

TRV Corp Cannabis Operation

Public Review Draft Comments

Received by May 18, 2020

BLOCK&BLOCK

A T T O R N E Y S

May 15, 2020

By Electronic Mail

Chair Susan Gorin
Supervisor David Rabbitt
Supervisor Shirlee Zane
Supervisor James Gore
Supervisor Lynda Hopkins
Sonoma County Board of Supervisors
575 Administration Drive, Room 100 A
Santa Rosa, CA 95403

Re: Cannabis Permit Application UPC17-0018
6095 Bodega Avenue

Dear Chair Gorin and Supervisors:

I represent the neighbors who live next to the commercial cannabis operation proposed for 6095 Bodega Avenue. Christine Ella and Peter Polt, retired, reside at 6125 Bodega Avenue and Jesse Jones and Michaela McCormick live with their three small children at 6045 Bodega Avenue. Both houses are located about 400 feet away from the proposed cultivation facility.

A. This Project Does Not Qualify for “Pipeline” Treatment Because the Applicant Expanded the Area Proposed for Cultivation *After* the Application Was Deemed Complete.

This project is located on a parcel that is under 10 acres and does not qualify for “pipeline” treatment. The property is 7.6 acres and is zoned LEA. When the Board amended the Cannabis Ordinance in 2018, it increased the minimum parcel size from 5 to 10 acres in agricultural zones (LIA, LEA, DA, RRD). It acted in response to public complaints that the old Ordinance allowed the siting of cannabis operations too close to people’s homes.

The amended Ordinance contains a transitional or “pipeline” provision under which applications deemed complete for processing before the effective date of the amended Ordinance may continue to be processed under the minimum lot size in effect at the time the completeness determination was made (Ord. No. 6245, Section III). According to the staff report, this project was deemed complete on December 5, 2017.

To qualify for pipeline treatment, applicants may not change the description or scope of projects on agriculturally-zoned parcels under 10 acres. The County has consistently interpreted the pipeline provision in this manner since its adoption (Exhibit A).

In its original application, dated August 11, 2017, the applicant sought permission for 10,000 square feet of cannabis cultivation – 9,000 square feet in three greenhouses of 3,000 square feet each and 1,000 square feet of propagation (Exhibit B). The application was deemed complete the following December. In September 2018, the applicant submitted a revised application, which is currently before the Board, seeking permission for 12,500 square feet of cultivation – 10,000 square feet in greenhouses and 2,500 square feet of propagation (Exhibit C).

That is a 10% increase in the area under cultivation, and a 25% increase in the overall size of the project, *after* it was deemed complete. It makes this project ineligible for pipeline treatment. Because the project is located on a parcel under 10 acres, and forfeited its pipeline status by expanding the proposed area under cultivation after the application was deemed complete, the Board should deny this application.

B. There Is No Legal Access to the Site for Purposes of Operating a Commercial Cannabis Grow or Any Other Business.

Access to the project and the two neighbors' parcels is over Raven Road, a private right of way. The road has existed for decades and does not follow property lines. About half the road is located on a parcel owned and controlled by the applicant; the other half is located on the parcel owned by Peter Polt and Christine Ella (Exhibit D, Exhibit E).

There are no express easements entitling the applicant to use that portion of the road located on the Ella Parcel. Because the applicant's predecessors used the road without permission for many years, however, the applicant has a prescriptive easement to continue that use.

A prescriptive easement arises by operation of law when one person openly uses the land of another for five or more years. The scope of a prescriptive easement is fixed by the use that gave rise to it. Thus, the applicant's right to use half the road on Ella's land is solely for residential purposes, because the road has always been used to access a house and never a business.

By proposing to use the road to access a commercial cannabis operation, the applicant is seeking to expand the scope of its prescriptive easement beyond residential use. Commercial use will put more traffic and heavier vehicles on the road, which is a mere 60 feet away from Ella's house, and thereby increase the burden on Ella's property. Under California law, such expanded use is not permitted and will be enjoined by the courts.

