye on things. In time, people who were often seen at David's house, began trying to make an encampment in our small park. I am the president of the Bloomfield Community Club, which is responsible for the park. We worked hard to dislodge the individuals who were living there. We found drug paraphernalia, feces, and trash as in any homeless encampment and had to be continuously vigilant. We had no help from the county who had bigger fish to fry. Thefts and break-ins, generally rare here, increased. We were worried about the new activities and people in town, especially some young women who seemed particularly vulnerable. David could not refuse anyone and was eventually pistol whipped and robbed of his car by one of his guests.

After David's death, his house was boarded up and things got quieter. However, something similar is developing in another location in town, a private junkyard across from the park. Late night bonfires, shouting and fights have been heard from there. Some of the same people seen at David Ward's house before his death have been seen down there. Again, young women are seen wandering in the middle of Bloomfield Road. Again, we are worried about the park. Recently our Fire Hall was broken into and a powerful generator was stolen.

My point in telling you this story is that if we have cannabis cultivation and/or cannabis trimming, drying, and storage sheds near our homes, what's to stop determined individuals from breaking into those extremely tempting facilities? What's to stop them from using our properties that are very near, or share fence lines with the cannabis cultivation/production sites? Does anyone believe they'll use the guarded entrances?

There are many families living along or near the fence line shared by the proposed grow site here in town. Experience has taught us that we are too far from law enforcement to expect timely help from them in an emergency.

We understand that the growers anticipate the possibility of theft at their sites, so they employ guards, fencing, and cameras to protect their product. What we also know is that people who are addicted to powerful drugs, care only about supporting their habits, period. Cannabis is a lucrative target. Too tempting to expect they will leave it alone.

Three or four-hundred foot residential setbacks are just too close. They leave us caught in the cross hairs of potential violence. The easiest and most discreet ways onto the grow site will be through our yards. Larger setbacks could help to keep this kind of activity away from our properties. Why not mitigate these dangerous conditions now, rather than after something awful happens?

Bloomfield watched a terrible situation evolve into tragedy. Many of the same factors surrounding David Ward's death are again present in Bloomfield. Please help keep us and other communities like us safe from the kind of activity cannabis cultivation and production sites will attract. Getting the new ordinance right includes doing what is needed to protect communities. Please increase residential setbacks to at least 800 feet.

Respectfully,

Gina Cloud
Bloomfield

From: [gina kuta](#)
To: "[Arielle Kubu-Jones](#)"@sonoma-county.org; [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 5:55:25 PM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Gina Kuta
Graton, CA

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From: [George Melo](#)
To: [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 5:39:15 PM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

George Melo Graton

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From: johnamodeo@aol.com
To: Andrea@aol.com; Krut@sonoma-county.org; [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Please maintain setbacks for cannabis
Date: Wednesday, May 12, 2021 11:25:59 AM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Thank you and thanks for your service,
John Amodeo
Graton, CA

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From: [Arielle Kubu-Jones](#)
To: [Cannabis](#)
Subject: FW: maintain setbacks for cannabis
Date: Wednesday, May 12, 2021 12:04:02 PM

From: johnnamodeo@aol.com <johnnamodeo@aol.com>
Sent: Wednesday, May 12, 2021 11:45 AM
To: Arielle Kubu-Jones <Arielle.Kubu-Jones@sonoma-county.org>; Andrea Krout <Andrea.Krout@sonoma-county.org>
Subject: maintain setbacks for cannabis

EXTERNAL

We have been notified by Supervisor Lynda Hopkins that the 1000' setbacks from cannabis operations to **the West County and Joe Rodota Trails are threatened because of a County error in recording the clarification of the 12/11/18 Board of Supervisors meeting (when the West County Trail was recognized as a park.)** We are researching the history and accuracy of this, but there is little time to inform concerned trail users that all of our work for the past few years may come to nothing if the Supervisors do not maintain the setbacks to these trails.

So, without further elaboration, **we urge you to make this action to protect trail users from the impacts of commercial cannabis** such as odor, noise, crime potential and industrial blight (screened fencing, cameras, drones, guard dogs and other new and ugly security features that are incompatible with parks.)

Thanks,

John Amodeo
Graton, CA

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From: [Jim Masters](#)
To: [Susan Gorin](#)
Cc: [Cannabis](#); "[Leona Judson](#)"; "[Nancy and Brantly Richardson](#)"; [Debbie McKay](#); [Susan Rouder](#)
Subject: Please vote NO on the Cannabis ordinance
Date: Wednesday, May 12, 2021 1:13:12 PM
Attachments: [FMWW Letter Re 2021 SMND for Cannabis Land Use Ordinance Update and GPA.PDF](#)

EXTERNAL

There are many things wrong with the approach described in the proposed ordinance update, and many concerns about the failure of the planning process to consider all aspects. I am not opposed to growing cannabis, but I am opposed to open-ended land use. The attached letter raises many issues that need to be addressed.

Jim Masters
5555 Montgomery Drive (Spring Lake Village)
Santa Rosa, CA 95409

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JOSEPH D. PETTA
Attorney
Petta@smwlaw.com

March 18, 2021

Via E-Mail Only

Sonoma County Planning Commission
c/o McCall Miller, Department Analyst,
Cannabis Program, County Administrator's Office
575 Administration Drive, Suite 104A
Santa Rosa, CA 95403
E-Mail: Cannabis@sonoma-county.org

Re: Sonoma County Cannabis Land Use Ordinance Update and General
Plan Amendment and Draft Subsequent Mitigated Negative
Declaration

Dear Commissioners:

This firm represents the Friends of Mark West Watershed ("FMWW") in connection with the Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment ("Project"). This firm concurrently represents Save Our Sonoma Neighborhoods and will submit separate comments on their behalf. FMWW believes that approval and implementation of the Project as presented will result in the reduction of streamflow in Mark West Creek below the critical levels necessary to sustain spawning and rearing of federally- and state-listed endangered salmon, resulting in a "take" of these species. The SMND does not adequately describe and analyze these impacts or provide mitigations that will prevent their occurrence. Therefore, the County must prepare a full EIR for the Project. In addition, FMWW contends that the approval of individual cannabis production projects requires the exercise of judgement and discretion by the permitting agency and cannot qualify as ministerial action.

The purpose of this letter is to inform Sonoma County that the Subsequent Mitigated Negative Declaration ("SMND") for the Project fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14,

§ 15000 et seq. (“Guidelines”). As detailed below, numerous inadequacies and omissions in the SMND render it insufficient as an environmental review document.

The SMND fails to disclose, analyze, and propose adequate mitigation for significant environmental impacts related to hydrology and water quality, groundwater supply, and loss of habitat for endangered fish species, among others. What analysis the SMND does present is fraught with errors. As a result, the SMND fails to describe measures that could avoid or substantially lessen the Project’s numerous significant impacts. In addition, the SMND fails to provide any meaningful analysis of allowing events at cannabis cultivation sites. As set forth in this letter, the California Environmental Quality Act (“CEQA”) requires the preparation of an environmental impact report (“EIR”) before the County may approve the Project.

In addition, the Project conflicts with Sonoma County’s General Plan in violation of State Planning and Zoning Law, Govt. Code § 65000 et seq. As described in more detail below, the Project would conflict with multiple policies designed to protect the County’s natural and agricultural resources.

Finally, based on the Project’s significant environmental impacts and its inconsistency with the County’s General Plan, the County must exclude the Mark West Watershed and any other similarly impaired watersheds from the Cannabis Ordinance. As detailed below, the state of California has determined that the Mark West Watershed is impaired and the cannabis operations authorized by the Project would exacerbate the already fragile nature of this important ecosystem. Therefore, the County must exclude the Mark West Watershed and other similarly impaired watersheds from areas where cannabis operations would be permitted in the County.

This letter is submitted along with the report prepared by our expert consultant, Greg Kamman, Senior Ecohydrologist with CBEC Ecoengineering, whose letter dated March 16, 2021 is attached as Exhibit 1 (“Kamman Report”).

I. The County may not approve the Project without preparing an environmental impact report under CEQA.

CEQA is designed to ensure that “the long-term protection of the environment shall be the guiding criterion in public decisions.” *Friends of College of San Mateo Gardens v. San Mateo County Community College District* (2017) 11 Cal.App.5th 596, 604 [hereinafter “*San Mateo Gardens II*”] (quoting *No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 74). Thus, the statute requires an agency evaluating a project to develop an EIR whenever “substantial evidence supports a fair argument that a proposed project ‘may have a significant effect on the environment.’” *Committee for Re-Evaluation of T-*

Line Loop v. San Francisco Municipal Transportation Agency (2016) 6 Cal.App.5th 1237, 1245-46 (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123).

When an agency approves changes to a previously approved project studied in a prior negative declaration, additional subsequent environmental review is required when “whenever there is substantial evidence to support a fair argument that proposed changes ‘might have a significant environmental impact not previously considered’” *San Mateo Gardens II*, 11 Cal.App.5th at 606 (quoting *Friends of College of San Mateo Gardens v. San Mateo County Community College District* (2016) 1 Cal.5th 937, 959 [“*San Mateo Gardens I*”]; see also *San Mateo Gardens I*, 1 Cal.5th at 953. In other words, an agency *must* prepare a subsequent EIR if substantial evidence supports a fair argument that the proposed changes to the project may result in a significant environmental impact. *San Mateo Gardens II*, 11 Cal.App.5th at 606-07. Proposed changes might have a significant impact “when there is some competent evidence to suggest such an impact, even if other evidence suggests otherwise.”¹ *Id.* at 607.

The fair argument standard establishes a “low threshold” for requiring a lead agency to prepare an EIR. *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928. Courts “owe no deference to the lead agency’s determination,” and judicial review must show “*a preference for resolving doubts in favor of environmental review.*” *Id.* (italics in original). Further, where the agency fails to study an entire area of environmental impacts, deficiencies in the record “enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

¹ The relevant analysis under CEQA’s subsequent review provisions concerns the changes since the original Medical Cannabis Land Use Ordinance was adopted in 2016, and not only the changes since the 2018 amendments to allow adult use cannabis. This is because the 2016 ordinance was studied in a negative declaration, while the Board of Supervisors determined that the 2018 amendments were exempt from CEQA. See Resolution No. 18-0442 (Oct. 16, 2018). CEQA’s subsequent review provisions apply only when there has been a prior *environmental review*. See Pub. Res. Code § 21166 (applies “[w]hen an environmental impact report has been prepared for a project”); Guidelines § 15162 (applies “[w]hen an EIR has been certified or a negative declaration adopted for a project”). In any event, the development potential allowed by the 2018 Amendments has not been fully realized. See SMND 18. To the extent the Project would facilitate new development in areas opened to cannabis in 2018, that new development potential must be analyzed as a foreseeable effect of this Project.

Substantial evidence supporting a fair argument may consist of personal observations of local residents on nontechnical subjects, *Oro Fino Gold Mining Corp. v. Cty. of El Dorado* (1990) 225 Cal. App. 3d 872, 882; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152, as well as expert opinion supported by facts—even if that opinion is not based on a specific analysis of the project at issue, *Pocket Protectors*, 124 Cal.App.4th at 928. In marginal cases, where it is not clear whether there is substantial evidence that a project may have a significant impact and there is a disagreement among experts over the significance of the effect on the environment, the agency “must treat the effect as significant” and prepare an EIR. CEQA Guidelines § 15064(g); *City of Carmel-By-The-Sea v. Board of Supervisors*, (1986) 183 Cal.App.3d 229, 245.

As explained further below, ample evidence supports a “fair argument” that the Project may result in significant environmental impacts that were not studied in the 2016 Negative Declaration. These impacts would include, but not be limited to: hydrology and water quality, groundwater supply, and loss of sensitive aquatic habitat, among others. Because the Project has the potential to result in significant impacts, the County is required to prepare an EIR before it may approve the Project.

II. The Project description is inadequate.

A. The Project description is incomplete, inaccurate, and inconsistent.

In order for a CEQA document to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. “An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, (1994) 27 Cal.App.4th 713, 730. As a result, courts have found that even if an environmental document is adequate in all other respects, the use of a “truncated project concept” violates CEQA and mandates the conclusion that the lead agency did not proceed in the manner required by law. *Id.* at 729-30. Furthermore, “[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.” *Id.* at 730 (citation omitted). Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable.

As an initial matter, the SMND does not provide a meaningful description of the “development potential”—i.e., the scope and extent of cannabis cultivation and other commercial cannabis activities—that may be permitted by the proposed updates to the cannabis ordinance (“Ordinance”). The CEQA Guidelines define “project” as “the whole of an action” that may result in a direct or reasonably foreseeable indirect change in the

environment, and require the lead agency to fully analyze each “project” in a single environmental review document. CEQA Guidelines § 15378(a); *see also* Guidelines §§ 15165, 15168. CEQA further requires environmental review to encompass future actions enabled or permitted by an agency’s decision. *Christward Ministry v. Superior County* (1986) 184 Cal.App.3d 180, 194; *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409 (“An evaluation of a ‘first phase-general plan amendment’ must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment.”).

Here, the SMND purports to provide an outer limit on possible development. The SMND states that “a maximum of up to 65,753 acres” could be subject to future cannabis cultivation. SMND at 16, 19. This acreage is 10% of the 657,534 acres in the County that are both zoned for agricultural uses and located on parcels larger than 10 acres, likely to reflect the Project’s limit on outdoor cannabis cultivation area to 10% of a parcel. *Id.* As explained below, the SMND’s description of the Project’s development potential is misleading and inadequate to allow the public and decisionmakers to accurately assess the potential effects of the ordinance.

Troublingly, the SMND omits any analysis of the possible extent of cannabis cultivation in existing permanent structures. The ordinance itself contains *no limits* on indoor and greenhouse cultivation canopy in existing permanent structures. *See* proposed § 38.12.030(A)(2) (“Indoor cultivation and greenhouse cultivation canopy in an existing permanent structure is not limited.”). The SMND should include a description—or at least an estimate—of the number and extent of existing permanent structures in the County that may be converted to cannabis cultivation and their square footage. The SMND should also analyze how much cannabis may be grown in such indoor spaces—especially since indoor cultivation can occur on shelved units, potentially *quadrupling* the canopy area possible in an existing structure. This existing permanent structure loophole could portend significant impacts on the environment that have not been analyzed. Because the Ordinance allows an unknown, but potentially massive, amount of indoor cannabis cultivation, the corresponding impacts (in terms of increased water usage, energy usage, VMTs, greenhouse gas emissions, etc.) are similarly unknown, and potentially massive.

The Ordinance also apparently allows indoor cultivation in existing permanent structures *in addition to* both (1) indoor cultivation in up to 43,560 square feet of new or expanded permanent structures *and* (2) outdoor cultivation of 10% or less of a parcel. *See* proposed § 38.12.030(B) (limitations on indoor cultivation apply to “all *new* building coverage,” not to *total* building coverage). For example, a grower on a 10 acre parcel could have 1 acre of outdoor cannabis cultivation, in addition to 43,560 square feet of cultivation in a new or expanded permanent structure, plus additional indoor cultivation

in existing permanent structures currently on the parcel. As a result, the County's assumption that cannabis activities would occur on no more than 10% of the 657,534 eligible acres is incorrect. The Project could result in converting significantly greater acreage to cannabis cultivation.

The County's incomplete and inaccurate estimate of the Project's full development potential could conceal significant potential impacts. For example, the SMND's hydrology analysis concludes that groundwater supply impacts would likely be less than significant because of "the relatively low quantities of water use (from .002 to 1.8 acre-feet per year)."² SMND at 69. The SMND then explains that the size limitations—10 percent of a parcel for outdoor grows and no more than one acre of *new* building coverage—would limit water use at individual sites. SMND at 69. This analysis, however, does not take into account the fact that each site can apparently include outdoor cultivation, indoor cultivation in new structures, and additional indoor cultivation in existing structures; or that indoor cultivation can be multi-tiered or stacked for greater growing area in the same building footprint. Thus, because of the flawed Project description, the SMND's analysis could be significantly underestimating the amount of water demand that could be created by the Project, which could impact both hydrological and biological resources.

In addition to the flaw identified above, and as described at greater length below, the SMND incorrectly describes a central feature of the Project as the conversion of commercial cannabis permitting in agricultural and resource zones from a discretionary to a ministerial process. SMND at 5, 8. The SMND further asserts that various proposed provisions in Article 12 of Chapter 38 set forth standards that do not require the exercise of discretion. SMND at 8-13.

The County's description of the "ministerial" nature of the permit review process established by the Ordinance is inaccurate and misleading: the Ordinance establishes a process that *requires* County officials and staff to exercise discretion. For example, the SMND implies that the County does not need to exercise discretion in evaluating

² By the SMND's own explanation of how to convert inches per year to acre-feet, SMND 69 at fn. 1, these figures appear incorrect. If cannabis requires 25-35 inches per year of water for outdoor grows and 20-25 inches per year for indoor grows, SMND 69, then, assuming a cultivation area of one acre, water use should be approximately 2-3 acre feet per year. Of course, this estimate does not account for possible cultivation on areas considerably larger than one acre. And, as explained at greater length by hydrologist Greg Kamman, these figures appear to be gross underestimates. *See* Exhibit 1, Letter from Greg Kamman (Mar. 16, 2021) (citing estimates of water use from cannabis that are 172%-746% higher than those estimates provided in the SMND).

biological resources because permit applications must include “a biotic resource assessment prepared by a qualified biologist that demonstrates,” among other things, that the activity subject to the permit “will not impact sensitive or special status species habitat.” SMND 39. The Ordinance also requires discretionary review of a permit application if the qualified biologist recommends mitigation measures. *Id.* The Project, however, does not include any objective standards to guide County officials in determining whether the biologist’s assessment is adequate. Thus, County officials will have to exercise their discretion in making these determinations. *People v. Department of Housing & Community Development* (1975) 45 Cal.App.3d 185, 193-94 (holding that a permit process granting officials broad power to determine whether particular elements were sufficient or adequate required the exercise of discretion). The Project contains many similar examples of plans, studies, and reports prepared by experts, each of which suffers from the same defect. *See*, for example, Exhibit 1, Letter from Greg Kamman (Mar. 16, 2021) (discussing hydrogeologic reports required for cannabis supply wells located in a priority groundwater basin: “It is my opinion that report/plan review is a discretionary process integral to the authorization of a cannabis cultivation permit that can’t be done under a ministerial process.”).

The SMND also contains an incomplete and inconsistent description of the special events that may be permitted as part of the Project. For example, the SMND states that the Project would no longer prohibit cannabis-related tours and events, SMND 5, and that such events would “be *subject to existing regulations* in the Zoning Code,” SMND 13 (emphasis added). The SMND also states, however, that the County is developing a “Winery Events Ordinance” that may address cannabis-related special events. SMND 18. This assertion that events would be governed by regulations currently under development directly contradicts the prior statement that events would be subject to *existing* regulations. Additionally, because the SMND contains no additional details about the planned winery events ordinance, it is impossible for the public to determine what events may be permitted, let alone whether those events will cause or contribute to a significant environmental impact (e.g., by increasing noise, traffic, greenhouse gas emissions, or vehicle miles traveled).

The SMND is similarly inconsistent and inaccurate in its description of the relationship between cannabis cultivation and other forms of agriculture. A core feature of the Project is the revision of the General Plan to include cannabis cultivation within the definition of agricultural land use. SMND 6. To support this change, the SMND asserts that cannabis cultivation “functions similarly to other agricultural operations.” SMND 14. The SMND, however, repeatedly contradicts this conclusion. For example, the SMND states that, “*due to the unique characteristics of cannabis operations*, under the updated Ordinance *provisions applicable to traditional agriculture are expressly not*

applicable to cannabis cultivation.” SMND 25 (emphasis added). The SMND also describes the unique impacts cannabis may have on the environment compared to traditional forms of agriculture. For example, the SMND states that cannabis cultivation and processing operations “generate distinctive odors” that can be “reminiscent of skunks, rotting lemons, and sulfur.” SMND 33; *see also* SMND 34 (acknowledging that cannabis cultivation “can generate particularly strong odors” compared to other agricultural land uses). Cannabis cultivation also involves different aesthetic, energy, and hazardous materials practices compared to traditional agriculture. *See* SMND 19 (explaining that cannabis “often involves the use of visible structures”); SMND 23 (stating that cannabis may include new light sources in otherwise dark areas); SMND 48 (describing cannabis’s uniquely significant energy demands); SMND 62 (describing hazardous components of high-powered lights used in cannabis operations). Cannabis cultivation is an intensive land use, involving intensive water and energy use, and energy and other infrastructure demands, that is more similar to industrial uses than to traditional agriculture. The SMND’s inconsistent and inaccurate characterization of cannabis as similar to traditional agriculture is misleading to the public and decisionmakers and serves to conceal cannabis’s unique features (water demand, energy demand, odors etc.) that could contribute to the Project’s significant environmental impacts.