Ella has filed a lawsuit seeking a court order prohibiting the applicant from using its easement to serve a commercial cannabis grow or, for that matter, any other business (Exhibit F). The lawsuit was filed on March 13 but the court closed that same day due to the virus and did not issue a

summons or return an endorsed copy of the complaint until May 14, preventing Ella from obtaining immediate relief. She will apply for a temporary restraining order as soon as the court re-opens, reportedly on June 1.

It is the applicant's burden to establish that it may legally access the project, which in this case it cannot do. The Board should not approve a project without proven legal access. If the Board is unsure, it should continue this hearing for 30 days so the court can decide. For the Board to approve this permit with the access issue unresolved does not serve the interests of the neighbors, the applicant, or the County.

C. The Access Road Does Not Meet Fire Safe Regulations Applicable to Projects in the State Responsibility Area.

This project is located in the State Responsibility Area ("SRA"). State law requires the Board of Forestry and Fire Protection ("BOF") to adopt fire safety regulations applicable to all properties in the SRA (Pub. Res. Code § 4290). SRA Fire Safe Regulations, codified in Title 14 of the California Code of Regulations, establish a "floor" or minimum set of fire safety standards governing, among other matters, access roads.

A county may adopt local fire safety ordinances provided they establish standards that are at least as stringent as those set forth in state regulations. A county must petition the BOF to certify that their local ordinance meets that test and must petition for re-certification every time its local ordinance is amended (1270.01, 1270.03).¹ An amended ordinance is invalid unless and until it is recertified by BOF.

The Board's certification of local ordinances . . . is rendered invalid when previously certified ordinances are subsequently amended by local jurisdictions without Board re-certification of the amended ordinances. The Board's regulations supersede the amended local ordinance(s) when the amended local ordinance(s) are not re-certified by the Board (1270.03).

Sonoma County adopted a local fire safety ordinance in 2016 which was certified by BOF. In 2019, the County amended its ordinance and applied for re-certification. BOF has refused to re-certify the amended ordinance on grounds that its standards are not as stringent as those set forth in state regulations.

Earlier this month, the BOF excoriated the County's request for re-certification, calling certification of the previous ordinance "mistaken," criticizing the County's actions "in promoting ram-

¹ Section references are to the California Code of Regulations, Title 14, division 1.5, chapter 7, subchapter 2 unless otherwise indicated.

pant development in fire-prone areas,” and asserting that the County’s response to questions from the Board “insults the intelligence of Sonoma County residents and the BOF” (Exhibit G).

Because the County’s amended fire safety ordinance has not been re-certified, SRA Fire Safe Regulations are in effect and govern all pending use permit applications, including this one. Only parties whose projects were approved under the 2017 ordinance and whose rights have vested under the *Avco* doctrine may proceed under standards other than those contained in state regulations.

Raven Road, which provides access to this project, is a “fire apparatus access road” within the meaning of the State Fire Code (Section 202, General Definitions). Section 503 of the Code requires that all fire apparatus access roads shall have an unobstructed width of not less than 20 feet, exclusive of shoulders (Section 503.2.1, Fire Apparatus Access Roads, Dimensions).²

The implementing SRA Fire Safe Regulations also require roads with a minimum 20-foot width, not including shoulder and striping (1273.01). The purpose of the requirement is to provide for unobstructed traffic circulation during a fire and, specifically, to ensure that fire apparatus can enter the site safely and efficiently at the same time as civilians are evacuating (1273.00).

Raven Road does not meet the minimum 20-foot width requirement. Its widest point is about 12 feet, with some stretches as narrow as 10 feet or less. It is also unclear whether the road meets other minimum standards set forth in state regulations, including those governing roadway surfaces, grades, and the load bearing capacity of the culvert which runs underneath the road (1273.02-03, 1273.06-07).³

Applicable provisions of the SRA Fire Safe Regulations must become conditions of approval to all development permits (1270.04(c)). That has not happened in this case. Fire Department comments on the application (Exhibit H), and staff’s proposed conditions of approval, provide in general terms that the road allow for unobstructed traffic circulation in an emergency, including concurrent ingress and egress (Draft COA #73), but do not specify road width or explain how a 12-foot road complies with the 20-foot standard.