The Project description is also muddled by the County’s adoption of an entirely new Chapter 26 of the zoning code on February 9, 2021. While the current Project includes revisions to Chapter 26, the revisions released with the SMND show changes to the *old* Chapter 26, rather than changes to the *new* Chapter 26 adopted on February 9. The competing versions of Chapter 26 make reviewing the Project more complicated and confusing. Furthermore, they hinder the public’s ability to conduct a meaningful review of the changes the proposed Project would cause to the County Code text, implementation of the permitting regime, and the physical environment. As a result, it is not possible to determine the full scope or extent of the physical impacts that would result from the Project, which violates CEQA. The County must prepare an EIR that shows the changes that would result as applied to the *new* Code, and include an analysis of the cumulative impact of the Project with the Board’s recent action to update Chapter 26.

B. The SMND’s description of the environmental setting is inadequate.

The SMND also fails to describe the Project setting as required by CEQA and the CEQA Guidelines. An environmental document “must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if a notice of preparation is not published, at the time environmental analysis is commenced, from both a local and regional perspective.” CEQA Guidelines § 15125(a). This description of the environmental setting constitutes the baseline physical conditions by which a lead agency determines the significance of an

impact. *Id.* “Knowledge of the regional setting is critical to the assessment of environmental impacts.” CEQA Guidelines § 15125(c). Without such an understanding, any impacts analysis or proposed mitigation becomes meaningless.

The environmental setting section of the SMND consists of four paragraphs and a single map describing (1) the location and extent of lands zoned for agriculture, (2) the number of agricultural acres located on parcels larger than 10 acres, (3) the right-to-farm ordinance, and (4) the number of cannabis permits currently issued and in process. SMND at 16-18.

This bare description of land uses falls far short of the description of physical environmental conditions in the vicinity of the project that is required.

For example, the environmental setting entirely lacks a description of where the County’s water resources are located. Although the SMND later acknowledges that “[o]ver 80% of the county is designated in marginal Class 3 or 4 zones where groundwater supplies are limited and uncertain,” SMND at 69, there is no map or overlay showing where these zones are located and whether (and how) they overlap with areas in which cannabis cultivation may be permitted. This omission makes it difficult to assess whether the Project will have a substantial impact on groundwater supplies.

The same flaw is duplicated as to sensitive waterways and riparian habitats. The SMND does not describe how the County’s sensitive waterways may overlap with areas that could be subject to cannabis cultivation.³ This omission conceals what is likely to be a significant impact of the Project. For example, a comparison of maps of the Mark West Watershed and County zoning maps shows that most of the watershed is covered by the LIA, LEA, and RRD zoning designations, in which the Project would ministerially permit cannabis cultivation. *See* Exhibit 2, Integrated Surface and Groundwater Modeling and Flow Availability Analysis for Restoration Prioritization Planning, Upper Mark West Creek Watershed, Sonoma County, CA (Dec. 2020), Figure E1, Page 2. The SMND also fails to consider or describe the likely linkages between surface water features and groundwater. To fully and accurately analyze whether the Project will have an effect on stream flows—and species and habitats dependent on those flows—in sensitive waterways, the County should describe the relationships between the County’s groundwater basins, its surface waterways, and the areas where cannabis cultivation may be permitted. *See* Exhibit 3, Letter from Robert Coey, National Marine Fisheries Service

³ While the Project includes required setbacks from riparian corridors, SMND at 40, to assess the effectiveness of those setbacks, the public and decisionmakers must know the extent of cannabis cultivation that may be permitted near waterways.

(Feb. 26, 2021) (explaining that groundwater use by cannabis cultivators may affect surface streams and their resident threatened and endangered species).

The environmental setting's discussion of the current status of cannabis cultivation operations in the County is also inadequate. The SMND notes that 78 ministerial permits and 32 conditional use permits have been issued, and 78 ministerial and 55 conditional use permits are in process. SMND at 18. But particularly because, as the SMND notes, these permits may include renewals, may involve activities other than cultivation, and may include more than one license for the same location, these figures do not convey any meaningful information about the scope of cannabis activity currently permitted in the County. At the very least, the SMND should state the total acreage permitted for cultivation, broken down by the zoning district in which it is located. This data is needed to inform the County's analysis of cumulative impacts, as well as to reveal the scope of potential new development that may be allowed by the Project.

The SMND's discussion of cannabis operations in the County is also inadequate because it almost entirely ignores illegal cultivation, including its extent and its associated impacts. The SMND notes, without further elaboration or detail, that "[m]any cannabis operations have been operating illegally within the RRD land use areas." SMND at 67. It does not provide even an *estimate* of the number, extent, or actual impacts of these illegal cultivation operations. The extent of illegal operations in the County is an important part of the existing environmental baseline. As the SMND itself acknowledges, unregulated cannabis cultivation can be extremely damaging to the environment. Illegal cannabis cultivation: "has been associated with impacts to biological resources," including to sensitive species and their habitats, SMND at 38; has caused negative impacts to waterways, SMND at 55; and creates "high fire risk" related to "inadequate or improper electrical equipment" and explosions "due to the use of volatile chemicals," all located in "high fire hazard areas due to steep slopes, dense vegetation, and insufficient emergency services due to a lack of safe emergency vehicle access," SMND at 67.

Indeed, the conversion of illegal operations to permitted grows and the associated reduction in environmental impacts was a significant assumption underlying the County's determinations that (1) the 2016 Ordinance would not have a significant impact and (2) the 2018 Amendments were exempt from CEQA. *See* 2016 Negative Declaration, p. 2 ("This Ordinance would provide a regulatory structure, with operational standards, to allow existing operators to become permitted."); Resolution 18-0442, p. 3 ("[T]he Ordinance expands regulation of the County's cannabis industry to encompass adult-use for the full supply chain, encouraging illegal cannabis cultivators to come into compliance with the environmental protection standards provided for in the Ordinance."). The 2016 Negative Declaration estimated that there were as many as *ten thousand*

existing (unregulated) cultivators, the majority of which were located in the RRD zone. 2016 Negative Declaration at 2. According to the 2016 Negative Declaration, “[u]nregulated cannabis cultivation is associated with habitat destruction, pollution of waterways, illegal road construction causing erosion and increased sedimentation, unauthorized use of pesticides, illegal water diversion, large amounts of trash, human waste, non-biodegradable waste, and excessive water and energy use,” as well as “offensive odor, security and safety concerns,” and “use of hazardous materials.” *Id.*

To accurately assess the Project’s impacts on the current environment, the County must provide data and analysis concerning current status of illegal operations on the County. The County and the public must be able to determine whether the current regulations have succeeded in converting illegal operations to permitted grows or if, in fact, the legal, regulated regime has grown up alongside and in addition to the prior illegal regime. Without this information, it is impossible for the County and the public to assess the Project’s impacts, including (1) whether the Project will reduce impacts of illegal grows by bringing cultivators into compliance, or (2) whether the County’s environmental baseline is significantly off because it fails to account for the impacts associated with thousands of illegal operations.

In short, the SMND’s incomplete description of the Project and its environmental setting frustrates the core goals of CEQA: to provide a vehicle for intelligent public participation and to provide an adequate environmental impact analysis. See *County of Inyo v. City of Los Angeles*, (1977) 71 Cal.App.3d 185, 197.

III. The SMND’s analysis impermissibly focuses solely on the impacts of individual permits and fails to adequately analyze the impacts of the Project as a whole.

The CEQA Guidelines define a “project” as “*the whole of an action*” that may result in a direct or reasonably foreseeable indirect change in the environment. Guidelines § 15378(a). “‘Project’ is given a broad interpretation in order to maximize protection of the environment.” *McQueen v. Bd. of Directors* (1988) 202 Cal.App.3d 1136, 1143 (disapproved on other grounds). The analysis of a project’s environmental effects must occur at the earliest discretionary approval. See, e.g., *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396 (EIR must analyze future action that is a “reasonably foreseeable consequence” of the initial action that would “likely change the scope or nature” of the effects of the initial action).

A lead agency considering an ordinance or a general plan amendment must analyze the impacts of all the potential activity that may be permitted by or could foreseeably result from those actions. See *Terminal Plaza Corp. v. City and County of*

San Francisco (1986) 177 Cal.App.3d 892, 905 (City was required to prepare an EIR to analyze the reasonably foreseeable effects of an ordinance). This analysis is required even though enacting an ordinance or general plan amendment is, in itself, an action that occurs largely on paper. *See* Guidelines § 15378(c) (“The term ‘project’ refers to the activity which is being approved” and not “each separate governmental approval.”).

CEQA documents must analyze an ordinance’s full potential level of development. As the court in *City of Redlands v. County of San Bernardino* explained, “an evaluation of a ‘first phase-general plan amendment’ must necessarily include a consideration of the larger project, i.e., the *future development permitted* by the amendment.” (2002) 96 Cal.App.4th 398, 409 (emphasis added). Environmental review of the development allowed by a planning enactment must take place regardless of whether that development will actually materialize. *See Bozung v. Local Agency Formation Comm’n of Ventura County* (1975) 13 Cal.3d 263, 279, 282; *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194–95 (“The fact future development is not certain to occur and the fact the environmental consequences of a general plan amendment changing a land use designation are more amorphous does not lead to the conclusion no EIR is required”); *City of Carmel-by-the-Sea v. Board of Supervisors of Monterey County* (1986) 183 Cal.App.3d 229, 235 (EIR for rezoning must be prepared even though “no expanded use of the property was proposed”). The lead agency’s obligation to *fully* review an activity’s potential environmental effects applies even when the activity is subject to later discretionary approvals. *Laurel Heights*, 47 Cal.3d at 396. That obligation is especially important, however, when the later approvals would be ministerial and would not present an opportunity for further environmental review or mitigation.

Here, the SMND fails to analyze the impacts of the Project as a whole—i.e., whether the sum of all potential activities that may be allowed by the Ordinance would have a significant environmental impact. Instead, the SMND repeatedly bases its analysis of the Project’s impacts on whether *each individual permit* that may be issued under the Ordinance would have a significant effect or violate a threshold of significance. This type of analysis is impermissible. *Cf. Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-84 (“[E]nvironmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.”). The County’s analysis is equivalent to determining that a massive shopping center development would not have a significant impact on the environment because the impacts of each individual store would be less than significant. This type of analysis does not inform the public or decisionmakers about the effects of the Project as a whole.

For example, the SMND's analysis of biological resources is improperly focused on the impacts of individual permits rather than the Project as a whole. The Project requires each applicant to include a biotic resource assessment that "demonstrates that the cannabis cultivation area and related structures and development will not impact sensitive or special status species habitat." SMND at 39. Each assessment, however, will focus on the impacts from "the cannabis cultivation area" associated with an individual permit, and not the combined potential impacts of all of the cannabis permits allowed by the Project. The SMND concludes that these assessments, combined with exclusions from limited biotic habitat combining zones and setbacks from riparian corridors, would result in a less than significant impact to sensitive species and riparian habitat. SMND at 40-41.

This myopic analysis misses significant potential impacts of the Project as a whole. The SMND acknowledges that cannabis activities will rely on a combination of surface or well water sources. SMND at 69. It then concludes that it is unlikely that cultivators using groundwater would result in overdraft. *Id.* This conclusion, however, is not explained and is based on unsupported estimates of groundwater usage from cannabis cultivators. *See* Exhibit 1, Letter from Greg Kamman (Mar. 16, 2021) (criticizing the SMND's conclusion). But even assuming that each individual cultivator's water usage is not enough, on its own, to reduce water supplies in a way that threatens sensitive species and riparian habitat, a group of cultivators all drawing water from the same surface water source, from hydrologically-linked surface water sources, or from hydrologically-linked groundwater basins could significantly decrease the water available for in-stream flows despite required setbacks, potentially harming the plant and animal species that rely on those flows.

The combined impact of multiple cultivators drawing upon limited groundwater supplies could have significant impacts on biological resources. For example, a recent analysis of streamflow in the Mark West Watershed prepared for the Sonoma Resource Conservation District and California Wildlife Conservation Board emphasized the importance of groundwater to providing habitat for sensitive species. According to the streamflow analysis, groundwater discharge "represents the primary process responsible for generating summer streamflow" in the watershed. Exhibit 2, Jeremy Kobor, et al., Integrated Surface and Groundwater Modeling and Flow Availability Analysis for Restoration Prioritization Planning, Upper Mark West Creek Watershed, Sonoma County, CA (Dec. 2020) at 3. The report also showed that human consumption of groundwater threatens streamflow, concluding that groundwater pumping depleted streamflows over the long term. *Id.* at 11. The study determined that increased demand for groundwater, combined with other factors, make efforts to sustain or improve streamflows "of paramount importance for coho recovery" in the watershed. *Id.* at 25; *see also id.* at 1 ("The Mark West Creek watershed provides critical habitat for threatened

and endangered anadromous fish”). Similarly, hydrogeologist Greg Kamman emphasized that one of his “biggest concerns” regarding stewardship of natural resources in Sonoma County is “the increased demand on already stressed groundwater supplies.” Exhibit 1, Letter from Greg Kamman (March 16, 2021).

The biotic resources assessments, with their narrow focus on each individual permit applicant’s activities, would not address the combined effects of multiple permittees decreasing groundwater available for streamflows. An EIR for the Project that analyzes these combined potential effects of all potential permits allowed by the Project is the proper place for this analysis, as well as an analysis of feasible mitigation to address such impacts.

IV. The Project has the potential to result in significant environmental impacts.

The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. *See* CEQA Guidelines § 15126.2(a) (“An EIR shall identify and focus on the significant environmental effects of the proposed project”). As explained below, the SMND fails to analyze the Project’s environmental impacts, including those affecting hydrology and water quality and biological resources. In addition, as discussed above, the SMND never considers the full impacts of the Project—the foreseeable impacts of facilitating cannabis cultivation and production through ministerial permit approvals and the foreseeable impacts of events that the proposed Project would allow. In this way, the SMND fails to disclose the extent and severity of the Project’s broad-ranging impacts. This approach violates CEQA’s requirement that environmental review encompass all of the activity allowed by the proposed Project. The County must analyze all of the aggregated impacts of all of the foreseeable development and activities. Without this analysis, the environmental review will remain incomplete and the Project cannot lawfully be approved.

Below, we discuss several examples of impact areas with particular deficiencies. To ensure that both decision-makers and the public have adequate information to consider the effects of the proposed Project, and to comply with CEQA’s requirements, the County must prepare an EIR that properly describes the Project, analyzes its impacts, and considers meaningful mitigation measures that would help ameliorate those impacts.

The SMND claims that it is a “programmatic” document and therefore detailed analysis is not within its scope. SMND at 36. Even if it were a programmatic analysis, however, the ‘programmatic’ nature of this SMND is no excuse for its lack of detailed analysis. CEQA requires that a program EIR provide an in-depth analysis of a large project, looking at effects “as specifically and comprehensively as possible.” CEQA Guidelines § 15168(a), (c)(5). Because it looks at the big picture, a program level

analysis should provide “more exhaustive consideration” of effects and alternatives than an EIR for an individual action, and should consider “cumulative impacts that might be slighted by a case-by-case analysis.” CEQA Guidelines § 15168(b)(1)-(2).

Further, it is only at this early stage that the County can design wide-ranging measures to mitigate County-wide environmental impacts. *See* CEQA Guidelines § 15168(b)(4) (programmatic EIR “[a]llows the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility. . . .”). A “program” or “first tier” EIR is expressly not a device to be used for deferring the analysis of significant environmental impacts. *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 199. It is instead an opportunity to analyze impacts common to a series of smaller projects, in order to avoid repetitious analyses. Thus, it is particularly important that the environmental analysis for this Project analyze the overall impacts for the complete level of development it is authorizing now, rather than when individual specific projects are proposed at a later time.

Deferring analysis to a later stage is unlawful, as it leaves the public with no real idea as to the severity and extent of environmental impacts. Where, as here, the environmental review document fails to fully and accurately inform decisionmakers and the public of the environmental consequences of proposed actions, it does not satisfy the basic goals of CEQA and its Guidelines. *See* Pub. Resources Code § 21061 (“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment . . .”). The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. *See* Guidelines § 15126.2(a) (“An EIR shall identify and focus on the significant effects of the proposed project on the environment.”). It is well-established that the City cannot defer its assessment of important environmental impacts until after the project is approved. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-07.

The SMND fails to provide the legally required analysis of the extensive growth in cannabis cultivation and operations that the Project allows and promotes. Thus, the County must revise the environmental analysis to accurately disclose the impacts of the maximum amount of cannabis cultivation allowed by the Project. Detailed below are the specific legal inadequacies of the SMND’s various impact sections related to hydrology, water quality, and biological resources.

As discussed above, the SMND’s failure to consider the impacts of the whole of the project undermines the document’s analysis of Project-related impacts, including those impacts related to groundwater supply, water quality, and impacts to sensitive

biotic resources. The letter prepared by Greg Kamman provides detailed comments on the shortcomings of the SMND's hydrology and water quality impacts analysis. We incorporate the Kamman Report into these comments. Some of the SMND's most troubling errors identified in the Kamman Report are described below.

A. The SMND's analysis of water supply impacts is inadequate and there is a fair argument that the project will have a significant impact on groundwater resources.

CEQA requires that an EIR present decision makers "with sufficient facts to evaluate the pros and cons of supplying the amount of water that the [project] will need." *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal.4th 412, 430-31 (2007). This includes identifying and analyzing water supplies that "bear a likelihood of actually proving available; speculative sources and unrealistic allocations ('paper water') are insufficient bases for decision making under CEQA." *Id.* at 432. The fact that an agency has identified a likely source of water for the Project does not end the inquiry.

The ultimate question under CEQA . . . is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. If the uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives—including alternative water sources and the option of curtailing the development if sufficient water is not available for later phases—and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact.

Id. at 434.

This analysis is crucial in light of the drought that has gripped this State for the past several years. This SMND's analysis of impacts to groundwater supply fails to meet CEQA's standards.

The SMND discloses that "over 80 percent of the county is designated in marginal Class 3 or 4 zones where groundwater supplies are limited and uncertain." SMND at 69. It also acknowledges that cannabis facilities in rural areas would rely on surface or well water sources and would thus increase the use of water. *Id.* Despite these statements, the SMND fails to conduct the necessary analysis to evaluate the extent and severity of these

impacts. What analysis the SMND does present is cursory and unsupported. For example, the SMND presents unsubstantiated figures on estimated water use by cannabis cultivation and production facilities. The SMND estimates that water use by each cultivator would be less than 2.0 acre-feet of water per year, but it fails to disclose how this estimate is derived. SMND at 69; Kamman Report at 2 and 3. The SMND relies on the estimate of water use to conclude that “substantial groundwater overdraft is unlikely.” *Id.* However, as explained above, the SMND fails to consider the impacts of the whole of the Project, or the impacts of all permits facilitated by this Project.

The SMND relies on groundwater supply standards included in the updated Ordinance to conclude that the Project “would not decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.” SMND at 71. The SMND fails to provide evidence to support this conclusion. The standards include requirements for monitoring and reporting conditions of groundwater level (i.e., groundwater level measurements, submission of annual reports, and provision of a recorded easement to provide County personnel access to the well to collect water meter readings) and for hydrogeologic reports demonstrating that cannabis facilities permitted through implementation of the Project will not cause or exacerbate overdraft conditions. Kamman Report at 3 and 4. However, the SMND fails to explain how the annual reports will be evaluated or what the triggers will be for remedial actions. Kamman Report at 4. In addition, as the Kamman Report explains, the well-yield test evaluates if the minimum yield will meet irrigation demands, but it does not evaluate if pumping would adversely impact surface water and groundwater resources. *Id.* Therefore, the SMND fails to provide evidence that required monitoring and well-yield tests for applications in Zone 3 and 4 will prevent impacts to groundwater supplies. *Id.*

The investigation by Kamman Hydrology and Engineering, Inc. also indicates that the Mark West Watershed is vulnerable to both groundwater overdraft and to reduced groundwater recharge. *See*, Kamman Report at 3-6. As explained in the Kamman Report, given the conditions in the watershed, allowing expanded cannabis operations in the Mark West Watershed would exacerbate groundwater overdraft. *Id.* at 2-5.

In sum, the SMND fails to adequately evaluate the Project’s impacts of groundwater use on the County’s groundwater resources. The Mark West Watershed is vulnerable to both groundwater overdraft and to reduced groundwater recharge. *See*, Letter from Greg Kamman at 2-4. As the Kamman Report explains, the increased demand on the County’s already stressed groundwater supplies is a well-documented concern, yet the SMND fails to adequately analyze the impacts of the Project on this limited resource. Kamman Report at 2 and 3. Given the conditions in the watershed, allowing expanded cannabis operations in the Mark West Watershed would exacerbate

groundwater overdraft. *Id.* An EIR for the Project must include the necessary groundwater recharge analysis that demonstrates the Project will not add or contribute to the current state of declining groundwater storage.

B. The SMND’s analysis of hydrology and water quality impacts is inadequate and there is a fair argument that the Project may have a significant impact on water quality.

FMWW is particularly concerned that implementation of the Project would result in significant adverse impacts to Mark West Creek and its watershed. The State Water Board has also listed portions of Mark West Creek and its tributaries as 303(d) impaired water bodies for sedimentation and temperature (upstream of the confluence with the Laguna de Santa Rosa). Kamman Report at 9. Because hydrological resources in the MWW and downstream are already impaired, expansion of cannabis operations has the potential to significantly impact those resources.

The SMND discloses that future cannabis operations “have the potential to impact water quality due to grading, pesticide application, fertilizers, and the use of irrigation.” SMND at 68. Unfortunately, the SMND foregoes actual analysis of the Project’s impacts on water quality. Specifically, the SMND fails to adequately analyze impacts from increased sedimentation resulting from ground disturbance and from vegetation clearing. Nor does the SMND adequately analyze the impacts of groundwater pumping on creeks, streams, and rivers. Kamman Report at 2-4. In addition, given that the Project will increase development and introduce industrial processes in remote rural areas, which in turn exacerbates wildfire risk, the SMND should have evaluated fire-related erosion’s impacts on waterways. *See also* Letter submitted from Save Our Sonoma Neighborhoods to the County dated March 18, 2021. The SMND does none of this.

The proposed amendments would result in allowing cannabis production countywide in much of the undeveloped areas of the County, including the Mark West Watershed. Without further environmental review, the County would be making this broad approval with far-reaching effects without having answers to critical questions. These questions, which were raised in comments in 2018, remain relevant today and remain unanswered by the SMND. Specifically, the SMND: fails to accurately estimate the Project’s water demand or explain how that water demand compares to other agricultural and industrial uses in the County; fails to explain what sorts of impacts related to contaminated run-off can be anticipated from these operations; and fails to identify areas of the County that may be more appropriate for cultivation than others. Without answers to these and other questions, the County cannot know the extent of potential impacts to groundwater and surface water quality.

In sum, the DEIR lacks sufficient evidentiary support for its conclusion that the Project's impacts on hydrology and water quality would be less than significant. An EIR for the Project must adequately describe the hydrologic setting, and comprehensively evaluate and mitigate the proposed Project's hydrology and water quality impacts .

C. The SMND's analysis of biological impacts is inadequate and there is a fair argument that the Project will have a significant impact on sensitive habitat and species.

Given that the Mark West Watershed is a sensitive environment comprising critical habitat, essential fish habitat, and biological resources, the environmental analysis should have provided a thorough assessment of the Project's impacts on these resources. *See* Exhibit 1, Kamman Report, and Exhibit 3, Letter from Robert Coey, National Marine Fisheries Service (Feb. 26, 2021). The SMND's treatment of biological impacts does not meet CEQA's well established legal standard for impacts analysis. Given that analysis and mitigation of such impacts are at the heart of CEQA, the SMND will not comply with the Act until these serious deficiencies are remedied.

First, the SMND's failure to describe the existing setting (as discussed above) severely undermines its analysis of Project impacts on sensitive biological resources. Despite the SMND's acknowledgement that "the updated Ordinance could result in direct and indirect effects on sensitive biological resources including special-status species" the SMND fails to adequately analyze adverse impacts to these species. SMND at 37 and 38.

Second, the SMND fails to evaluate the extent and severity of the Project's impacts on biological resources. As explained throughout this letter and in the attached Kamman Report, erosion resulting from activities allowed by the proposed Project—both from the change in use and from associated construction of cannabis production facilities—is likely to lead to increased sedimentation of Mark West Creek and its tributaries, impairing the Mark West Watershed critical habitat area. Kamman Report at 5 and 6. The delivery of fine sediment from erosion and runoff has been documented to have negative effects on water and habitat quality, specifically degrading spawning gravel habitat, juvenile rearing pool habitats, and juvenile salmonid survival and growth. *Id.* Therefore, an increase in high-intensity uses, such as those associated with cannabis cultivation, are likely to result in sediment deposits to Mark West Creek and to increase negative impacts on aquatic habitat.

The precise extent and potential significance of such increases would only become evident with a more detailed investigation of the specific construction features and operational methods associated with the activities that would be allowed under the ordinance amendments. Given this potential for erosion in a critical habitat area, it is

crucial that the County perform a thorough analysis of this issue prior to approving the Project. Without further analysis, the County cannot know the extent of potential impacts to sensitive biological resources, such as endangered fish and other species. These are exactly the type of impacts that must be analyzed in an EIR.

V. The mitigation measures identified in the SMND are not sufficiently adequate, measurable, or enforceable.

Because, as discussed above, the SMND fails to thoroughly examine and analyze the Project's impacts, it also fails to adequately mitigate for the related impacts. Moreover, the SMND relies on insufficient mitigation and fails to consider and adopt all feasible mitigation.

The County cannot approve projects with significant environmental impacts if any feasible mitigation measure or alternative is available that will substantially lessen the severity of any impact. Pub. Res. Code § 21002; CEQA Guidelines § 15126(a). The County is legally required to mitigate or avoid the significant impacts of the projects it approves whenever it is feasible to do so. Pub. Res. Code § 21002.1(b). An EIR is inadequate if it fails to suggest feasible mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79. Of course, the County may not use the inadequacy of its impacts review to avoid mitigation: "The agency should not be allowed to hide behind its own failure to collect data." *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 36. Nor may the City use vague mitigation measures to avoid disclosing impacts. *Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 195. Put another way, an EIR must set forth specific mitigation measures or set forth performance standards that such measures would achieve by various, specified approaches. See CEQA Guidelines § 15126.4; see also *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1034; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93-95 (agency may not approve a vague mitigation measure that contains no performance standards and criteria to guide its later implementation). Without performance standards and an explanation of why mitigation cannot be developed now, the SMND cannot insist the impact will be insignificant and defer the development of specific mitigation measures to some future time. Guidelines § 15126.4 (a)(1)(B). The SMND failed to comply with this bedrock CEQA requirement.

"In the case of the adoption of a plan, policy, regulation, or other public project [such as the proposed Code and General Plan amendments], mitigation measures can be incorporated into the plan, policy, regulation, or project design." CEQA Guidelines § 15126.4(a)(2). Mitigation is defined by CEQA to include "[m]inimizing impacts by

limiting the degree or magnitude of the action and its implementation.” CEQA Guidelines § 15370(b). In addition to proposing new “policies” as mitigation, mitigation should include changes in where development is planned, what kind is planned, and how dense or intense that development is planned to be.

Here, the SMND relies on standards in the Ordinance to reduce the Project’s impacts. For example, the SMND points to requirements for permit applicants to document a net zero water plan demonstrating that the proposed facility would not result in a net increase of groundwater. However, this approach does not comply with CEQA, both because evaluating water use for each facility fails to evaluate the use and impacts of the whole of the project and because this provision defers the assessment until after Project approval. It is well-established that the County cannot defer its assessment of important environmental impacts until after the project is approved. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-07.

In addition, there is no indication that the SMND considered additional policies or modifications to the proposed amendments to mitigate the impacts of the Project. For example, as described above, the Project would exacerbate already stressed groundwater supplies in the county. Kamman Report at 3. These increased risks and hazards constitute a significant impact requiring the County to identify feasible mitigation measures and alternatives to minimize them. Instead, the SMND relies on unsupported statements about the limited size and number of cultivation sites and on unsubstantiated estimates of groundwater supply required for cannabis cultivation to conclude that impacts to water supply would be less than significant. *Id.* and SMND at 69-70.

As discussed throughout this letter, the County must first gather data on the number of existing legal and illegal cultivation sites, estimate the number of existing and eligible sites that may apply for permits, accurately estimate the amount of water supply needed for those sites, and evaluate the potential impacts on groundwater resources. A revised environmental document must identify feasible mitigation measures for such impacts (e.g., prohibiting or limiting the number of cannabis facilities within Groundwater Availability Zones 3 or 4 and excluding commercial cannabis facilities within the MWW).

VI. The permit approval process contemplated by the Ordinance requires the exercise of discretion by County officials.

The Ordinance purports to allow “ministerial” approvals of commercial cannabis operations throughout the County. Yet, proposed Chapter 38 does not describe ministerial approvals. Per the Ordinance’s plain language, every approval of a commercial cannabis operation will necessarily be a discretionary action and thus subject to CEQA. By

adopting an ordinance that purports to authorize “ministerial” approvals which in actuality trigger CEQA, the County is heading toward certain litigation from those objecting to future siting decisions for commercial cannabis operations, and from applicants for these projects.

“A project is discretionary when an agency is required to exercise judgment or deliberation in deciding whether to approve an activity. It is distinguished from a ministerial project, for which the agency merely determines whether applicable statutes, ordinances, regulations, or other fixed standards have been satisfied. Ministerial projects are those for which the law requires [an] agency to act ... in a set way without allowing the agency to use its own judgment They involve little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision.” *Protecting Our Water & Env’t Res. v. Cty. of Stanislaus* (2020) 10 Cal.5th 479, 489 (“*POWER*”) (internal quotations and citations omitted).

Under the proposed Ordinance, the Agriculture Commissioner *must* use their judgment to decide whether to issue permits. Thus, this is different from the situation in *Sierra Club v. County of Sonoma* (2017) 11 Cal.App.5th 11, where the court held that the permit in question did not involve the Commissioner’s judgment, even though the County’s ordinance might allow for discretion in other instances. *Sierra Club* therefore does not apply here. Instead, a court would hold that the County has improperly classified *all* commercial cannabis permit approvals under the ordinance as ministerial, when in fact the ordinance requires the Commissioner to exercise discretion for each permit. *POWER*, 10 Cal.5th at 499 (“County’s blanket classification ... enable[d] County to approve some discretionary projects while shielding them from CEQA review”).

The Ordinance in many instances requires plans or surveys by qualified professionals to assess impacts, but does not provide standards governing *how* these surveys/plans will be evaluated or deemed sufficient. Thus, County officials will have to exercise discretion to determine whether they are good enough.

For example, every permit application must include a “biotic resource assessment” that “demonstrates” to the Commissioner’s satisfaction that the project would not impact sensitive or special status species habitat. Proposed § 38.12.070(A)(1). Whether this plan adequately demonstrates the avoidance of impacts—including whether surveys were properly conducted to determine the presence of sensitive or special status species habitat, and what constitutes an “impact”—is necessarily left to the Commissioner’s individual discretion.

Similarly, each permit application must include a wastewater management plan that, among other things, “demonstrates” to the Commissioner’s satisfaction that the project would have adequate capacity to handle domestic wastewater discharge from employees. Proposed § 38.12.130(A)(5). Each application must also include a storm water management plan and an erosion and sediment control plan that “ensure,” again to the Commissioner’s satisfaction, that runoff containing sediment or other waste or byproducts does not drain to the storm drain system, waterways or adjacent lands. Proposed § 38.12.130(B). Obviously, whether an applicant’s plans sufficiently “demonstrate” the necessary wastewater capacity, or “ensure” that runoff would not drain to waterways, would require the Commissioner’s individual judgment. Proposed sections § 38.12.070(A)(1), 38.12.130(A)(5) and 38.12.130(B) would apply to *all* applications regardless of size or proposed location. Thus the Commissioner will have to exercise their discretion for every permit application they process.

Other provisions that require the exercise of discretion to approve or deny a permit include, but are not limited to, proposed sections 38.12.050(B) (historic resource survey), 38.12.050(C) (cultural resource survey), 38.12.130 (wastewater management plan), and 38.12.140 (documentation of water supply).

Furthermore, unlike in *Sierra Club*, here, the Commissioner’s necessary exercise of discretion under the Ordinance would be directly tied to the mitigation of impacts from individual projects. For instance, the SMND states that “future cannabis projects facilitated by a ministerial permit . . . could result in direct and indirect impacts on sensitive biological resources including sensitive-status species. . . However, to *reduce impacts* to status species and their habitat,” applicants would be required to submit the “biotic resource assessment.” SMND at 39. As explained above, the Commissioner would have authority to decide whether this assessment adequately demonstrates that no impact would occur—in other words, whether the impact is effectively mitigated.

CEQA, and not the personal judgment of County staff, governs the discretionary review of projects, including mitigation of impacts. *See Sierra Club*, 11 Cal.App.5th at 22 (ministerial approval process “is one of determining conformity with applicable ordinances and regulations, and the official has no ability to exercise discretion to mitigate environmental impacts”). Here, however, the Commissioner and/or staff would have the authority to deny a proposed project which in their judgment would not avoid biological or other environmental impacts. *Id.* at 23 (if agency can deny, or modify, project proposal in ways that would mitigate environmental problems that CEQA compliance might conceivably have identified, then the process is discretionary). Thus, the proposed Ordinance contemplates a discretionary, and not ministerial, approval process.

If adopted, the Ordinance's permit approval regime would be in clear violation of CEQA, and each permit approval would risk a legal challenge and ultimately being overturned by a court. The County must revise the Ordinance and accompanying environmental document to acknowledge that all subsequent permit approvals will necessarily be discretionary decisions subject to review under CEQA.

VII. Approval of the Project, which is inconsistent with the County's General Plan, would violate the State Planning and Zoning Law.

The state Planning and Zoning Law (Gov't Code § 65000 et seq.) requires that development approvals be consistent with the jurisdiction's general plan. As reiterated by the courts, "[u]nder state law, the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806. Accordingly, "[t]he consistency doctrine [is] the linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law." *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336.

It is an abuse of discretion to approve a project that "frustrate[s] the General Plan's goals and policies." *Napa Citizens for Honest Gov't v. Napa County* (2001) 91 Cal.App.4th 342, 379. The project need not present an "outright conflict" with a general plan provision to be considered inconsistent; the determining question is instead whether the project "is compatible with and will not frustrate the General Plan's goals and policies." *Napa Citizens*, 91 Cal.App.4th at 379. Here, the proposed Project does more than just frustrate the General Plan's goals. As discussed in more detail below, the Project is directly inconsistent with numerous provisions in the General Plan.

In comments submitted on behalf of FMWW in 2018 regarding the County's amendments to the Medical Cannabis Land Use Ordinance, we commented that the proposed amendments were inconsistent with the County's General Plan, particularly with policies related to the protection of agricultural land and policies directed at preserving natural resources, such as groundwater, surface water, and sensitive habitat areas. The proposed Project would be inconsistent with these same policies. For the County's convenience, we reiterate the inconsistencies below.

The MWW is located within portions of Plan Area 3 (Healdsburg and Environs) and portions of Plan Area 5 (Santa Rosa and Environs) and is also within the Franz Valley Specific Plan Area. The proposed ordinance revisions would conflict with policies applicable to these plan areas. For example, the Sonoma County General Plan Land Use

Element includes objectives and policies directed at locating commercial and industrial development in areas that protect rural and agricultural lands. These policies include:

Franz Valley Specific Plan

Hydrology - Within groundwater recharge areas, construction activities, creation of impervious surfaces, and changes in drainage should be avoided through discretionary actions.

Healdsburg and Environs (Plan Area 3)

Objective LU-14.2: Make Windsor and Healdsburg the commercial and industrial centers for the planning area. *Avoid additional commercial and industrial uses and tourist related businesses in the rural areas of this region.* Maintain compact urban boundaries for Windsor and Healdsburg. (Emphasis added.)

Santa Rosa and Environs (Plan Area 5)

Policy LU-16f: Avoid amendments to include additional commercial or industrial use outside urban service areas.

The Project is inconsistent with these policies because it would allow cannabis cultivation (both indoors and outdoors) in rural areas outside urban service areas. The ordinance revisions would also allow cannabis cultivation without discretionary review, which would be inconsistent with the Franz Valley Specific Plan.

The Sonoma County General Plan Land Use Element includes multiple objectives and policies directed at locating development in areas that protect environmentally sensitive areas. These policies include:

Goal LU-7: Prevent unnecessary exposure of people and property to environmental risks and hazards. *Limit development on lands that are especially vulnerable or sensitive to environmental damage.* (Emphasis added.)

Objective LU-7.1: Restrict development in areas that are constrained by the natural limitations of the land, including but not limited to, flood, fire, geologic hazards, *groundwater availability* and septic suitability. (Emphasis added.)

GOAL LU-10: The uses and intensities of any land development shall be consistent with preservation of important biotic resource areas and scenic features.

Objective LU-10.1: Accomplish development on lands with important biotic resources and scenic features in a manner which preserves or enhances these features.

The Project is inconsistent with these policies because it would allow cannabis uses in Agricultural and Resources and Rural Development designations without adequate limitations to ensure that environmentally sensitive resources, and groundwater resources are protected.

The Land Use Element also includes multiple policies directed at the protection of water resources. Specifically:

Goal LU-8: Protect Sonoma County's water resources on a sustainable yield basis that avoids long term declines in available surface and groundwater resources or water quality.

Objective LU-8.1: Protect, restore, and enhance the quality of surface and groundwater resources to meet the needs of all beneficial uses.

Objective LU-8.5: Improve understanding and sound management of water resources on a watershed basis.

Policy LU-8h: Support use of a watershed management approach for water quality programs and water supply assessments and for other plans and studies where appropriate.

Policy LU-11g: Encourage development and land uses that reduce the use of water. Where appropriate, use recycled water on site, and employ innovative wastewater treatment that minimizes or eliminates the use of harmful chemicals and/or toxics.

The Project is inconsistent with these policies because, as explained in the Kamman Letter, cannabis cultivation within the Mark West Watershed would exacerbate groundwater overdraft and reduced groundwater recharge, which would adversely impact biotic resources. Cannabis cultivation is a water-intensive use that requires approximately twice as much water as wine grapes. See, K. Ashworth and W. Vizuet, *High Time to Assess the Environmental Impacts of Cannabis Cultivation*, Environmental Science & Technology (2017) at 2531-2533, attached as Exhibit 4 and at

<https://pubs.acs.org/doi/10.1021/acs.est.6b06343>. According to the article, a study of illegal outdoor grow operations in northern California found that “rates of water extraction from streams threatened aquatic ecosystems and that water effluent contained high levels of growth nutrients, as well as pesticides, herbicides and fungicides, further damaging aquatic wildlife.” *Id.* Another article indicates that “water demand for marijuana cultivation has the potential to divert substantial portions of streamflow in the study watersheds, with an estimated flow reduction of up to 23% of the annual seven-day low flow in the least impacted of the study watersheds. Estimates from the other study watersheds indicate that water demand for marijuana cultivation exceeds streamflow during the low-flow period. In the most impacted study watersheds, diminished streamflow is likely to have lethal or sub-lethal effects on state-and federally-listed salmon and steelhead trout and to cause further decline of sensitive amphibian species.” *See, Bauer et al., Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds*, PLoS ONE (2015), attached as Exhibit 5 and at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0120016>. This increased intensity in water use has the potential to result in significant impacts to biotic resources and to other users.

Cannabis cultivation also has the potential to lead to increased use of fertilizers and pesticides that could impact groundwater and source waters and pose unique challenges related to treatment and disposal of chemicals in run-off and wastewater. These impacts would be even more pronounced in sensitive watersheds, such the Mark West Creek watershed and other Russian River tributaries.

Similarly, the Project would be inconsistent with the following Land Use Element objectives and policies calling for the protection of agricultural lands⁴:

GOAL LU-9: Protect lands currently in agricultural production and lands with soils and other characteristics that make them potentially suitable for agricultural use. Retain large parcel sizes and avoid incompatible non-agricultural uses.

Objective LU-9.1: Avoid conversion of lands currently used for agricultural production to non-agricultural use.

⁴ As noted in our comments submitted on behalf of Save Our Sonoma Neighborhoods, the County should maintain its characterization of cannabis cultivation as unique from traditional agricultural practices, as it did in 2016, and as it describes in the SMND. SMND at 23, 33, 34, 48 and 62. *See also, SOSN Comments dated March 18, 2021.*

Objective LU-9.2: Retain large parcels in agricultural production areas and avoid new parcels less than 20 acres in the "Land Intensive Agriculture" category.

Objective LU-9.3: Agricultural lands not currently used for farming but which have soils or other characteristics that make them suitable for farming shall not be developed in a way that would preclude future agricultural use.

In contrast to these General Plan goals and objectives, the proposed amendments would allow conversion of lands designated for agricultural uses for cannabis production, which includes construction of buildings to house indoor cultivation and would expand the allowed production of cannabis cultivation area from the current one acre to 10 percent of the parcel.

As noted above, and in the letter submitted on behalf of Save Our Sonoma Neighborhoods on March 17, 2021, the Project will have substantial environmental impacts that have not been addressed by the County. These unanalyzed impacts will also result in inconsistencies with the General Plan. Therefore, the County must fully evaluate and mitigate the impacts of the Project before it can find the Project consistent with the County General Plan.