Notes from a 2019 inspection by County fire officials likewise fail to explain how concurrent evacuation will be achieved. The notes imply that the road does not need to meet the 20-foot width requirement based on an exemption contained in the County Fire Safety Ordinance for

² Sonoma County adopted this requirement in its now-superseded 2017 Fire Safety Ordinance (Ord. No. 6184 § 13-17(b)(23)-(24)).

³ Applicants may apply for exceptions to the foregoing standards, but its request must be in writing, identify the specific exceptions being sought, and set forth material facts showing, for example, how a 10-foot road will provide the same degree of safety as a 20-foot road. The applicant in this case has not applied for any road exceptions.

Board of Supervisors
May 15, 2020
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roads built before 1991 (Exhibit I). The BOF specifically rejected that exemption as invalid, however, citing it as a principal reason for refusing re-certification.

In sum, state fire regulations govern this application because the BOF refused to re-certify Sonoma County's fire ordinance. State regulations require that the project be served by a road that is at least 20 feet wide. The existing road is no more than 12 feet, yet the applicant does not propose widening or other improvements.

The Board of Supervisors must deny the application for want of access that meets fire safety standards.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Block", written in a cursive style.

Kevin Block

cc: Crystal Acker

EXHIBIT A

MEMO

DATE: October 24, 2018

TO: Existing Commercial Cannabis Applicants and the
Cannabis Advisory Group

FROM: Amy Lyle, Supervising Planner

SUBJECT: Ordinance Amendments and Existing Projects

On October 16, 2018 the Board of Supervisors adopted amendments to the Cannabis Land Use Ordinance. They will go into effect on November 15, 2018. We anticipate this amendment package will cause existing applicants to request changes to their projects. The following memo outlines the process for requesting these changes and how projects on properties less than 10 acres can move forward. If you need additional information related to this memo please contact your assigned County project manager.

Project Revisions

Use permit applications that are in process must meet all the requirements of the new ordinance.

Applicants may request to adjust one or more of the following:

- The term of the permit (up to five years with use permit)
- Allow for a 25% propagation area with a use permit
- Allowance of Adult Use Cannabis with a use permit
- Reduction of the required park setback through use permit
- Other components as allowed

Note the changes may necessitate new sites plans, traffic generation forms, or amendments to biotic or hydrogeologic studies. Depending on the changes requested a new completeness review may be triggered and a revised referral may be sent for comments from internal and resource agencies.

Note that use permits are processed on an "At Cost" basis. The time required for staff to review and accomplish changes to the applications will be billed to the applicant under existing At Cost agreements.

Penalty Relief Program- Applications in Process

Those applicants who are operating under the Penalty Relief program, who wish to modify their applications, must consult their project planner ahead of any submission. Applicants must submit requested changes, with complete documentation, by **December 3rd** in order to remain in compliance with the penalty relief program.



Projects Located in Agricultural and Resources Zones under 10 Acres

The Board of Supervisors voted to require a minimum lot size of 10 acres for all operations in agricultural and resource zones (LIA, LEA, DA, and RRD). This vote included a pipeline provision that would allow applications that were deemed complete for processing prior to November 15, 2018 to continue to be processed under the minimum lot size in effect at the time their applications were deemed complete. All approved cannabis permits (both zoning permits and use permits) prior to November 15, 2018 or through this pipeline provision, that are on parcels under 10 acres may be renewed with a use permit.

Zoning Permits Under 10 Acres- Approved

These applicants can apply for renewal with a use permit. A complete use permit application must be submitted prior to expiration of the zoning permit. The use permit application is limited to the same cultivation area as what was previously approved under the zoning permit.