VIII. The County must exclude the Mark West Watershed and other similarly impaired watersheds from the proposed Project.

Under CEQA, a proper analysis of alternatives is essential for the County to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Resources Code § 21002; Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d); *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443-45. Given the Project's potential for significant impacts as outlined above, the County must require an EIR to analyze the extent and severity of the Project's impacts related to hydrology and biological resources. The EIR must also consider feasible alternatives to avoid or minimize these impacts. Moreover, the County cannot make findings if there is an alternative that would reduce impacts to the surrounding community.

In 2018, the Planning Commission considered provisions that would have created an Exclusion Combining District, which would have excluded commercial cannabis activities from areas meeting certain criteria, including:

(d) Areas where, because of topography, access, water availability or vegetation, there is a significant fire hazard; and

(e) Areas with sensitive biotic resources or significant environmental sensitivity exists.

Here, the Mark West Watershed (“MWW”) satisfies both criteria. First, the area is characterized by steeply sloped areas and encompasses areas identified as moderate, high, and very high wildland fire hazard zones. Sonoma County General Plan 2020, Public Safety Element, Figure PS-1G. Second, as discussed above and in the attached Kamman Report, the MWW is an “area with sensitive biotic resources or significant environmental sensitivity”, which satisfies the criteria considered in 2018 for exclusion. Kamman Report at 5.

As enumerated in the Kamman letter and above, the MWW hosts critical aquatic and riparian habitat and endangered and sensitive aquatic species. *See* Exhibit 2, Jeremy Kobor, et al., Integrated Surface and Groundwater Modeling and Flow Availability Analysis for Restoration Prioritization Planning, Upper Mark West Creek Watershed, Sonoma County, CA (Dec. 2020) at p. 1. Because of its unique physical and biological characteristics, the watershed has been identified in numerous natural resource planning efforts for protection and enhancement. *See id*; Kamman letter at 5.

There is also a documented trend in decreased groundwater availability in the MWW over the long term. Exhibit 2, Kobor et al., at p. 11 and Kamman Report at 7. This trend, and an acknowledged strong linkage between groundwater and creek summer base flow, Exhibit 2, Kobor, et al., at p. 3, indicate that the MWW is susceptible to groundwater overdraft conditions, Kamman at 5 and 7.

In addition, the Groundwater Management Plan (GMP) for the Santa Rosa Plain Watershed indicates that groundwater levels have decreased in response to groundwater pumping in the Santa Rosa Plain groundwater basin. See http://santarosaplainingroundwater.org/wp-content/uploads/SRP_GMP_12-14.pdf (accessed on March 15, 2021) at ES-2 (“The study shows that increased groundwater pumping has caused an imbalance of groundwater inflow and outflow. This imbalance could affect wells, and eventually will likely reduce flows in creeks and streams, leading to a potential for decline in habitat and ecosystems”), ES-7, and ES-8; Kamman Report at 9. Mark West Creek flows into the Santa Rosa Plain. The GMP indicates that seepage from streams flowing onto the Santa Rosa Plain, including Mark West Creek, are a major source of recharge to the groundwater basin. The Sustainable Groundwater Management Act “requires governments and water agencies of high and medium priority basins [such as the Santa Rosa Plain Watershed] to halt overdraft and bring groundwater basins into

balanced levels of pumping and recharge.” California Department of Water Resources, SGMA Groundwater Management, available at <https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management>.

As explained in the Kamman Letter, any incremental increase in groundwater pumping within the upper Mark West Creek watershed would not only exacerbate overdraft of local aquifers, but would reduce streamflow in Mark West Creek and associated downstream recharge, additionally exacerbating overdraft in the Santa Rosa Plain groundwater basin. Kamman Report at 10. Any future increases in groundwater pumping due to cannabis cultivation in the upper Mark West Creek watershed and other similarly impaired watersheds would also exacerbate groundwater overdraft in the Santa Rosa Plain basin. Exhibit 3, Letter from Robert Coey, National Marine Fisheries Service (Aug. 30, 2018) (explaining that restoring area groundwater basins “will likely include greater groundwater recharge, less groundwater pumping, or some combination of the two,” and requesting that Sonoma County delay permitting cannabis cultivation activities relying on groundwater to avoid further harm to groundwater supplies).

Significantly, the setbacks from riparian corridors incorporated in the Project do not eliminate impacts to the Mark West Watershed and other similarly impaired watersheds or the linked groundwater basins. A streamflow analysis of the Mark West Watershed determined that, while wells at increased distance from streams depleted streamflows at slower rates, “all wells generated depletion given enough time.” Exhibit 2, Kobor et al., at p. 11. “Requiring new wells to be drilled at a specified minimum distance from a stream or spring . . . may extend the length of time before streamflow depletion occurs; however, *it will not prevent streamflow depletion from occurring.*” *Id.* at 21 (emphasis added). Thus, the measures currently included in the Project are insufficient to address potential significant impacts. Excluding the Mark West Watershed and other similarly impaired watersheds from the Project entirely, however, would prevent new commercial cannabis activities from drawing groundwater, thus preventing decreases in streamflow and avoiding significant environmental impacts to sensitive watersheds.

State regulations governing cannabis activities in environmentally sensitive watersheds further support exclusion of the Mark West watershed and other similarly impaired watersheds. Specifically, the Department of Food and Agriculture is prohibited from issuing new licenses for commercial cannabis activities in watersheds that the State Water Resources Control Board or the Department of Fish and Wildlife determine are significantly impacted by cannabis cultivation. 3 Cal. Code Regs. § 8216; *see also* Bus. & Prof. Code § 26069(c)(1); Water Code § 13149. If the County were to issue licenses for cannabis cultivation in these areas, it would conflict with the intent of the state regulations to protect sensitive environments from cannabis-related impairments.

Though the State Water Resources Control Board and the Department of Fish and Wildlife have not yet determined that cannabis activities have significantly impacted the Mark West Watershed, it seems foolish to wait for this eventuality—and the associated degradation of a sensitive habitat—to occur. *See also* Exhibit 3, Letter from Robert Coey, National Marine Fisheries Service (Aug. 30, 2018) (“Since continued groundwater development in [the Mark West Watershed] will likely further impair summer baseflows in the future, NMFS recommends Permit Sonoma limit future groundwater development in these basins until the effects of long-term, chronic groundwater depletion and its impact on summer baseflows are properly analyzed.”). As this letter has emphasized, the Mark West watershed has already been identified as impaired in various respects. For example, the North Coast Regional Water Quality Control Board has identified Mark West Creek as impaired with respect to aluminum, dissolved oxygen, phosphorus, manganese, sedimentation/siltation, and temperature. Exhibit 6, North Coast Regional Water Quality Control Board, Laguna de Santa Rosa TMDLs. Further, the Mark West Creek is one of five streams the California Water Action Plan selected for an effort to restore important habitat for anadromous salmonids. *See Study Plan*, California Department of Fish and Wildlife, June 2018, at i.v., 9-11, attached as Exhibit 7. The study plan for this effort notes that “Water diversions, modifications to riparian vegetation, and sediment delivery to streams [like Mark West Creek] . . . have contributed to the degradation and loss of habitat” for endangered salmonid species. *Id.* Considering (1) the existing sensitivity of the watershed, and (2) the numerous impacts on water and aquatic resources resulting from cannabis cultivation that are contemplated by the State Water Resources Control Board’s Cannabis Cultivation Policy,⁵ it makes no sense to allow cannabis cultivation in the Mark West Watershed. Instead, excluding cannabis cultivation from the Mark West Watershed avoids incompatibility with state regulations and avoids degradation of a valuable environmental resource.

Therefore, the FMWW request that commercial cannabis activities be excluded from the Mark West Watershed and other similarly impaired watersheds. Only by excluding cannabis cultivation operations from the Mark West Watershed and similar watersheds can the County ensure that sensitive biotic resources present in these watersheds are protected.

Finally, it is important to note that property owners do not have an absolute right to grow cannabis. State and federal law simply provide that the County must allow an

⁵ *Cannabis Cultivation Policy: Principals and Guidelines for Cannabis Cultivation*, California State Water Resources Control Board, Oct. 17, 2017, https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/final_cannabis_policy_with_att_a.pdf.

economically reasonable use of property. *Agins v. Tiburon* (1980) 447 U.S. 255, 260. Property owners are not entitled to any particular use of property, nor are they entitled to compensation for even a “very substantial” diminution in the value of their property. *Long Beach Equities v. County of Ventura* (1991) 231 Cal. App. 3d 1016, 1036. By contrast, the County has an obligation to protect public trust resources and to comply with state law. *National Audubon Society v. Superior Court* (1983) 33 Cal. 3d 419.

Even if ensuring compliance with these state and local laws substantially diminishes the value of the applicant’s property, there is no automatic taking or County liability. For example, in *MacLeod v. Santa Clara County*, a property owner sued for a taking after he was denied a timber harvesting permit for his 7,000 acre ranch. (9th Cir. 1984) 749 F.2d 541, 542-44. On appeal, a 9th Circuit court held that the denial of the permit was not a taking because the owner could continue to use or lease the land for cattle grazing as well as hold the property as an investment. *Id.* at 547. “The fact that the denial of the permit prevented [the owner] from pursuing the highest and best use of his property does not mean that it constituted a taking.” *Id.* at 548. Similarly, in *Long Beach Equities*, the court found that even where “zoning restrictions preclude recovery of the initial investment made.” they do not result in a taking as long as some use of the property remains. 231 Cal. App. 3d at 1038. Further, to the extent that there are existing permitted cannabis grows in the watershed, the County may create exceptions to the exclusion for existing uses, and may require them to phase out operations over time.

Designation of the Mark West Watershed and other similarly impaired watersheds as an exclusion zone will simply prohibit the cultivation of cannabis in an area that is ecologically sensitive; it will not preclude other uses of property in the area. Because other less impactful uses of property remain, the County will have more than met its obligation to ensure some economic use of property in these watersheds.

IX. Conclusion

As set forth above, the SMND does not come close to satisfying CEQA’s requirements. It fails to describe the Project and the existing setting and fails to provide a complete analysis of Project impacts and feasible mitigation measures. At the same time, ample evidence demonstrates that a fair argument exists that the Project may result in significant environmental impacts. In light of this evidence, CEQA requires that an EIR be prepared. For this reason, and because the Project conflicts with core policies of the County’s General Plan, the Friends of Mark West Watershed request that the Project be denied. The Project should not be reconsidered until a legally adequate EIR is prepared and certified.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Joseph "Seph" Petta



Aaron M. Stanton



Carmen J. Borg, AICP
Urban Planner

Exhibits:

1. Letter from Greg Kamman, Senior Ecohydrologist with CBEC Ecoengineering, dated March 16, 2021
2. Jeremy Kobor, et al., Integrated Surface and Groundwater Modeling and Flow Availability Analysis for Restoration Prioritization Planning, Upper Mark West Creek Watershed, Sonoma County, CA (Dec. 2020)
3. Letter from Robert Coey, National Marine Fisheries Service (Feb. 26, 2021)
4. K. Ashworth and W. Vizuete, *High Time to Assess the Environmental Impacts of Cannabis Cultivation*, Environmental Science & Technology (2017)
5. Bauer et al., *Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds*, PLoS ONE (2015)

6. North Coast Regional Water Quality Control Board, Laguna de Santa Rosa TMDLs

7. *Study Plan*, California Department of Fish and Wildlife, June 2018

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1351089.3

From: [J/P Mazeau](#)
To: [Cannabis](#)
Subject: "Phase 2 Cannabis Amendments – May 18"
Date: Wednesday, May 12, 2021 10:44:23 AM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

Joe Mazeau (Santa Rosa)

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From: [Judith Olney](#)
To: [Cannabis](#)
Cc: [Susan Gorin](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#)
Subject: BOS May 18: Env Coalition: Cannabis: Legal Path Forward
Date: Wednesday, May 12, 2021 11:06:04 AM
Attachments: [Final_BOS_CannabisPolicy.docx](#)

EXTERNAL

Honorable Supervisors: The attached letter is entered into the Administrative Record for the May 18, 2021 Sonoma County Supervisors Hearing.

Members of the environmental community request that you heed the Planning Commission's recommendation, and invest in an Environmental Impact Report to complete up-front planning and analyses required to guide a less-impactful commercial cannabis cultivation program. Preparation of the EIR and streamlining the State-compliant discretionary use permit process can move forward in parallel. This path best meets the County's long-range planning, resource protection, and public safety responsibilities. We respectfully request that the County set aside the proposed "ministerial permit" process as it fails multiple legal, resource protection and infrastructure planning tests.

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Date: May 11, 2021

To: Sonoma County Board of Supervisors

RE: Recommend State-Compliant Path Forward for Commercial Cannabis Cultivation Permits

The environmental community requests our Supervisors regain the public's trust by adhering to the County's mission, which is to provide for orderly development of real property, balanced with resource stewardship, and the protection of the public's health and safety.

Completion of the required cannabis cultivation and processing Environmental Impact Report (EIR) supports the County's on-going policy initiatives: 1) our commitment to a climate action plan with initiatives to reduce GHG emissions; and 2) sustainability plans to address over-drafting of groundwater basins and impaired watersheds. A comprehensive analysis prior to permitting large acreages of cannabis, a resource-intensive commercial product, will support water supply, watershed carrying capacity, public infrastructure and GHG mitigation planning.

The undersigned urge the Supervisors to authorize immediate development of the required cannabis Environmental Impact Report (EIR), and amend the existing Use Permit process under the Chapter 26 Commercial Cannabis Uses Ordinance:

- Comply with State and Federal law and continue to define cannabis as a product requiring regulatory oversight, as recommended by the Planning Commission.
- Complete the Environmental Impact Report (EIR) required to adequately evaluate cannabis cultivation and processing in industrial and commercial zones, as well as cultivation-only in agricultural zones. Conduct cumulative impact analyses and identify the least-impactful locations, siting criteria and standards necessary to protect our public trust resources, scenic landscapes and all property owner rights.
- Ensure additional protections for our watersheds by excluding impaired watersheds, high fire severity zones, and parcels with a well in groundwater zones 3 and 4.

Heed the core issue raised by State and Federal agency letters: Sonoma County has a high density of essential habitat areas, impaired watersheds and several over-drafted groundwater basins requiring State Agency oversight. The science-based reality is that siting and permitting of cannabis cultivation in Sonoma County will continue to be limited by the State-required permits that are designed protect public trust resources.

Conditions have changed: As we enter into an unprecedented drought, it is essential that the County ensure that limited water resources are adequately protected. Adequate studies must address competing demands and realistic limits on water supplies, including drought-related increased groundwater pumping that increase the impacts on over-drafted groundwater basins and risks dewatering confined aquifers, streams and neighboring wells.

Groundwater basin carrying capacity is already at a tipping point; and now we face continued drought and increasingly intense wildfire seasons. Wind-driven wildfires require public safety focused land use decisions that limit human-related ignition sources. Commercial cannabis operations are worker intensive, especially during the September to November cannabis harvest which coincides with peak fire season. Water scarcity and insufficient access/egress for workers and emergency vehicles are reasons to exclude fire-prone RRD watershed lands from commercial cultivation permits.

The “Fair Argument” standard has been met; and taxpayer dollars are best invested in the required EIR and improvements to an ordinance that complements State licensing laws governing cannabis cultivation.

Technical expert reports, a CEQA law firm, State Agency professionals, environmental advocates and citizens have built a compelling Administrative Record, providing substantive evidence relative to the errors, omissions, “lack of substantive evidence to support findings,” and deficiencies of both Chapter 38 and its SMND. In short, the proposed ordinance for cultivations from 1 acre to industrial-scale on large parcels, will never meet any of CEQA’s Article 19 criteria for ministerial permitting, as outlined by Shute Mihaly and Weinberger LLP.

The administrative record reinforces the myriad of reasons why Sonoma County is the only Bay Area county and one of the very few (fifteen) California counties to permit outdoor cannabis cultivation. Most counties only obtain tax revenue from indoor cannabis product cultivation and processing, where nuisance-level impacts on adjacent residences and tourist-oriented businesses can be mitigated. Outdoor cannabis cultivation imposes externalities on taxpayers; thus, responsible counties address water, wastewater, energy and other public infrastructure upgrade costs to prevent future burdens on taxpayers and ratepayers for the short-term benefit of an industry undergoing consolidation in its race to becoming a commodity.

The undersigned request that the County set aside the proposed Chapter 38 Commercial Cannabis Cultivation Ordinance, and focus on improvements to the 2018 Commercial Cannabis Uses Discretionary Use Permit process. The policy option to adopt and implement Chapter 38 “on an interim or test-case” basis is not a legal path forward.

Cannabis cultivation requires dual-licensing with the State of California, and the Conditional Use Permit process, defined in the Chapter 26 Commercial Cannabis Uses Ordinance (CUP Ordinance) complies with State licensing.

- The proposed ministerial process for cannabis gives Applicants the illusion of by-passing project-specific environmental review and State oversight on the front end, putting the Applicant at a disadvantage when they are then required to obtain a State license.
- As verified by communications with the Director of CalCannabis Cultivation Licensing Division, California Dept of Food and Ag, “...**the issuance of a state license under the MAUCRSA is a discretionary process that requires CEQA compliance... if a county did not complete a project level CEQA review, then the applicant would need to complete the necessary documentation for CDFA to serve as lead agency.**”

Completing an EIR will streamline permitting as an Applicant is able to “tier-off” the EIR, easing required project-specific environmental review. Amending the CUP Ordinance with State and Planning Commissioner-identified protective standards, such as State-compliant riparian corridor setbacks, and State-required permits can be completed simultaneously with EIR analyses defining siting criteria and the most suitable locations for commercial cultivation and processing.

Integrating State-required permits early in the local permit process ensures State requirements can be met before spending time and money on other studies. Additional permitting considerations are in the CA Department of Fish and Wildlife and North Coast Regional Water Quality Control Board letters as well as NOAAs Federal NMFS Agency 2018 and 2021 letters.

Please do not waste precious time, limited taxpayer funds and Applicant resources on unnecessary lawsuits: Shute, Mihaly, Weinberger LLP March 18, 2021 letter warns “If adopted, the (Chapter 38) Ordinance’s permit approval regime would be in clear violation of CEQA, and **each permit approval would risk a legal challenge and ultimately being overturned by a court.** The County must revise the Ordinance and accompanying environmental document to acknowledge that all subsequent permit approvals will necessarily be discretionary decisions subject to review under CEQA.”

For the stated reasons, the undersigned support the development of a legally-compliant commercial cannabis cultivation program and respectfully request the County begin work on the required EIR and amendments to the (Chapter 26) Commercial Cannabis Uses Ordinance. We believe the State-compliant path, with protective standards and siting criteria for all areas of impact, will best meet the County’s long-term planning, resource protection and public health and safety responsibilities.

References Cited and Incorporated by Reference:

[Shute Mihaly and Weinberger LLP March 18, 2021 letter](#)
[SMW LLP Letter - Friends of Mark West Watershed](#)

State Department of Fish and Wildlife March 2021 Letter

North Coast Regional Water Quality Control Board March 2021 Letter

Federal NOAA – National Marine Fisheries Service August 2018 and February 2021 letters

Signed by:

Meg Beeler – Sonoma Mountain Preservation

Todd Board



Ray Kraus – Friends of Mark West Watershed

Wendy Krupnick

Janus Mathus



Judith Olney – Preserve Rural Sonoma County

Teri Shore – Greenbelt Alliance



Anna Ransome – Friends of Atascadero Wetlands



From: [Arielle Kubu-Jones](#)
To: [Cannabis](#)
Subject: FW: Uninformed, Unrepresented and Concerned
Date: Wednesday, May 12, 2021 12:28:01 PM

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

From: Judy Young <gigisonoma@gmail.com>
Sent: Wednesday, May 12, 2021 10:24 AM
To: Susan Gorin <Susan.Gorin@sonoma-county.org>
Cc: Jason Walsh <jason.walsh@sonomanews.com>; Lorna Sheridan <lornasheridan@gmail.com>
Subject: Uninformed, Unrepresented and Concerned

EXTERNAL

Dear Susan,

Chuck and I are extremely concerned about the proposals for huge cannabis farming areas in our County. We are puzzled why, when Napa and Marin have made it abundantly clear they want no part of this industry in the unincorporated areas of their counties, the Board of Supervisors of our County is set to proceed with this extremely "thirsty" crop when we are in such a dire situation with our water.

Personally we are not opposed to cannabis in general and indeed have used several products for medicinal purposes. We are not "pot smokers" and although we don't think it is a good choice for society as a whole, our opinion in no way affects our thinking on this issue. It is common sense that we should not scale up farming of this product at this time of drought. We have heard of no concrete watering restrictions or responsibilities placed on these farms which we assume are mostly corporate entities. With 80% of our State's water used for agricultural purposes, how is the Board of Supervisors acting in a fiduciary way by adding to this problem? Do you think that we can solve this drought situation by reducing residual use by 20%. Of course we can't.

In case the Board of Supervisors doesn't think WATER is enough of a reason to postpone your important vote on May 18, here are a few additional issues that should be considered before proceeding:

***STENCH...This crop stinks. Cannabis has a foul odor during its growth cycle and worse when it is in flower. It will not just bother people who live downwind, it will have a dire effect on the quality of their lives...AND their property values. It is unconscionable that you and others would think people living near this crop would settle for their new reality and the obvious loss of value in their homes. Susan, would you like a pot farm at the end of your street where your new home is located? How can you think anyone would? These are your constituents. They are your responsibility. This is a class action suit waiting to happen.

***TRAFFIC and FIRE danger...We assume many of these farming areas will be in rural areas and many of the roads are not suitable for large trucks and the increased traffic that will obviously be generated by the magnitude of these farming operations. Workers will be packed into these farming areas causing disruption to existing residents, perhaps with the occasional backfiring truck, perhaps with workers acting irresponsibly and dropping cigarettes on the ground. We don't know the manufacturing procedures involved, but perhaps that is an even bigger risk for fires in our most vulnerable locations.

***CRIME...There is big money in this crop. There is crime in this business. There are guards at the gates of some of these facilities. There are problems with this industry and money must be spent on issues dealing with these problems. Where is this money coming from? Are the growers going to be required to pay "their fair share" to cover these costs? If not, do you expect the taxpayers to pay? Will the costs be covered by the tax dollars generated by this industry? Is this even worth it? We have heard that at least some of the Board of Supervisors, including you, feel that if this industry is allowed to develop legally, the illegal "farms" in park lands and on private properties will be eliminated. That may or may not happen. But to ignore the serious problems of huge corporate farming

entities to get rid of a small percentage of illegal use seems beyond short-sighted and more of a “talking point” put out to deflect.

***ECONOMIC DISRUPTION...The wine industry is not always compatible with the cannabis industry. Apparently the Santa Barbara Vintners Assoc. is wishing they had fought harder against this smelly crop as the stench can stretch for miles and tourists are complaining their tasting room experiences are unpleasant. Lawsuits are popping up over that issue and others over customers refusing to buy grapes that they feel have been ruined by the smell of cannabis. There is currently a RICO lawsuit in Oregon that could have major impact on such issues. Will this be the future for Sonoma County? Does the average resident of Sonoma County know that there are over 63,000 acres designated for cannabis use? Do people realize that compares to the 55,000 existing acres of vineyards in Sonoma County? Even if one-third of those acres are developed for cannabis, aren't we talking about a huge shift in the character and economic realities in our county?

Perhaps you and the Board of Supervisors have the answers to these concerns. You certainly must or you couldn't possibly make an educated vote on Monday night. It is your job to make sure that you and your colleagues have full knowledge of the ramifications of your decisions and that there are solutions to the obvious problems you will unleash on our communities. If you don't, you cannot, in good conscience, turn over the power to the agricultural department at this time. Their priority is not to the residents of this County,

We have tried very hard to get the Sonoma Index Tribune to write an article on this subject for our community. However, I was told by two Editors that the IT doesn't research and report on County wide issues and such reporting is left to the Press Democrat. What? That is an excuse and a flimsy one on so many levels. Many people in our Valley are unaware of the scope of this issue and don't know about this important vote on May 18th. We all have a right to know the facts. Chuck and I feel you should be making sure your constituents are educated, so that they can share their views with you. You should be asking them how they feel, Susan. That is your job. You are suppose to carry out the will of the voters in your district, not acting in the dark and not knowing the consensus. When people write to you, they deserve a considered and factual response from you. People and businesses should know what the facts are regarding water...what will this industry will do to the water tables in our Valley now and when it is fully developed? What if the drought continues and worsens? Will they just keep watering these plants while others are forced to cut? Do the residents and the businesses, especially the wine industry, the mainstay of the economy in this Valley, want to take this risk? People can always buy marijuana and medical products in our community. That activity and convenience is not dependent on farming this product locally. Why are they wanting to grow this product in our dry County? Why is it not being farmed in areas where there is a dependable and consistent water supply? We assume the amount of money involved is worth the hassle, the risks, the law suits and the water table. Maybe it is...for the cannabis producers. Why don't most of the residents of the Valley and beyond know the answers to these questions...or even that there is a question? Because no one is talking about it...and the parties responsible to educate us are not informing us. Why is that?

Darius Anderson, a managing partner of Sonoma Media Investments, which owns the Press Democrat and the Sonoma IT, is one of the State's leading lobbyists for the cannabis industry and is a registered lobbyist for CannaCraft, one of the largest cannabis companies in the State and among a rapidly growing number of companies in Sonoma County. CannaCraft's new CEO is William Silver, the former Dean of Sonoma State University's School of Business and Economics. Prior to Mr. Silver's involvement, CannaCraft was raided by police for illegal manufacturing. It appears this case is not yet resolved, although they apparently have been permitted to continue to operate. We are certainly not questioning Mr. Silver's qualifications to run this company, but does he care about the above mentioned issues and does he have a plan to deal with them? He is very interested in continuing CannaCraft's phenomenal growth and is quoted as saying “I think Sonoma County will be the business headquarters for cannabis, not only in CA, but also nationally”.

Susan, please be the representative of the environmental groups that supported you early on, please be the Supervisor for the voters who voted for you to be a responsible, effective representative for them. Please don't vote for the passing off of this important issue to the Agriculture Department without protecting the people of Sonoma County. Perhaps knowing the answer to a question hypothetically posed to Mr. Silver and other CEO's of County cannabis operations would be illuminating, “If you are as successful as you anticipate, what will be the lifestyle and economic costs to the citizens of Sonoma County”.

Judy Young

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From: [Linda Conley](#)
To: [Cannabis](#)
Subject: Maintain setback regulations
Date: Wednesday, May 12, 2021 8:15:13 PM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear We have been notified by Supervisor Lynda Hopkins that the 1000' setbacks from cannabis operations to **the West County and Joe Rodota Trails are threatened because of a County error in recording the clarification of the 12/11/18 Board of Supervisors meeting (when the West County Trail was recognized as a park.)** We are researching the history and accuracy of this, but there is little time to inform concerned trail users that all of our work for the past few years may come to nothing if the Supervisors do not maintain the setbacks to these trails.

So, without further elaboration, **we urge you to make this action to protect trail users from the impacts of commercial cannabis** such as odor, noise, crime potential and industrial blight (screened fencing, cameras, drones, guard dogs and other new and ugly security features that are incompatible with parks.)

Thank you,
Linda Conley/ Sebastopol

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From: girfie@earthlink.net
To: [Arielle Kubu-Jones](#); [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 4:39:55 PM

EXTERNAL

Dear Supervisors -

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Lisa Fiorelli
Sebastopol, CA



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From: [Lisa Mathiesen](#)
To: [Arielle Kubu-Jones](#); [Andrea Krout](#); [district3](#); [district5](#); [Cannabis](#); ichamber@sonoma-county.org
Subject: Keep 1000" setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 9:41:34 AM

EXTERNAL

Dear Supervisors

As a West County resident who uses the Joe Rodota trail on a daily basis, I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Lisa Mathiesen
Graton, CA

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From: [Megan Dehn](#)
To: [Cannabis](#)
Subject: Cannabis
Date: Wednesday, May 12, 2021 9:07:30 PM

EXTERNAL

In my opinion, the Board needs to ensure additional protection for impaired watersheds, high fire severity zones, and parcels with a well in groundwater availability zones 3 and 4, not just for cannabis businesses, but for any water intensive crop or business. I am a member of Friends of the Mark West Watershed.

Thanks,
Megan Dehn
887 Sonoma Ave Apt 2
Santa Rosa, 95404

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From: [Marcia Wagner](#)
To: [Cannabis](#)
Subject: May 28
Date: Wednesday, May 12, 2021 10:57:18 AM

EXTERNAL

Dear members I would like to add my name to the comments made by my neighbors Don Pedrazzini & Bill Porter. I am an 86 yr old widow & can't believe this is actually an issue. Is it all about money like so many things these days? Is there no honor left amongst officials who have been elected to support their constituents against something that will seriously degrade their lives in so many ways. I am praying that there is still some honorable people amongst you. most sincerely Marcia Wagner -Savannah Trail
Sent from my iPhone

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From: [nfleig](#)
To: [Arielle Kubu-Jones](#); [Andrea Krout](#); [district3](#); [district5](#); [Cannabis](#); ichamber@sonoma-county.org
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Wednesday, May 12, 2021 9:33:08 AM

EXTERNAL

Dear Supervisors

As a West County resident who uses the Joe Rodota trail on a daily basis, I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Nyla Fleig,
Graton, CA

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From: [Nancy Kivelson](#)
To: [Cannabis](#); [Susan Gorin](#)
Cc: jason.walsh@sonomanews.com; lornasheridan@gmail.com
Subject: RE: May 18th hearing - Phase 2 Cannabis Amendments
Date: Wednesday, May 12, 2021 4:46:23 PM
Importance: High

EXTERNAL

Dear Board of Supervisors:

I want to add my voice to the many I know have been filed with you in objection to the proposed Cannabis Ordinance.

1. As you are aware, both Napa and Marin Counties have banned cannabis cultivation in their counties. Why would Sonoma want to permit the cultivation when there are so many reasons to prohibit it?
2. Cannabis uses 6 times the amount of water than grapevines. With a water shortage – what are you thinking? Are you going to tell longtime Sonoma County Winegrape growers or olive orchards that they cannot have water to subsidize cannabis cultivation? Are we going to deplete reservoirs? If new wells are drilled, they will further deplete the water tables.
3. Cannabis smells awful and the cultivation is ugly and mars beautiful landscapes. Sonoma's largest industry is tourism. All of these cannabis farms will adversely affect tourism. Does that make any sense?
4. There hasn't been sufficient environmental review. Do you want to have the County fighting environmental lawsuits for the next 10 years? Don't we have better uses for those funds?
5. Bennett Valley is a truly beautiful part of Sonoma County. It is very rural and the roads are quite narrow and already heavily used. It is our understanding that the Fire Districts do not want this ordinance passed, as they are worried about access to the areas designated for cannabis cultivation is not sufficient for fire controls. In a severe drought year, how can you even contemplate anything that increases the risk of fire damage to large swaths of Sonoma County and Bennett Valley in particular? Haven't we suffered enough with all the wildfires in recent years – with more to come no doubt?

This is just a short list of reasons not to pass this ordinance. One has to wonder who is backing this other than the cannabis industry. Are we going to sell out for short term money and in the long term destroy what makes Sonoma County special? You were elected by the inhabitants of Sonoma County. Think hard before you pass this ordinance. It is not in the interest of your constituents – it only benefits the cannabis industry and puts the income to be gained from the industry ahead of the quality of life and safety of the entire county.

I cannot attend the May 18th meeting – but I want you to know that I am attending in spirit. The voices in opposition well outweigh any in support.

Thank you for your time.

Nancy Kivelson



Kivelstadt Cellars Wine Garden & Eatery
Schellville, CA

Cell: 415-720-5520

email: nancy@kivelstadt.com

www.kivelstadtcellars.com

2900 Wild Turkey Run

Santa Rosa, CA 94104

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From: [nancy.rowinsky](#)
To: [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [Arielle Kubu-Jones](#); [district5](#); [Cannabis](#)
Subject: Cannabis Ordinance Comments
Date: Wednesday, May 12, 2021 3:59:29 PM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Nancy Rowinsky
Sebastopol CA

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From: [Patricia Werth](#)
To: [Cannabis](#)
Subject: "Phase 2 Cannabis Amendments – May 18"
Date: Wednesday, May 12, 2021 3:20:10 PM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

Patricia and Jay Werth
Bennett Ridge
Santa Rosa, CA 95404

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From: [Patrick Pfahl](#)
To: [Arielle Kubu-Jones](#); [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Cannabis ordinance comments
Date: Wednesday, May 12, 2021 7:19:08 PM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

Patrick Pfahl
Graton

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From: [Padi Selwyn](#)
To: [Cannabis](#); [Susan Gorin](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#)
Subject: Cannabis ordinance
Date: Wednesday, May 12, 2021 9:57:36 AM

EXTERNAL

Dear Supervisors:

The Cannabis ordinance is the most important Ordinance to be created in decades for our County. After following the amendments and revisions to the proposed ordinance, we're concerned that the County has not reached out sufficiently to residents and has been overly influenced by the industry in the drafting. The Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, to protect our natural resources, especially given our extreme drought, and comply with CEQA requirements while providing residents a right to their health, safety and peaceful enjoyment of their properties.

Thank you,

Padi Selwyn

Sebastopol, California

PRESERVE RURAL SONOMA COUNTY

Visit our website at - <http://www.preserveruralsonomacounty.org>

Like us on Facebook - <https://www.facebook.com/preserveruralsonomacountyg>

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From: [Sue Jackson](#)
To: [Cannabis](#); [Susan Gorin](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#); [Tennis Wick](#); [Misti Arias](#)
Subject: RE: CANNABIS ORDINANCE AMENDMENTS Proposed Commercial Cannabis Cultivation in Agricultural and Resource Areas Zoning Ordinance and Zoning Code Amendments; General Plan Amendment
Date: Wednesday, May 12, 2021 2:02:40 PM

EXTERNAL

Dear Honorable Supervisors:

I have been following the amendments and revisions to the cannabis ordinance for Sonoma County.

It is disheartening at the least and a complete disregard of your commitment to "open and transparent government" that the County has not reached out to residents, but rather has been influenced almost exclusively by the cannabis industry in the drafting of this ordinance. The Subsequent Mitigated Declaration is fatally flawed and unfixable.

The amount of water used by a cannabis grow the size of which you are considering is beyond that used by any other crop. Our groundwater supply is diminishing and to approve additional cannabis cultivation is counter to the pleas you make to preserve water. The addition of large grows in neighborhoods not only impacts our water resources, it increases the use of energy, the amount of traffic, and the quality of life in what should be a healthy and family-friendly environment.

I urge you to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

Sincerely,

Sue Jackson

Santa Rosa

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From: [Annette Dobler](#)
To: [Andrea Krout](#); [Arielle Kubu-Jones](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Thursday, May 13, 2021 3:32:24 PM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Annette Dobler
Graton

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From: [Barbara Stranzl](#)
To: [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000" setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Thursday, May 13, 2021 10:50:46 AM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

Barbara Stranzl, Graton

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From: [Arielle Kubu-Jones](mailto:Arielle.Kubu-Jones)
To: [Cannabis](#)
Subject: FW: Phase 2 Cannabis Ordinance
Date: Thursday, May 13, 2021 8:41:07 AM

From: Lauren Giddings <lrgiddin@gmail.com>
Sent: Wednesday, May 12, 2021 6:41 PM
Subject: Phase 2 Cannabis Ordinance

EXTERNAL

May 12, 2021

Dustin and Lauren King
11720 Mill St
Petaluma, CA 94952

Dear Supervisors,

We are personally reaching out in hopes you will address our community's shared concerns over the recent revisions (Phase 2) to the Sonoma County Cannabis Ordinance.

The County has been influenced too much by the cannabis industry in drafting this policy and has ultimately failed to adequately address compatibility with the rural residential communities many of us call home. Overall, the Subsequent Mitigated Declaration is fatally flawed and unfixable.

It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and, at the same time, give residents a right to their health, safety and peaceful enjoyment of their properties.

Please do not approve this proposed cannabis ordinance as written.

We respectfully request a minimum 1000 foot buffer/setback zone to be required around residential property lines in all unincorporated towns and neighborhoods of Sonoma County. Further, we request the County to consider requiring all cannabis processing to occur in a commercial zone district.

As neighborhood compatibility and community engagement are supposedly points of emphasis in this Phase, please let our voice be heard.

Sincerely,

Dustin and Lauren King
Bloomfield

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From: [Toley Farms LLC](#)
To: [David Rabbitt](#); [Lynda Hopkins](#); [Chris Coursey](#); [Susan Gorin](#); [James Gore](#); [district4](#); [Tennis Wick](#); [Andrew Smith](#); [Pat Gilardi](#); [Liz.Hamon@sonoma-county.org](#); [Stuart Tiffen](#); [Leo Chyi](#); [Sean Hamlin](#); [McCall Miller](#); [Sita Kuteira](#); [Tracy Cunha](#); [Scott Orr](#); [Jennifer Klein](#); [Georgia McDaniel](#); [Jenny Chamberlain](#); [Jennifer Mendoza](#); [Andrea Krout](#); [Cannabis](#)
Subject: Cannabis ordinance support letter (PDF attached)
Date: Thursday, May 13, 2021 9:42:21 AM
Attachments: [Toley Farms ordinance letter.pdf](#)

EXTERNAL

May 13, 2021

Sonoma County Board of Supervisors
575 Administration Dr #102A
Administration Building
Santa Rosa, CA 95403

Dear Sonoma County Supervisors and esteemed County staff members,

My name is Dan Bullene, and I am writing to express my support for the newly drafted cannabis ordinance. Particularly, I would like to express my support for an increase in land use limits for cannabis cultivation. By increasing the percentage of land use on properties for cultivation purposes, this will increase the jobs available for the people of Sonoma County. Increased cannabis tax revenues could be used for county education, infrastructure, and emergency management budgets. The cannabis industry provides great working conditions and extremely competitive pay rates, and jobs creation opportunities for Sonoma County. Also, these essential agriculture businesses were able to keep people working during the global pandemic instead of laying people off.

Thank you for your continued hard work, time, and effort on the new improved Sonoma County cannabis ordinance.

Best Regards,

Dan Bullene
Toley Farms

520 Stage Gulch Road
Petaluma

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May 12, 2021

Sonoma County Board of Supervisors
575 Administration Dr #102A
Administration Building
Santa Rosa, CA 95403

Dear Sonoma County Supervisors,

My name is Dan Bullene, and I am writing to express my support for the newly drafted cannabis ordinance. Particularly, I would like to express my support for an increase in land use limits for cannabis cultivation. By increasing the percentage of land use on properties for cultivation purposes, this will increase the jobs available for the people of Sonoma County. Increased cannabis tax revenues could be used for county education, infrastructure, and emergency management budgets. The cannabis industry provides great working conditions and extremely competitive pay rates, and jobs creation opportunities for Sonoma County. Also, these essential agriculture businesses were able to keep people working during the global pandemic instead of laying people off.

Thank you for your continued hard work, time, and effort on the new improved Sonoma County cannabis ordinance.

Sincerely,

Dan Bullene
Toley Farms
520 Stage Gulch Road
Petaluma

From: [Arielle Kubu-Jones](mailto:Arielle.Kubu-Jones@sonoma-county.org)
To: [Cannabis](mailto:Cannabis@sonoma-county.org)
Subject: FW: Cannabis Regulation
Date: Thursday, May 13, 2021 8:40:52 AM

From: mckay930@sonic.net <mckay930@sonic.net>
Sent: Wednesday, May 12, 2021 7:28 PM
To: Susan Gorin <Susan.Gorin@sonoma-county.org>; Arielle Kubu-Jones <Arielle.Kubu-Jones@sonoma-county.org>; David Rabbitt <David.Rabbitt@sonoma-county.org>; Andrea Krout <Andrea.Krout@sonoma-county.org>; district3 <district3@sonoma-county.org>; Chris Coursey <Chris.Coursey@sonoma-county.org>; Sean Hamlin <Sean.Hamlin@sonoma-county.org>; district4 <district4@sonoma-county.org>; James Gore <James.Gore@sonoma-county.org>; Jenny Chamberlain <jchamber@sonoma-county.org>; district5 <district5@sonoma-county.org>; Lynda Hopkins <Lynda.Hopkins@sonoma-county.org>; Leo Chyi <Leo.Chyi@sonoma-county.org>
Subject: Cannabis Regulation

EXTERNAL

I am opposed to both the proposed changes to the cannabis permitting rules and the County moving to make approval of new cannabis operations a ministerial process for a number of reasons.

1. **Odor:** I was unlucky enough to have a neighbor 3 doors down from my home do a cannabis grow in their backyard. The odor, even though it was over 100 yards away, was overwhelming. We could not enjoy our backyard or leave our windows open all spring and summer. No other crop produces that kind of impact on neighbors. Therefore, this crop needs to be treated differently than other crops.
2. **Water:** I cannot imagine why the Board would not want to more closely monitor a crop, which can require so much water, when we have three ground water basins which are moderately compromised and when the climate changes, which have already occurred, will have such a huge impact on our water supply. Unfortunately, all our agricultural businesses in Sonoma County will be competing with each other and perhaps local residents for our limited supply of water. I would expect the Board to retain its authority to mediate such competition for such a precious resource.
3. **Tourism:** While cannabis may bring some new tourists to our area, it could also negatively impact tourism if it is not well regulated and carefully monitored, which is the opposite of ministerial review. The lovely, bucolic countryside we enjoy in Sonoma County could be compromised by large cannabis grows. Large cannabis production is also a magnet for criminals and impacts traffic on our narrow roads, making Sonoma County a less attractive place to recreate.