Zoning Permits Under 10 Acres (Including Renewals)- In Process

Zoning permits that are considered complete for processing that have not yet been approved can continue to be processed. No changes to existing project description or scope are allowed. They can be approved for a term of one year and may apply for renewal with a use permit. A complete use permit application must be submitted prior to expiration of the zoning permit. The use permit application is limited to the same cultivation area as what was previously approved or requested under the zoning permit application.

Use Permits Under 10 Acres- In Process

Use permits that are considered complete for processing that have not yet been approved can continue to be processed. **No changes to existing project description or scope are allowed.** They can apply for a renewal with no increase in size of cultivation area for up to a 5 year term.

Approved Dispensaries and Adult Use

Dispensaries that are not up for renewal at this time may request to sell adult use cannabis in writing. Staff can authorize adult use sales without change to the renewal dates. Any other changes such as deliveries or longer term use permits must be done through a renewal process.



EXHIBIT B



BC Engineering Group
Civil Engineering & Land Planning

**CONDITIONAL USE PERMIT APPLICATION:
*COMMERCIAL CANNABIS CULTIVATION***

**Prepared for
Two Rock Ventures, LLC.
(TRV, Corp.)**

**PROJECT ADDRESS:
6095 Bodega Avenue
Petaluma, CA 94952
APN: 022-200-002**

**Submittal Date
August 15, 2017**



Project Scope

Two Rock Ventures, LLC will construct three (3) approximately equally sized 3,000 square foot mixed light greenhouses, with a total of approximately 9,000 square feet of cultivation. One (1) approximately 5,538 square foot head house structure will be constructed for cannabis processing and will also house an approximately 1,000 square foot propagation room for plants in the vegetative stage, mother plants and plant cloning for a total of 10,000 square feet of total cannabis cultivation. The head house will additionally contain administrative offices, an ADA accessible restroom facility, processing facilities, security room, and storage areas. Processing is expected to occur onsite and will occur in drying and trimming rooms located in the head house (please see *CUP Floor Plan* by BC Engineering Group, dated August 15, 2017, for locations and sizes). A description of the planned *Cultivation Processes* can be found in *Appendix A*.

The attached *CUP Floor Plan* by BC Engineering Group, dated August 15, 2017, demonstrates the proposed layout of the greenhouses and head house. The attached *Geotechnical Report* by Reese & Associates, dated June 12, 2017, contains preliminary foundation and drainage recommendations for the proposed buildings.

Site modifications to serve the commercial facilities include an agricultural well and water storage tanks, commercial power line, fire safe standards access road/driveway, standard and ADA parking area, grading and drainage improvements around the proposed buildings and access road, stormwater capture and treatment as required, security gates and fencing, and septic system to serve the head house. A small retaining wall, with a maximum of three (3) feet of retained soil, is proposed behind the greenhouse to minimize the upslope cut.

Proposed project structures and site improvements can be seen on the attached *CUP Detailed Site Map* by BC Engineering Group, dated August 15, 2017.

Both a SWPPP and BMP Plan shall be created prior to construction or grading, as required. These plans shall be created after grading and drainage plans have been completed. Stormwater runoff shall be captured, routed, and/or treated on-site utilizing swales, rock outfalls, catchment basins, and/or retention basins.

No existing structures are proposed to be used for the commercial cannabis business. One existing barn is to be removed, as seen on the attached *CUP Detailed Site Map* by BC Engineering Group, dated August 15, 2017.

EXHIBIT C

CONDITIONAL USE PERMIT APPLICATION:
COMMERCIAL CANNABIS CULTIVATION

Prepared By: TRV Corp.

PROJECT ADDRESS:
6095 Bodega Avenue
Petaluma, CA 94952
APN: 022-200-002

Submittal Date
September 11, 2018
Revised
August 15, 2018

Existing Land Description

The parcel is located at 6095 Bodega Avenue in Petaluma, CA 94952, with assessor's parcel number 022-200-002. The parcel is 7.09 acres and zoned LEA B6 60 Z. The parcel is in a zone 2 groundwater availability area and utilizes an on-site well, is served by an on-site wastewater treatment system, and is provided power via solar panels and supplemental PG&E. A ~20-foot-wide driveway easement runs parallel to the northeastern property line. The land is currently used as pasture land with no agriculture production and a single-family residence. The property is not under a Williamson Act Contract.