4. **Existing Agricultural Businesses:** Cannabis grows will compete for land with other agriculture such as the wine industry. We need to support and protect our existing businesses.

Because of all of the above factors I urge each of you as stewards of our County to:

1. Complete a full Environmental Impact Report (EIR) to determine both suitable and unsuitable areas for future grows.
2. Limit permit approvals to applicants that grow cannabis only using dry farming techniques and prohibit trucking of water or recycled wastewater under any and all circumstances. And to monitor all grows, indoors and outdoors, for compliance.
3. Thoroughly study each cannabis operation permit request to ensure that residential wells do not run dry due to cannabis operations.
4. Ban all cannabis cultivation in Community Separators and open space.
5. Increase setbacks from the property line of all residences, schools, childcare facilities and parks to 1,000 feet for both indoor and outdoor cultivation, and require proven odor mitigation measures.
6. Require all cannabis processing to take place in facilities located in commercial and industrial zones only.
7. Enforce all code violations within two weeks.
8. Require posting of a \$100,000 mitigation bond upon issuance of each permit to be maintained continuously during the operation of any and all cannabis growing operations covered by the permit.
9. Update the cannabis ordinance to comply with the County's tree ordinance and prevent removal of oak trees.
10. Make the initial permits period one year, (to match the State), and require a thorough review of compliance, including input from adjacent properties for compliance with the regulations before renewing permits and limit renewals to no more than a 3 year time period.

There is no need to move forward quickly when there is so much concern in our community about the proposed changes. I urge you to carefully consider all the impacts to our communities and to retain more control over these permits.

Thank you for your time and attention to my input.

Debbie Mc Kay

Lifelong Resident of Sonoma County

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From: [Faye Stevens](#)
To: [Cannabis](#); [Susan Gorin](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#)
Subject: Cannabis Permit Process
Date: Thursday, May 13, 2021 10:38:34 AM

EXTERNAL

Supervisors,

The proposed changes to the cannabis permitting process will be some of the most significant land use changes in Sonoma County in the last 40 years. *I am a member of a coalition of neighbors and environmental activists who are trying to preserve what makes Sonoma County so special: our scenic beauty and precious natural resources. Our goal is to limit these cannabis grows to small areas away from residences, not in public view, and not spreading noise or odor. Unfortunately, this is not what has been proposed.*

SPECIFICALLY, we want the County to change the following:

1. Invest in a full Programmatic Environmental Impact Report (EIR) to determine suitable areas for future grows. The existing SMND is fatally flawed and should be scrapped.
2. Limit permit approvals during a state-declared drought to applicants that grow cannabis only using dry farming techniques.
3. Prohibit trucking of water or recycled wastewater under all circumstances.
4. Ensure that residential wells do not run dry due to cannabis operations.
5. Ban all cannabis cultivation in Community Separators.
6. Increase setbacks from the property line of all residences, schools, childcare facilities and parks to 1,000 feet for outdoor and hoop house cultivation and 300 feet minimum for indoor cultivation.

7. Require cannabis processing in facilities in commercial and industrial zones only.
8. Require fire inspection reports on all hoop houses.
9. Require that no odor will cross the property line for all indoor cultivation and processing.
10. Prohibit cannabis events near homes and in agricultural or resource zones.
11. Enforce code violations within two weeks, maximum, as County enforcement has been spotty at best and lousy at worst for existing permits.
12. Require posting of a \$50,000 mitigation bond upon issuance of each permit.
13. Update cannabis ordinance to comply with the County's tree ordinance and prevent removal of oak trees.
14. Limit acreage in any 10-mile square zone to prevent over-concentration of any one area.
15. Impose a local residency requirement, where "operators" are defined as owning at least 51% of the applying business.
16. Change the initial permits period to one year, to match the State and test this new policy.

Pushing through a major policy change like this — during a pandemic when so many people are struggling and distracted, during a drought emergency with inadequate water study, without a real environmental review, or listening to affected neighbors — it's an unnecessary rush to judgment. Slow down, listen to neighbors and the environmental community, and let's do this the right way.

Faye Stevens

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From: [Gail Ellestad](#)
To: [Cannabis](#); [Susan Gorin](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#)
Subject: no on cannabis
Date: Thursday, May 13, 2021 10:40:33 AM

EXTERNAL

Please do not approve this proposed cannabis ordinance as written.

-Gail Ellestad
Santa Rosa 95404

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From: [George Greeley](#)
To: [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordinance
Date: Thursday, May 13, 2021 1:21:21 PM

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm VERY unhappy that the County has not reached out to residents and has been influenced too much by the Cannabis Industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally **flawed and unfixable**. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2.

Sonoma County needs an EIR, that will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to NOT accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.

George Greeley
Sebastopol, CA

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From: [Ellis F. Raskin](#)
To: [Cannabis](#); [Lynda Hopkins](#); [Chris Coursey](#); [James Gore](#); [Susan Gorin](#); [David Rabbitt](#)
Cc: [District1@sonoma-county.org](#); [district2](#); [district3](#); [district4](#); [district5](#); [Tennis Wick](#); [Scott Orr](#); [Christina Rivera](#); [McCall Miller](#); [Erich Pearson](#); [Joe Rogoway](#); [Kristina D. Lawson](#)
Subject: Sonoma County Cannabis Land Use Ordinance Update
Date: Thursday, May 13, 2021 1:13:31 PM
Attachments: [2021-05-13 Ltr to Board of Supervisors.pdf](#)

EXTERNAL

Dear Chair Hopkins and Honorable Supervisors:

On behalf of our client, the Cannabis Business Association of Sonoma County, please find attached our letter regarding the Sonoma County Cannabis Land Use Ordinance Update. The attached letter responds to arguments that were raised in Save Our Sonoma Neighborhoods' March 18, 2021 letter regarding the Sonoma County Cannabis Land Use Ordinance Update, General Plan Amendment, and Subsequent Mitigated Negative Declaration (SMND). As explained in further detail in the attached letter, the SMND fully complies with all applicable requirements of the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.*) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*).

If you have any questions, please do not hesitate to contact us.

Best,
Ellis Raskin, Esq.

Ellis F. Raskin

Attorney

Hanson Bridgett LLP
(415) 995-5835 Direct
(415) 995-3456 Fax
ERaskin@hansonbridgett.com

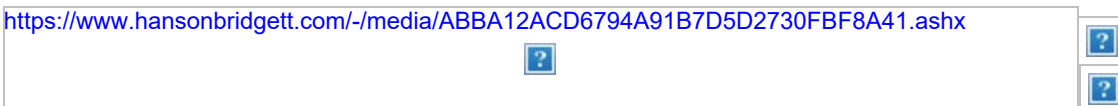


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KRISTINAD. LAWSON
MANAGING PARTNER
DIRECT DIAL (925) 746-8474
DIRECT FAX (925) 746-8490
E-MAIL klawson@hansonbridgett.com



May 13, 2021

VIA E-MAIL AND U.S. MAIL Cannabis@sonoma-county.org

Sonoma County Board of Supervisors
c/o McCall Miller
Department Analyst, Cannabis Program
Sonoma County Administrator's Office
575 Administration Drive, Suite 104A
Santa Rosa, CA 95403

Re: Save Our Sonoma Neighborhoods Letter Regarding Supplemental Mitigated Negative Declaration for Sonoma County Cannabis Land Use Ordinance Update

Dear Chair Hopkins and Honorable Supervisors:

On behalf of our client, the Cannabis Business Association of Sonoma County, we would like to take this opportunity to respectfully respond to the arguments that were raised in Save Our Sonoma Neighborhoods' ("SOSN") March 18, 2021 letter regarding the Sonoma County Cannabis Land Use Ordinance Update, General Plan Amendment, and Draft Subsequent Mitigated Negative Declaration ("SMND").

As explained in further detail below, the SMND fully complies with all applicable requirements of the California Environmental Quality Act ("CEQA;" Pub. Resources Code, § 21000 *et seq.*) and the State CEQA Guidelines ("Guidelines;" Cal. Code Regs., tit. 14, § 15000 *et seq.*). Many of SOSN's arguments ignore the programmatic nature of the SMND, and the SMND complies with all information and disclosure requirements for supplemental negative declarations (see Guidelines, § 15162). Accordingly, we urge you to approve the SMND and the related General Plan Amendment for the Cannabis Land Use Ordinance Update.

1. Background Regarding the Cannabis Land Use Ordinance Update

Since 2016, Sonoma County (the "County") has undertaken a diligent and comprehensive planning process to allow the personal and commercial cultivation of cannabis in a manner that is consistent with the County's long-term environmental sustainability and land use planning goals. The County has recognized the need to carefully review its policies and to update cannabis regulations when they are in need of further revision. In doing so, the County has carefully considered the perspectives of the diverse group of stakeholders that comprise the County's Cannabis Advisory Group.

The Cannabis Land Use Ordinance Update includes important legislative revisions that are narrowly tailored to promote public health and welfare, public safety, agricultural diversity, and environmental sustainability. Specifically, the legislative revisions ensure that project-specific commercial cannabis cultivation activities comply with strict environmental standards and

project-specific mitigation measures. The legislative revisions also ensure that cannabis cultivation activities will be compatible with other land uses in the County while increasing the viability and long-term sustainability of cannabis cultivation throughout the County.

a. Programmatic Nature of the SMND

The Cannabis Land Use Ordinance Update and the SMND contemplate that each cannabis permittee will undergo rigorous site-specific review to ensure that every operator complies with the Ordinance's strict environmental standards. As explained in further detail on page 8 of the SMND, the County's CEQA analysis evaluates the Ordinance's environmental effects at a programmatic level with the understanding that further site-specific approvals will ensure that project-specific environmental effects conform to strict sustainability standards:

"The proposed Cannabis Land Use Ordinance update would allow commercial cannabis cultivation uses to be approved as a ministerial permit that expires five years from the date of issuance (no public hearing required) by the Agricultural Commissioner if specific standards described in the sections below are met. . . . Applicants for cultivation operations that do not meet these standards would be required to obtain a conditional use permit to be processed by Permit Sonoma, subject to public notice and a public hearing."

This type of programmatic analysis is fully consistent with CEQA, and general plan amendments often utilize similar tiered or program-level analyses. (See Guidelines, § 15152; see also *Center for Biological Diversity v. California Department of Conservation, etc.* (2019) 36 Cal.App.5th 210, 230.) "Tiering is proper 'when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.'" (*In re Bay-Delta Etc.* (2008) 43 Cal.4th 1143, 1170; Pub. Resources Code, § 21093, subd. (a) [Holding that the purpose of tiering is to focus on relevant environmental issues.])

It is well-established that programmatic CEQA documents "may appropriately defer discussion of site specific impacts and mitigation measures to later project [environmental analyses] where such impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." (*Bay-Delta, supra*, 43 Cal.4th at p. 1170, internal quotations omitted; see also *Town of Atherton v. California High-Speed Rail Authority* (2014) 228 Cal.App.4th 314, 346.) "An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of [a CEQA document] is to be reviewed in the light of what is reasonably feasible." (Guidelines, § 15151; see also *Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal.App.4th 511, 533 ["'The level of specificity of [a CEQA document] is determined by the nature of the project and the "rule of reason" [citation], rather than any semantic label' ".]) CEQA analyses "must be 'sufficiently flexible to encompass vastly different projects with varying levels of specificity.' [Citation.]" [Citation] 'The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.' [Citation.]" (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 234; see also *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 608.)

As noted above, many of SOSN's arguments ignore the programmatic nature of the SMND. However, the SMND adequately evaluates potential environmental effects that could occur as a result of implementing the Cannabis Land Use Ordinance Update. (See, e.g., SMND at p. 36 ["As a programmatic evaluation, this section considers the potential for direct and indirect impacts to sensitive biological resources that could occur at the project level if cannabis projects facilitated by the updated Ordinance are constructed or proposed in specific vegetation communities or habitats."]) This level of analysis is appropriate in light of the nature and scope of the Cannabis Land Use Ordinance Update, and the analysis is within reason. (See *Center for Biological Diversity, supra*, 234 Cal.App.4th at p. 234 [approving programmatic CEQA analysis that was "within reason"].)

2. Project Description and Environmental Setting

A project description and a description of a project's environmental setting must provide decisionmakers and members of the public with enough information to "ascertain the project's environmentally significant effects, assess ways of mitigating them, and consider project alternatives." (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1448.) Generally, an adequate project description must be "prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." (*Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26.) However, the project description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact." (Guidelines, § 15124; *Save Round Valley Alliance, supra*, 157 Cal.App.4th at p. 1448.)¹ The SMND fully complies with all content and disclosure requirements. (See Guidelines, § 15071 [discussing content requirements for negative declarations]; *id.* at § 15162 [content requirements for supplemental negative declarations].)

a. Project Description

SOSN raises various objections to the SMND's project description, none of which have any merit. First, SOSN argues that the SMND's project description (and related environmental disclosures and analysis) is inadequate because "the SMND omits any analysis of the possible extent of cannabis cultivation in existing permanent structures." (SOSN Letter at p. 5.) SOSN is wrong. The SMND fully discloses the extent of potential new cultivation in indoor structures and potential environmental impacts associated with that indoor cultivation. (See, e.g., SMND at p. 9 ["Plant canopy for indoor and mixed light cultivation types in existing structures would not be limited in area but must be in a structure that was legally constructed prior to January 1, 2021."]; *id.* at p. 19 ["The updated Ordinance also would allow for an increase in the number and size of greenhouses, indoor cultivation structures, and other supporting structures, as well as more fencing to protect these structures."]) Pursuant to the terms of the Cannabis Land Use Ordinance Update, each indoor permittee will be subject to careful scrutiny (through the ministerial approval process) to ensure that the project-specific effects at the indoor cultivation site comply with relevant environmental standards. Applicants for indoor cultivation operations

¹ A project description may describe some project components in greater detail than others and need not include information irrelevant to the analysis of significant impacts. (*California Oak Found. v. Regents of Univ. of Cal.* (2010) 188 Cal.App.4th 227, 269 [Court of Appeal upheld an EIR that described one component of a multifaceted project in greater detail, with a more general description of other components of the project that were to be constructed later].)

that do not meet these standards would be required to obtain a conditional use permit to be processed by Permit Sonoma, subject to public notice and a public hearing.

Second, SOSN faults the SMND for claiming that cultivation permits issued pursuant to the new ordinance will be ministerial. According to SOSN, the permits will actually require discretionary approvals. (SOSN Letter at pp. 6-7.) Once again, SOSN is wrong. For the purposes of CEQA, an activity is considered ministerial when "the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards." (Guidelines, § 15357.) Courts have consistently held that an approval is ministerial when it only involves the application of objective standards. (*See Protecting Our Water & Env't'l Resources v. County of Stanislaus* (2020) 10 Cal.5th 479, 493; *Friends of Juana Briones House v. City of Palo Alto* (2010) 190 Cal.App.4th 286, 302.) Here, the ordinance provides strict objective criteria for granting cannabis permits, and the criteria do not involve the application of a decisionmaker's individual discretion or subjective judgment. (*See also Cannabis Land Use Ordinance Update*, § 38.06.020 ["This Chapter does not authorize the Agricultural Commissioner to issue discretionary use permits for commercial cannabis cultivation."].) The approvals are not be discretionary; they will be ministerial.

Third, SOSN alleges that the SMND "contains an incomplete and inconsistent description of the special events that may be permitted as part of the Project." (SOSN Letter at p. 7.) But the proposed ordinance specifically provides that any events at cannabis cultivation facilities must comply with existing laws and regulations for events. (*See Proposed Ordinance* at § 38.14.020(F).) In any event, the SMND adequately discloses, analyzes, and mitigates potential impacts associated with special events (*see, e.g.*, p. 82 [mitigation for noise associated with special events]). These disclosures are consistent with the content requirements for programmatic CEQA documents. (*See Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533 [When a project will be implemented in phases, a CEQA analysis is not deficient simply because the description of future approvals is not precisely defined].)

Fourth, SOSN argues that the SMND is "inconsistent and inaccurate in its description of the relationship between cannabis cultivation and other forms of agriculture." (SOSN Letter at pp. 7-8.) In fact, the SMND adequately discloses the full extent of potential agricultural impacts (*see SMND* at pp. 24-28). The SMND accounts for environmental impacts, including potential impacts on agriculture and forest resources, by disclosing and analyzing the implications of the proposed percent-based cap on cannabis cultivation, assuming that the updated Ordinance would allow for cannabis cultivation on up to 10 percent of the 657,534 acres. (SMND at p. 25.) This would represent a potential maximum of up to 65,753 acres of future commercial cannabis cultivation in unincorporated Sonoma County, if all land covered under the updated Ordinance was converted to cannabis cultivation operations. (*Id.* [this would be the "potential maximum buildout"].) Moreover, the SMND discloses the unique characteristics and environmental effects associated with cannabis cultivation. (*See, e.g.*, SMND at pp. 19, 23, 48.) These disclosures comply with content requirements for programmatic negative declarations. (*See California Oak Found., supra*, 188 Cal.App.4th 227.)

Fifth, SOSN argues that the SMND includes confusing section numbering and textual revisions in the County Code. (SOSN Letter at p. 8). The textual revisions and the numbering of the proposed Cannabis Land Use Ordinance Update are clear. Members of the public and County decisionmakers have been fully appraised of proposed legislative amendments.

b. Environmental Setting

A CEQA document must describe the environmental setting for the project, which is made up of "the physical environmental conditions in the vicinity of the project" viewed from "a local and regional perspective." (Guidelines, § 15125, subd. (a); *id.* at subd. (c).) A description of this environmental setting should be sufficiently comprehensive to allow the project's significant impacts "to be considered in the full environmental context." (*Id.* at subd. (c).) "The description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives." (*Id.* at subd. (a).) Existing conditions that are not relevant to the impact analysis need not be included in a CEQA document's discussion of the environmental setting. (*Citizens for Open Gov't v. City of Lodi* (2012) 205 Cal.App.4th 296, 316.)

SOSN asserts that the SMND's description of the Project's environmental setting is inadequate because it fails to include a description of water resources (Letter at p. 9), sensitive waterways and riparian habitats (*ibid.*), sensitive receptors (*id.* at p. 10), wildfire risk factors (*id.* at pp. 10-12), and the current status of cannabis cultivation operations in the County (*id.* at pp. 12-13). These assertions lack merit. All of these various factors are discussed in the SMND.

A discussion of existing water resources, including groundwater resources, is included in the hydrology section of the SMND. (See, e.g., SMND at pp. 67-74 ["Sonoma County contains several major groundwater basins including the Santa Rosa Plain and the Sonoma and Petaluma valleys. . . . Future cannabis facilities in rural areas would rely on either surface (rivers, lakes, and springs) or well water sources."].) Sensitive waterways and riparian habitats are discussed in the biology and hydrology sections of the SMND. (See, e.g., SMND at p. 71 ["As described above in Section 4, Biological Resources, the updated Ordinance includes standards to limit structures to outside the RC and BH combining zones and requires that outdoor cultivation conforms to wetland and riparian corridor setbacks."].) Section 20 of the SMND includes a detailed discussion of potential wildfire impacts and mitigation measures that will minimize the risk of potential impacts. (SMND at pp. 98-102.) The SMND also discloses the status of existing cannabis cultivation operations in the County. (See, e.g., SMND at pp. 6-8.) Sensitive receptors are discussed throughout the SMND. (See, e.g., SMND at p. 78 ["A 50-foot distance is appropriate for estimating the worst-case exposure of sensitive receptors to noise from construction of indoor cannabis structures, which would be subject to setback standards in the applicable zoning district(s)."].)

3. Analysis of the Project as a Whole

SOSN argues that the SMND impermissibly analyzes impacts associated with individual permits that will be approved under the revised ordinance, rather than the combined impact of all approvals. According to SOSN:

"Here, the SMND fails to analyze the impacts of the Project as a whole—i.e., whether the sum of all potential activities that may be allowed by the Ordinance would have a significant environmental impact. Instead, the SMND repeatedly bases its analysis of the Project's impacts on whether each individual permit that may be issued under the Ordinance would have a significant effect or violate a threshold of significance. This type of analysis is impermissible."

(SOSN Letter at p. 15.) Specifically, SOSN criticizes the SMND for analyzing traffic and vehicle miles travelled ("VMT") impacts by looking at each individual cannabis permittee, rather than the combined impact of all permittees. (See SMND at pp. 89-90 ["it is anticipated that many, if not most, cannabis cultivation projects would generate a net increase of fewer than 110 average daily trips, meaning they would be small enough to avoid a VMT impact"].)

Once again, SOSN's argument ignores the programmatic nature of the SMND. Consistent with well-established CEQA case law, programmatic environmental analyses "may appropriately defer discussion of site specific impacts and mitigation measures to later project [approvals] where such impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." (*Bay-Delta, supra*, 43 Cal.4th at p. 1170, internal quotations omitted; see also *Town of Atherton, supra*, 228 Cal.App.4th at p. 346; *Friends of Mammoth, supra*, 82 Cal.App.4th at p. 533 ["The level of specificity of [a CEQA document] is determined by the nature of the project and the 'rule of reason' [citation], rather than any semantic label"].) CEQA analyses "must be 'sufficiently flexible to encompass vastly different projects with varying levels of specificity.' [Citation.]" [Citation] "The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR." [Citation.]" (*Center for Biological Diversity, supra*, 234 Cal.App.4th at p. 234; see also *San Franciscans for Livable Neighborhoods, supra*, 26 Cal.App.5th at p. 608.)

Here, the County's selection of the thresholds of significance for transportation, circulation, air quality, and greenhouse gas ("GHG") impacts (i.e., based on each individual permittee's VMT contributions) is supported by substantial evidence and is appropriate for the SMND's programmatic analysis. (See SMND at p. 36; Guidelines, § 15152(c).) Furthermore, this methodology allows for mitigations that individually targeted to "individual larger projects" that will have the largest contribution to VMT. (See SMND at p. 89; see also *generally Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 457 ["Lead agencies are generally given discretion to determine the methodology it will use to determine whether a project will have significant environmental impacts, as long as the choice of a specific methodology is supported by substantial evidence."].) This methodology ensures that each permittee will be evaluated on a project-by-project basis to ensure that each cultivation facility complies with strict environmental standards.

In any event, as discussed in further detail on page 89 of the SMND, "[f]uture cannabis cultivation projects would have to comply with applicable VMT thresholds, in order to receive ministerial permits." The SMND anticipates that "many, if not most, cannabis cultivation projects would generate a net increase of fewer than 110 average daily trips, meaning they would be small enough to avoid a VMT impact." (*Ibid.*) Furthermore, "[n]ew outdoor and hoop house cultivation also would occur on parcels in agricultural and RRD zoning districts, where they would likely replace existing agricultural cultivation that generates a similar number of trips." (*Ibid.*) These disclosures support the inference that new cannabis cultivation would not necessarily result in additional trips compared to existing conditions.

SOSN further argues that the SMND impermissibly segments environmental review and mitigation by focusing on individual permittees' impacts to biological resources and water resources, rather than the Proposed Ordinance's impacts as a whole through the combined impacts of all permittees. (SOSN Letter at pp. 16-17.) Again, the SMND's method of analysis for these impact areas is supported by substantial evidence and is appropriate for the programmatic nature of the document. Indeed, the programmatic nature of this analysis is the

most effective method for ensuring that each individual permittee's environmental effects are adequately mitigated.

For biological resources, the SMND specifically acknowledges that "[a]s a programmatic evaluation, this section considers the potential for direct and indirect impacts to sensitive biological resources that could occur at the project level if cannabis projects facilitated by the updated Ordinance are constructed or proposed in specific vegetation communities or habitats." (SMND at p. 36.) "A precise, project-level analysis of the specific impacts to biological resources that may result from any individual proposed project is beyond the scope of this programmatic analysis." (*Ibid.*; see also *id.* at p. 103 ["The updated Ordinance would not adversely affect biological, cultural, or other physical resources outside of the project sites."].)

Likewise, for water resources, the SMND adequately discloses the potential environmental effects of individual cultivation operations at a programmatic level. For example, on page 74, the SMND explains that "the updated Ordinance includes a standard requiring future cultivation operations located in a high priority basin or an area for which a groundwater management plan or groundwater sustainability plan has been adopted to submit a hydrogeologic report prepared by a qualified professional demonstrating that the use will not impede the basin or aquifer from meeting an adopted groundwater sustainability goal."

4. Exercise of Discretion by County Officials

SOSN erroneously characterizes the approval of individual cannabis cultivation permits as a discretionary approval:

"The Ordinance purports to allow 'ministerial' approvals of commercial cannabis operations throughout the County. Yet, proposed Chapter 38 does not describe ministerial approvals. Per the Ordinance's plain language, every approval of a commercial cannabis operation will necessarily be a discretionary action and thus subject to CEQA. By adopting an ordinance that purports to authorize 'ministerial' approvals which in actuality trigger CEQA, the County is heading toward certain litigation from those objecting to future siting decisions for commercial cannabis operations, and from applicants for these projects."

(SOSN Letter at pp. 17-18.) As discussed above, SOSN's description of the approval process is incorrect. The approvals will be ministerial, rather than discretionary. Here, when approving cannabis cultivation permits, the County "merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards." (Guidelines, § 15357 [defining ministerial approvals].) The approval process only involves the application of objective standards. (See *Protecting Our Water & Env't'l Resources*, *supra*, 10 Cal.5th at p. 493; see also *Friends of Juana Briones House*, *supra*, 190 Cal.App.4th at p. 302.) If applicants do not meet these objective standards, then would be required to obtain a conditional use permit to be processed by Permit Sonoma, subject to public notice and a public hearing. (SMND at p. 8.) Ultimately, the SMND's description of the permitting process is accurate, and the SMND fully complies with all content and disclosure requirements. (See Guidelines, § 15071 [discussing content requirements for negative declarations]; *id.* at § 15162 [content requirements for supplemental negative declarations].)

5. The SMND's Disclosure, Analysis, and Mitigation for the Project's Environmental Effects

SOSN raises numerous objections with respect to the adequacy of the SMND's disclosures, analysis, and proposed mitigation measures. In raising these objections, SOSN generally objects to the programmatic nature of the SMND, arguing that "the 'programmatic' nature of this SMND is no excuse for its lack of detailed analysis." (Letter at p. 21.) SOSN's arguments are meritless. The SMND provides a sufficient level of detail in its disclosures and analyses to fully inform the public and decisionmakers of the Project's environmental effects. (*See Bay-Delta, supra*, 43 Cal.4th at p. 1170 [discussing level of detail that is required for programmatic CEQA documents, holding that programmatic analyses "may appropriately defer discussion of site specific impacts and mitigation measures to later project [approvals]".])

a. Air Quality and Odor Impacts

SOSN argues that the SMND fails to adequately disclose, analyze, and mitigate air quality and odor impacts. (Letter at pp. 22-31.) Essentially, SOSN claims that the SMND fails to use adequate standards and criteria for analyzing and mitigating odors. (*Id.* at pp. 22-29.) SOSN is wrong. The SMND uses adequate criteria for analyzing odor impacts (*see, e.g.*, pp. 33-35), and it includes extensive mitigation for odors (*see, e.g.*, MM AIR-2 & MM AIR-3). Specifically, Mitigation Measure AIR-1 provides strict dust and air quality control standards (*see* SMND at p. 31), Mitigation Measures AIR-2 and AIR-3 provide strict odor control measures (*see id.* at p. 35). Furthermore, as noted on page 30 of the SMND, "because cannabis cultivation is not an intensive urban land use, it is anticipated that the long-term operation of cannabis cultivation sites would not generate emissions exceeding BAAQMD thresholds."

SOSN further claims that the SMND fails to adequately disclose, analyze, and mitigate impacts from criteria air pollutants and associated human health impacts. (Letter at pp. 29-31.) Again, SOSN is wrong. The SMND discusses these topics in detail (*see* pp. 29-32), and any potential impacts are adequately mitigated. The implementation of Mitigation Measure HAZ-1 will also ensure that any potential impacts on human health will be mitigated to a less than significant level. (SMND at p. 65.) That mitigation measure states that "[p]rior to construction of a cannabis cultivation project that requires ground disturbance, the applicant shall complete a Phase I environmental site assessment, and where warranted based on the findings of the Phase I, a Phase II hazardous waste site investigation." (*Ibid.*) "Contaminants identified shall be remediated to concentrations below applicable screening-level thresholds for human health." (*Ibid.*) No further analysis or mitigation is necessary.

b. Groundwater Impacts

SOSN argues that the SMND underestimates groundwater impacts and total water consumption from all permittees. (Letter at pp. 31-33.) SOSN claims that its assertions are supported by an expert report from hydrologist Greg Kamman, which is attached to SOSN's letter. (*Ibid.*) Essentially, SOSN argues that the SMND "seems not to have considered the greatly increased [ground]water demand by hoop houses that harvest two to three crops per year." (*Id.* at p. 32.) The assertions in SOSN's letter (and Kamman's report) are meritless, and SOSN once again ignores the programmatic nature of the SMND.

As explained further in the sections regarding hydrological impacts and impacts to water utilities, the updated Ordinance includes standards to ensure future new water demands generated by individual cultivation operations do not substantially affect existing water supplies or require the construction of new facilities or the expansion of existing facilities in a manner which would result in significant environmental effects. (SMND at pp. 69-70, 94.) As discussed in further detail on page 69 of the SMND, estimates for groundwater demand are based on detailed, expert analysis prepared by the BOTEK Analysis Corporation. (See BOTEK Analysis Corporation. 2013. *Environmental Risks and Opportunities in Cannabis Cultivation*. M. O'Hare, D. L. Sanchez, and P. Alstone. Available at: https://lcb.wa.gov/publications/Marijuana/BOTEK%20reports/5d_Environmental_Risks_and_Opportunities_in_Cannabis_Cultivation_Revision.pdf [as of May 10, 2021].) This expert analysis shows that the Ordinance and approval of individual cultivation permits would not significantly impact groundwater supplies:

Sonoma County contains several major groundwater basins including the Santa Rosa Plain and the Sonoma and Petaluma valleys. Over 80 percent of the county is designated in marginal Class 3 or 4 zones where groundwater supplies are limited and uncertain. Groundwater in zones 3 or 4 typically occurs in fractured bedrock rather than a porous aquifer (Sonoma County Water Agency 2007). Future cannabis facilities in rural areas would rely on either surface (rivers, lakes, and springs) or well water sources. Accordingly, the introduction of cannabis cultivation in these areas could increase the use of groundwater.

The updated Ordinance would allow commercial cannabis cultivation using both outdoor and mixed light techniques, some of which could use groundwater supplies. Water use requirements for outdoor cannabis production (25-35 inches per year)¹ are generally in line with water use for other agricultural crops, such as corn (20-25 inches per year), alfalfa (30-40 inches per year), tomatoes (15-25 inches per year), peaches (30-40 inches per year), and hops (20-30 inches per year) (CDFA 2017). The water demand factor for indoor cannabis cultivation has been roughly estimated to be between 20 to 25 inches per year (Santa Barbara 2017, BOTEK Analysis Corporation 2013).

Based on the relatively low quantities of water use (from 0.002 to 1.8 acre-feet per year), the likelihood that an individual cultivator or group of cultivators using groundwater from an alluvial aquifer would, by themselves, cause substantial groundwater overdraft is unlikely. The updated Ordinance would limit plant canopy cover for outdoor cannabis cultivation and hoop houses to a maximum of 10 percent of a parcel or contiguous parcels under the same ownership. Plant canopy in existing structures would not be limited in area. The building coverage for all new structures on parcels up to 20 acres cannot exceed 43,560 square feet (one acre). New structures on parcels greater than 20 acres in size cannot exceed 50 percent of the maximum lot coverage prescribed for the base zone. The size limitations for cultivation sites under the updated Ordinance would limit the maximum extent of water use at a particular site.

(SMND at p. 69.) Additionally, cannabis cultivation would not use more water than other crops that could be grown now under the existing regulatory setting without a permit. As explained on page 71 of the SMND, permittees would need to demonstrate that there would be no net increase in the use of groundwater relative to baseline conditions:

[T]he updated Ordinance requires groundwater wells used for cannabis projects to be equipped with a calibrated water meter and sounding tube or other water level sounding device and marked with a measuring reference point. Water meters must be submitted to the permit and resource management department at least once every 5 years. Project applicants would be required to submit an annual report to the Agricultural Commissioner by January 31 of each year following the date of the permit issuance. The annual report must include quarterly data on water meter readings, total quantity of water pumped from each well, and static water levels since the date of permit issuance, or over the immediately preceding twelve (12) month period, whichever is less. Finally, under the updated Ordinance the applicant would be required to record an easement to provide Sonoma County personnel access to an onsite groundwater well serving the proposed use and required monitoring well to collect water meter readings and groundwater level measurements.

Based on the standards listed above, cultivation operations in the most critical water areas (Zones 3 and 4) as well as those located in a GSA or critical watershed would be required to report on groundwater usage and demonstrate "no net increase" by using all available water conservation techniques. With the inclusion of this standard, the updated Ordinance would not decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. Impacts would be less than significant.

The SMND's method of analysis is consistent with well-established standards for programmatic CEQA documents. (See *Bay-Delta, supra*, 43 Cal.4th at p. 1170.) Accordingly, the SMND complies with all applicable disclosure and mitigation requirements.

c. Aesthetic Impacts

SOSN argues that "the SMND fails to provide any analysis of the actual [aesthetic] impacts" and that the "SMND includes no simulations of views from public viewpoints (such as trails and roadways) of existing and eligible cannabis cultivation sites that may apply for a cannabis cultivation permit." (Letter at p. 33.) No such visual simulations are required under CEQA, and the SMND adequately discloses and mitigates potential aesthetic impacts. (See pp. 19-24; *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 410, 415 [although further investigation might be helpful, that does not make it necessary]; see also *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 524.)

CEQA does not require that an agency conduct every recommended test and perform all recommended research in evaluating a project's environmental impacts. (Guidelines, § 15204(a); *Bay Area Citizens v. Association of Bay Area Gov'ts* (2016) 248 Cal.App.4th 966, 1017; *Society for Cal. Archaeology v. County of Butte* (1977) 65 Cal.App.3d 832; see also *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396; *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 102; *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1447.) The fact that additional testing is feasible does not mean that it is required. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1115.) Given the wide variety of visual settings in which cannabis cultivation activities will be located, it would be infeasible to provide visual modelling or simulations that accurately reflect the full variety of appearances of the cultivation activities. The narrative analysis provided in the SMND adequately describes the full scope of potential impacts.

d. Wildfire Safety and Emergency Access

SOSN raises a variety of objections to the SMND's consideration, analysis, and mitigation of wildfire impacts associated with cannabis production and associated impacts on public safety and emergency services. (Letter at pp. 34-43.) All of SOSN's arguments are meritless. The SMND includes extensive disclosure of potential impacts associated with wildfires and public safety impacts. (See SMND pp. 62-67; 98-102.)

As discussed in further detail on page 66 of the SMND, cannabis operations established under the updated Ordinance would be required under Section 38.12.010, Design, Lighting Security and Screening, to prepare and implement a site security plan that includes emergency access in compliance with fire safe standards. Additionally, the updated Ordinance includes the following standard:

A. Fire Code Requirements. An application under this chapter shall include a fire prevention plan for construction and ongoing operations. The fire prevention plan must state how the development will comply with chapters 13 and 13A of this code, and all other applicable local and state standards, including those governing emergency vehicle access and turn-around at the facility site, vegetation management and fire break maintenance around all structures.

"[A] condition requiring compliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance." (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884.) Accordingly, with inclusion of this standard the updated Ordinance would not interfere with the County's adopted emergency operations plan, and impacts would be less than significant.

With respect to impacts on cannabis permittees (rather than impacts that affect the public at large), CEQA generally only requires an analysis of "the project's effect on the fire hazards in the environment" and, agencies are generally not required to disclose, analyze, or mitigate "the risk to persons and property [at locations that are part of the project] from potential wildfires in the area." *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 193–195. As the Court of Appeal Explained in *Clews Land & Livestock*:

" 'We must distinguish between requirements that consider the environment's effects on a project and those that contemplate the project's impacts on the existing environment.' [Citation.] Only the latter impacts are valid under CEQA. It is proper to evaluate 'a project's potentially significant exacerbating effects on existing environmental hazards — effects that arise because the project brings "development and people into the area affected." ' [Citation.] But considering existing environmental hazards, unchanged by the project, are not proper under CEQA. 'CEQA generally does not require an analysis of how existing environmental conditions will impact a project's future users or residents.' [Citation.]"

(19 Cal.App.5th at pp. 193–194.) Finally, SOSN's argument that the "SMND should have prepared an evacuation analyses [sic]" (Letter at p. 41) is meritless and ignores the programmatic nature of the SMND. Site-specific evacuation analyses will be prepared for each permittee. As explained at p. 99 of the SMND, "Cannabis operations established under the

updated Ordinance would be required to prepare and implement a site security plan that includes emergency access in compliance with fire safe standards."

In any event, the implementation of Mitigation Measures WF-1 and WF-2 will ensure that the siting and operation of cultivation activities will not cause significant adverse impact with respect to wildfire risks. (SMND at pp. 101-102.) No further analysis or mitigation is required.

e. Traffic Impacts

As discuss above, SOSN criticizes the SMND for analyzing traffic and VMT impacts by looking at each individual cannabis permittee, rather than the combined impact of all permittees. (See SOSN Letter at pp. 43-45; SMND at pp. 89-90 ["it is anticipated that many, if not most, cannabis cultivation projects would generate a net increase of fewer than 110 average daily trips, meaning they would be small enough to avoid a VMT impact"].) Once again, SOSN's argument ignores the programmatic nature of the SMND. Consistent with well-established CEQA case law, programmatic environmental analyses "may appropriately defer discussion of site specific impacts and mitigation measures to later project [approvals] where such impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." (*Bay-Delta, supra*, 43 Cal.4th at p. 1170, internal quotations omitted; see also *Town of Atherton, supra*, 228 Cal.App.4th at p. 346; *Friends of Mammoth, supra*, 82 Cal.App.4th at p. 533; *Center for Biological Diversity, supra*, 234 Cal.App.4th at p. 234; see also *San Franciscans for Livable Neighborhoods, supra*, 26 Cal.App.5th at p. 608.)

Here, the County's selection of the thresholds of significance for transportation and circulation impacts (i.e., based on each individual permittee's VMT contributions) is supported by substantial evidence and is appropriate for the SMND's programmatic analysis. (See Guidelines, § 15152(c).) This methodology allows for mitigations that individually targeted to "individual larger projects" that will have the largest contribution to VMT. (See SMND at p. 89; see also *generally Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 457 ["Lead agencies are generally given discretion to determine the methodology it will use to determine whether a project will have significant environmental impacts, as long as the choice of a specific methodology is supported by substantial evidence."].) This methodology ensures that each permittee will be evaluated on a project-by-project basis to ensure that each cultivation facility complies with strict environmental standards, and this methodology allows for mitigations that individually targeted to "individual larger projects" that will have the largest contribution to VMT. (See SMND at p. 89; see also *generally Neighbors for Smart Rail, supra*, 57 Cal.4th at p. 457 ["Lead agencies are generally given discretion to determine the methodology it will use to determine whether a project will have significant environmental impacts, as long as the choice of a specific methodology is supported by substantial evidence."].)

As explained in further detail at page 89 of the SMND, the SMND's analysis complies with established standards for evaluating traffic and circulation impacts in CEQA documents:

The County utilizes guidance provided by OPR in the 2018 publication Transportation Impacts (SB 743) CEQA Guidelines Update and Technical Advisory (W-Trans 2020). This document identifies several criteria that may be used by jurisdictions to identify certain types of projects that are unlikely to have a VMT impact and can be "screened" from further VMT analysis. One of these screening criteria pertains to small projects,

which OPR identifies as generating or attracting fewer than 110 vehicle trips per day. These projects "may generally be assumed to cause a less-than-significant transportation impact" related to VMT (OPR 2018). Another suggested screening criterion is a 15 percent reduction in per-capita or per-employee VMT below that of existing countywide or regional VMT. This recommended level of VMT reduction was found to support attainment of the State's GHG reduction targets.

Future cannabis cultivation projects would have to comply with applicable VMT thresholds, in order to receive ministerial permits. New cannabis cultivation projects would be located in rural areas of the County, where existing average trip lengths are higher than in urban and suburban areas. The average trip length in unincorporated Sonoma County is 10.1 miles, compared with 5.4 miles in Santa Rosa, 7.0 miles in Sebastopol, 6.9 miles in Rohnert Park, and 7.3 miles in Windsor (Sonoma County Transportation Authority 2020). However, it is anticipated that many, if not most, cannabis cultivation projects would generate a net increase of fewer than 110 average daily trips, meaning they would be small enough to avoid a VMT impact. New outdoor and hoop house cultivation also would occur on parcels in agricultural and RRD zoning districts, where they would likely replace existing agricultural cultivation that generates a similar number of trips. Therefore, the conversion of existing agricultural operations to outdoor and hoop house cannabis cultivation would not necessarily result in additional trips compared to existing conditions, unless they involve a greater acreage of agricultural operations.

Individual larger projects, especially those involving indoor cannabis cultivation using greenhouse structures, could potentially generate a higher volume of trips that exceeds a net increase of 110 average daily trips. To ensure consistency with applicable VMT regulations, individual applicants for cannabis cultivation projects permitted under the updated Ordinance would need to provide evidence that they would generate a net increase of fewer than 110 average daily trips, or alternatively provide a full analysis of potential VMT impacts. Mitigation Measure TRANS-1 would require this analysis and, as needed, implementation of measures to reduce VMT. With implementation of this mitigation measure, the updated Ordinance would not conflict with or be inconsistent with an applicable threshold of significance adopted per CEQA Guidelines section 15064.3, subdivision (b). This impact would be less than significant with mitigation incorporated.

f. Greenhouse Gas Impacts

SOSN argues that the SMND fails to adequately disclose and mitigate GHG impacts, in part because the SMND underestimates the amount of electricity that will be needed for cannabis cultivation operations. (SOSN Letter at pp. 45-52.) Again, SOSN is wrong. SOSN's arguments ignore the detailed disclosures regarding greenhouse gas impacts at pages 60-62 of the SMND. SOSN also ignores the fact that permittees will need to comply with regulatory "mandate[s] that electrical power be provided by a 100 percent renewable energy source, or otherwise that operators of cultivation sites offset emissions from non-renewable sources by purchasing carbon credits." (SMND at p. 61.) This method of analysis is consistent with well-established CEQA case law that has held that programmatic environmental analyses "may appropriately defer discussion of site specific impacts and mitigation measures to later project [approvals] where such impacts or mitigation measures are not determined by the first-tier approval

decision but are specific to the later phases." (*Bay-Delta, supra*, 43 Cal.4th at p. 1170, internal quotations omitted; see also *Town of Atherton, supra*, 228 Cal.App.4th at p. 346; *Friends of Mammoth, supra*, 82 Cal.App.4th at p. 533; *Center for Biological Diversity, supra*, 234 Cal.App.4th at p. 234; see also *San Franciscans for Livable Neighborhoods, supra*, 26 Cal.App.5th at p. 608.)

Furthermore, as discussed in further detail at page 61 of the SMND, the required use of renewable energy at cultivation sites would offset potential GHG impacts:

[I]ncremental increases in VMT would be a factor of individual site location and operational-specific parameters, including harvest quantity, number of workers/residents, and number/type of daily trips required. State regulations such as the Low Carbon Fuel Standard would require vehicles to reduce the carbon intensity of transportation fuels, thus reducing GHGs emitted from employees commuting to cultivation sites.

Although the updated Ordinance would result in greater GHG emissions from transportation, water use, and solid waste disposal, the requirement of 100 percent renewable energy would nearly eliminate increases in GHG emissions from energy use. This would substantially reduce overall GHG emissions from cannabis cultivation sites. Therefore, the updated Ordinance would not result in a considerable contribution to cumulative statewide GHG emissions in California. This impact would be less than significant.

g. Noise Impacts

SOSN argues that the Project fails to adequately disclose, analyze, or mitigate noise impacts (Letter at p. 53), but again SOSN is wrong. The SMND's disclosures are adequate and the SMND provides extensive mitigation to offset any potential impacts (see pp. 77-84). The implementation of Mitigation Measures NOISE-1, NOISE-2, and NOISE-3 will ensure that any noise-related impacts will be mitigated to less-than-significant levels:

Mitigation Monitoring NOISE-1 Construction Noise Reduction:

PRMD Project Review Division staff shall ensure that the measures are listed on all site alteration, grading, building or improvement plans, prior to issuance of grading or building permits. PRMD staff shall inspect the site prior to construction to assure that the signs are in place and the applicable phone numbers are correct. Any noise complaints will be investigated by PRMD staff. If violations are found, PRMD shall seek voluntary compliance from the permit holder, or may require a noise consultant to evaluate the problem and recommend corrective actions, and thereafter may initiate an enforcement action and/or revocation or modification proceedings, as appropriate.

Mitigation Monitoring NOISE-2 HVAC Noise Reduction:

PRMD Project Review Division staff shall ensure that HVAC noise reduction measures are included as needed on all building or improvement plans, prior to issuance of building permits.

Mitigation Monitoring NOISE-3 Special Events Noise Reduction:

Permit Sonoma staff shall ensure that measures to reduce amplified noise are included, as needed, as conditions of approval in ministerial permits issued to cannabis cultivation

operators for special events. Permit Sonoma staff may inspect sites during permitted special events to assure that noise reduction measures are being appropriately implemented. Any noise complaints will be investigated by Permit Sonoma staff. If violations are found, PRMD may initiate an enforcement action, as appropriate.

h. Impacts Associated With the Potential Loss of Farmland

SOSN argues that "[i]n light of the fact that agriculture is an important land use in Sonoma County, that the County is known for its vineyards and sustainable agriculture, and that it has long been a high priority of the County to provide for the conservation of its agriculture, the avoidable loss of thousands of acres of productive farmland to the cannabis industry resulting from the Project is significant." (SOSN Letter at pp. 53-55.) However, SOSN conveniently ignores the fact that "individual cannabis cultivation projects allowed with a zoning permit in agricultural zones would be subject to standards that require avoidance and replacement of Important Farmlands." (SMND at p. 26.) Due to this fact "and because the updated Ordinance would limit the number of acres converted to structures and would not convert a significant amount of important farmland to non-agricultural use, impacts would be less than significant." (*Ibid.*) Again, this method of analysis is consistent with well-established standards for programmatic environmental analyses. (*Bay-Delta, supra*, 43 Cal.4th at p. 1170; *see also Town of Atherton, supra*, 228 Cal.App.4th at p. 346.)

i. Impacts on Specific and Area Plans

SOSN argues that the "Project conflicts with policies in the Bennett Valley Area Plan and possibly other specific and area plans." (Letter at p. 55.) As explained on page 75 of the SMND, the Project would include a General Plan amendment, and "[t]his action would affirm that additional cannabis cultivation allowed under the updated Ordinance is consistent with the purposes of agricultural zoning districts and agricultural land use designations."

The general plan sits atop the County's land use hierarchy. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 772.) All zoning and land use approvals must be consistent with the general plan. (*Ibid.*) General plans are also required to "internally consistent" (Gov. Code, § 65300.5); area and specific plans are subordinate to the General Plan (*see* Gov. Code, § 65452.). Accordingly, the General Plan amendments would supersede any inconsistent provisions in specific plans or area plans, including the Bennett Valley Area Plan and any other area or specific plans.

6. Cumulative Impacts

SOSN argues that the SMND is legally inadequate because "the SMND purported analyses on these topics focuses only on potential impacts from each individual facility" rather than the combined impacts of all permittees. (Letter at p. 57.) Again, SOSN ignores the programmatic nature of the SMND. (*See* Guidelines, § 15152(c).) This method of analysis is consistent with well-established CEQA case law that has held that programmatic environmental analyses "may appropriately defer discussion of site specific impacts and mitigation measures to later project [approvals] where such impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." (*Bay-Delta, supra*, 43 Cal.4th at p. 1170, internal quotations omitted; *see also Town of Atherton, supra*, 228 Cal.App.4th at p. 346; *Friends of Mammoth, supra*, 82 Cal.App.4th at p. 533; *Center for Biological Diversity, supra*, 234

Cal.App.4th at p. 234; *San Franciscans for Livable Neighborhoods*, supra, 26 Cal.App.5th at p. 608.) No further analysis is required.

In any event, the SMND adequately discloses potential cumulative environmental effects. As discussed in further detail at page 103 of the SMND:

As described in the discussion of environmental checklist Sections 1 through 20, the updated Ordinance would have no impact, a less than significant impact, or a less than significant impact with mitigation incorporated, with respect to all environmental issues. The updated Ordinance would not adversely affect biological, cultural, or other physical resources outside of the project sites. Pursuant to CEQA Guidelines Section 15064(h)(3), cumulative impacts associated with some of the resource areas have been addressed in the individual resource sections above: Air Quality, Greenhouse Gases, Water Supply, and Solid Waste. As discussed in these sections, impacts (including cumulative impacts) would be less than significant or less than significant with mitigation incorporated in the case of air quality. Other issues (e.g. aesthetics, hazards and hazardous materials are site-specific by nature, and impacts at one location do not add to impacts at other locations or create additive impacts. As discussed in Section 17, Transportation, it is anticipated that the updated Ordinance would not result in VMT exceeding applicable screening criteria in Sonoma County, as cannabis cultivation sites would remain in agricultural use and would not necessarily generate additional trips. Therefore, the updated Ordinance's impacts would not be cumulatively considerable with implementation of mitigation measures.

7. Mitigation Measures

SOSN argues that the SMND has failed to adequately mitigate all of the Ordinance's environmental effects. (SOSN Letter at pp. 57-60.) Again, SOSN is wrong.

CEQA does not require analysis of every imaginable mitigation measure. (*Gilroy Citizens for Responsible Planning v. City of Gilroy* (2006) 140 Cal.App.4th 911, 935; *San Franciscans for Reasonable Growth v. City & County of San Francisco* (1989) 209 Cal.App.3d 1502, 1519.) CEQA documents should focus on mitigation measures that are feasible, practical, and effective. (*Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 365; *Concerned Citizens of S. Cent. L.A. v. Los Angeles Unified Sch. Dist.* (1994) 24 Cal.App.4th 826, 841.) Here, the proposed mitigation measures comply with these standards, and the efficacy of the County's proposed choice of mitigation measures is supported by substantial evidence. (See *Sacramento Old City Ass'n v. City Council* (1991) 229 Cal.App.3d 1011, 1027 ["[W]here substantial evidence supports the approving agency's conclusion that mitigation measures will be effective, courts will uphold such measures against attacks based on their alleged inadequacy."]; see also *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 407.) No further disclosures, analysis, or mitigation is required.

8. Alleged Nuisance Conditions

SOSN argues that "cannabis is associated with uniquely problematic nuisance conditions and thus should not be defined as, and receive the same protections as, traditional agriculture." (Letter at p. 60.) However, SOSN overlooks the well-established rule that "[n]othing which is

done or maintained under the express authority of a statute can be deemed a nuisance." (Civ. Code, § 3482.)

As explained above, the SMND carefully considers environmental effects that are uniquely associated with cannabis cultivation, and the SMND does not conflate cannabis production with other forms of agriculture. In any event, the assertion that cannabis cultivation is a "nuisance" is nothing more than unsubstantiated rhetoric.

9. Conclusion

For the aforementioned reasons, the SMND fully complies with all applicable requirements of CEQA and the CEQA Guidelines. Accordingly, we respectfully urge you to approve the SMND and the related General Plan Amendment for the Cannabis Land Use Ordinance Update.

If you have any questions, please do not hesitate to contact our office.

Very truly yours,



Kristina D. Lawson
Managing Partner

KDL:EFR

cc: Lynda Hopkins, Chair, Board of Supervisors (Lynda.Hopkins@sonoma-county.org & District5@sonoma-county.org)
Chris Coursey, Vice Chair, Board of Supervisors (Chris.Coursey@sonoma-county.org & District3@sonoma-county.org)
James Gore, Chair Pro Tem, Board of Supervisors (James.Gore@sonoma-county.org & District4@sonoma-county.org)
Susan Gorin, Member, Board of Supervisors (Susan.Gorin@sonoma-county.org & District1@sonoma-county.org)
David Rabbitt, Member, Board of Supervisors (David.Rabbitt@sonoma-county.org & District2@sonoma-county.org)
Tennis Wick, Permit Sonoma Director (Tennis.Wick@sonoma-county.org)
Scott Orr, Deputy Director, Planning Division (Scott.Orr@sonoma-county.org)
Christina Rivera, Assistant County Administrator (Christina.Rivera@sonoma-county.org)
Erich Pearson, Executive Director, Cannabis Business Association of Sonoma County (epearsonsf@gmail.com)
Joe Rogaway, Counsel, Cannabis Business Association of Sonoma County (joerogoway@rogowaylaw.com)

From: [Arielle Kubu-Jones](#)
To: [Cannabis](#)
Subject: FW: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordance
Date: Thursday, May 13, 2021 8:40:35 AM

From: Jerry Eliaser <trumpetdoctor@gmail.com>
Sent: Wednesday, May 12, 2021 8:16 PM
To: Arielle Kubu-Jones <Arielle.Kubu-Jones@sonoma-county.org>
Subject: Keep 1000' setbacks to Class 1 Bikeways in the Cannabis Ordance

EXTERNAL

Dear Supervisors:

I have been closely following the amendments and revisions to the cannabis ordinance for Sonoma County, have read the letters in the newspapers and the information and analysis from neighborhood groups. I'm unhappy that the County has not reached out to residents and has been influenced too much by the industry in the drafting. I have come to the conclusion that the Subsequent Mitigated Declaration is fatally flawed and unfixable. It is time to return to the Board's earlier decision to do a project-wide EIR for Phase 2. Sonoma County needs an EIR, one which will protect our natural resources, will comply with CEQA requirements and at the same time give residents a right to their health, safety and peaceful enjoyment of their properties.

I urge you to maintain the 1000' setbacks to Class 1 Bikeways that are a part of the current Draft Cannabis Ordinance and to not accept the recommendation of the Planning Commission that these setbacks be eliminated. These trails are our linear parks. They are defined in the Sonoma County Code of Ordinances as "*all land or water owned, leased, managed, or controlled by the Sonoma County park system.*" They do not need further clarification or codification.--

Sent from Gmail Mobile

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From: [Jean Schulz](#)
To: [Susan Gorin](#); [David Rabbitt](#); [Chris Coursey](#); [James Gore](#); [Lynda Hopkins](#); [Cannabis](#); [Andrea Krout](#); [Sean Hamlin](#)
Subject: Cannabis discussion May 18th
Date: Thursday, May 13, 2021 9:27:10 PM

EXTERNAL

Dear Supervisors,
Please do not approve the proposed Cannabis Ordinance as written.

The issue of water usage is rising its head and cannot be ignored.

The Board HAD decided to conduct a project-wide EIR for Phase 2. It is prudent to return to that decision.

And I am dismayed to see this Tuesday's discussion is planned for a closed session. An unfortunate decision in addition.

Thank you,

Jean Schulz
4900 Upper Ridge Road
Santa Rosa 95404

Jeannie
Visit my blog:
www.schulzmuseum.org/jeanschulz
"Take only what you need...do more than your share."

Sent from my Blackberry - the most secure mobile device

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From: [Arielle Kubu-Jones](#) on behalf of [Susan Gorin](#)
To: [Cannabis](#)
Subject: FW: Bloomfield Proposed Cannabis Grow
Date: Thursday, May 13, 2021 11:45:17 AM

From: Marta May <champagnetaste2002@yahoo.com>
Sent: Thursday, May 13, 2021 10:28 AM
To: Susan Gorin <Susan.Gorin@sonoma-county.org>
Subject: Bloomfield Proposed Cannabis Grow

EXTERNAL

Petaluma, California. May 10, 2021

To the Sonoma County Board of Supervisors, **and everyone else I can think of sending this letter to:**

My neighbors have written very comprehensive letters. They are many pages long and full of detail.

Why should Sonoma County take many items into consideration before granting Cannabis Growing Permits?

Let's make this letter simple and to the point.

Sonoma county has declared an emergency drought. I understand there are at least 140 permits waiting to be granted. I do not care who wants to justify the amount of water it takes to grow each plant, we all know the truth.....**It takes a heck of a lot of water to grow each of the adorable plants.**

Neighborhood compatibility....We are a town that shares Petaluma's zip code. We have elderly people who walk every day, who have lived their entire lives in this area. Their ancestors are buried in our Pioneer Historical Cemetery. We have children, many of those are being home schooled. We have a drug and alcohol recovery facility right across the highway (Olympia House.) Is this really the place to grow Marijuana? We all live within a half a mile from the proposed grow.

We need to continue to **breathe clean air**.....I moved here from Santa Rosa because I was dying from incredible allergies. I am now able to breathe. The perpetual smell of skunk that comes with cannabis would ruin my right to breathe clean air, and that of my elderly / and neighbors.

Security.....I bet none of you would enjoy having **drones flying** over your back yards and homes. At least 14 families that reside in Bloomfield would have their immediate privacy rights violated by having drones and / or armed guards in their back yards. **Are you ready or prepared to protect us from the crime that would ensue from a large cannabis facility?**

A consideration is the **revenue** the plants would bring to Sonoma County. Are we really going for the money and screwing everyone and everything else that decency dictates? Are you really going to allow **THE CARTELS** to move into our beautiful, peaceful county? Make no mistake, an 80 acre parcel of land such as the one proposed in the center of Bloomfield is not a small operation. Who is or could be behind it?

So, you are going to get sued anyway I hear some of you say. **So why sell your souls to the devil?** Act in a responsible manner that you can live with later on. You are being paid to safe guard the well being and safety of our communities.

DO YOUR JOB!

Marta and David May

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From: [Arielle Kubu-Jones](#)
To: [Cannabis](#)
Subject: FW: Marijuana Plants petition
Date: Thursday, May 13, 2021 8:40:43 AM

From: Marie Uppal <uppalkiki@icloud.com>
Sent: Wednesday, May 12, 2021 8:00 PM
To: Susan Gorin <Susan.Gorin@sonoma-county.org>; Arielle Kubu-Jones <Arielle.Kubu-Jones@sonoma-county.org>; David Rabbitt <David.Rabbitt@sonoma-county.org>; Andrea Krout <Andrea.Krout@sonoma-county.org>; Chris Coursey <Chris.Coursey@sonoma-county.org>
Cc: James Gore <James.Gore@sonoma-county.org>
Subject: Marijuana Plants petition

EXTERNAL

The proposed changes to the cannabis permitting process will be some of the most significant land use changes in Sonoma County in the last 40 years. I am a member of a coalition of neighbors and environmental activists who are trying to preserve what makes Sonoma County so special: our scenic beauty and precious natural resources. Our goal is to limit these cannabis grows to small areas away from residences, not in public view, and not spreading noise or odor. Unfortunately, this is not what has been proposed.

.SPECIFICALLY, we want the County to change the following: 1. Invest in a full Programmatic Environmental Impact Report (EIR) to determine suitable areas for future grows. The existing SMND is fatally flawed and should be scrapped. 2. Limit permit approvals during a state-declared drought to applicants that grow cannabis only using dry farming techniques. 3. Prohibit trucking of water or recycled wastewater under all circumstances. 4. Ensure that residential wells do not run dry due to cannabis operations. 5. Ban all cannabis cultivation in Community Separators. 6. Increase setbacks from the property line of all residences, schools, childcare facilities and parks to 1,000 feet for outdoor and hoop house cultivation and 300 feet minimum for indoor cultivation. 7. Require cannabis processing in facilities in commercial and industrial zones only. 8. Require fire inspection reports on all hoop houses. 9. Require that no odor will cross the property line for all indoor cultivation and processing. 10. Prohibit cannabis events near homes and in agricultural or resource zones. 11. Enforce code violations within two weeks, maximum, as County enforcement has been spotty at best and lousy at worst for existing permits. 12. Require posting of a \$50,000 mitigation bond upon issuance of each permit. 13. Update cannabis ordinance to comply with the County's tree ordinance and prevent removal of oak trees. 14. Limit acreage in any 10-mile square zone to prevent over-concentration of any one area. 15. Impose a local residency requirement, where "operators" are defined as owning at least 51% of the applying business. 16. Change the initial permits period to one year, to match the State and test this new policy. Pushing through a major policy change like this — during a pandemic when so many people are struggling and distracted, during a drought emergency with inadequate water study, without a real environmental review, or listening to affected neighbors — it's an unnecessary rush to judgment. Slow down, listen to neighbors and the environmental community, and let's do this the right way. Sent from my

iPhone

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From: [Susan Rouder](#)
To: [Cannabis](#); [Arielle Kubu-Jones](#); [David Rabbitt](#); [Andrea Krout](#); [district3](#); [Chris Coursey](#); [Sean Hamlin](#); [district4](#); [James Gore](#); [Jenny Chamberlain](#); [district5](#); [Lynda Hopkins](#); [Leo Chyi](#)
Subject: Cannabis Land Use Vote
Date: Thursday, May 13, 2021 11:46:41 AM

EXTERNAL

All of you, and several others, are in a position to decide the immediate future of water and land use in Sonoma County. I urge you to oppose this proposed ordinance update because of your lack of complete information. The failure of the county to do a full and complete environmental impact report, as required by law, means that it would be a mistake to proceed with approval at this time. In the context of what is likely to be a severe drought and fire season, I and other residents of Sonoma County are counting on the Board to make our health and safety the immediate priority. This is likely to be a difficult few months.

Susan Rouder, Sanata Rosa

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From: [Walt and Jenny](#)
To: arielle.kubo-jones@sonoma-county.org; [Andrea Krout](#); [district3](#); [Jenny Chamberlain](#); [district5](#); [Cannabis](#)
Subject: Cannabis Ordinance BOS 5/18/21
Date: Thursday, May 13, 2021 6:48:20 AM

EXTERNAL

We are AGAINST the Subsequent Mitigated Declaration. How the supervisors can be willing to throw their constituents under the bus to benefit rich people from out of the county, giving away water, property rights and peace of mind to make rich people richer is beyond my ability to understand.

Have you no conscience?

Walt Frazer
8944 Donald St
Graton, CA 95444

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