The cultivation related structures, proposed by TRV Corp. are to be located in an existing open vegetated pasture, with native slope ranging between 7% to 9%. No trees or crops exists in the proposed structure locations.

A 1,066 square foot single family dwelling and approximately 1,000 square foot detached garage and work shop exists on the property. Additional accessory structures include a large barn with RV parking, horse barn, chicken coop, and miscellaneous sheds/out buildings.

A minor riparian corridor runs along Bodega Avenue and is greater than 550 feet from the northwestern property line, which is closest to Bodega Avenue.

No existing structures on the parcel need to be legalized at this time.

Existing structures, topography, and required setbacks can be seen on the attached *CUP Overall Site Map* and *CUP Detailed Site Map*, dated September 11, 2018.

Commercial Cannabis Code Allowance

Per County of Sonoma *Ordinance 6189*, adopted December 20, 2016, *Table 1A: Allowed Cannabis Uses and Permit Requirements for Agricultural and Resource Zones*, parcels greater than five (5) acres but less than ten (10) acres, within a LEA zoning district, can cultivate up to 10,000 square feet of flowering mixed light cultivation. Per County of Sonoma *Ordinance 6189*, modified October 16, 2018, and implemented November 15, 2018 for Use Permits Under 10 Acres- In Process Use permits that are considered complete for processing that have not yet been approved can continue to be processed. No changes to existing project description or scope are allowed. They can apply for a renewal with no increase in size of cultivation area for up to a 5-year term. Also, the implemented allowance of Adult Use Cannabis with a use permit will adopted for the project.

Project Scope

TRV Corp. is applying for a five (5) year Use Permit and will construct three (3) approximately equally sized 3,330 square foot mixed light greenhouses, with a total

of approximately 10,000 square feet of flowering cultivation for both Medical and Recreational markets. One (1) approximately 4,000 square foot corridor with head house structures will be constructed for cannabis processing and will also house an approximately 2,500 square foot (including shelving) propagation room for plants in the vegetative stage, mother plants and plant cloning for a total of 12,500 square feet of total cannabis cultivation. The head house will additionally contain an ADA accessible restroom facility, processing facilities, security room, and storage areas. Processing is expected to be outsourced and occur onsite in drying and trimming rooms located in the head house (please see *CUP Floor Plan*, dated September 11, 2018, for locations and sizes). A description of the planned *Cultivation Processes* can be found in *Appendix A*.

The attached *CUP Floor Plan*, dated September 11, 2018, demonstrates the proposed layout of the greenhouses and head house. The attached *Geotechnical Report* by Reese & Associates, dated June 12, 2017, contains preliminary foundation and drainage recommendations for the proposed buildings.

Site modifications to serve the commercial facilities include an agricultural well and water storage tanks, commercial power line, propane tank, fire safe standards access road/driveway, standard and ADA parking area, grading and drainage improvements around the proposed buildings and access road, storm water capture and treatment as required, security gates and fencing, and septic system to serve the head house. A small retaining wall, with a maximum of three (3) feet of retained soil, is proposed behind the greenhouse to minimize the upslope cut.

Proposed project structures and site improvements can be seen on the attached *CUP Detailed Site Map*, dated September 11, 2018.

Both a SWPPP and BMP Plan shall be created prior to construction or grading, if required. These plans shall be created after grading and drainage plans have been completed. Stormwater runoff shall be captured, routed, and/or treated on-site utilizing swales, rock outfalls, catchment basins, and/or retention basins.

No existing structures are proposed to be used for the commercial cannabis business. One existing barn is to be removed, as seen on the attached *CUP Detailed Site Map*, dated September 11, 2018.

The existing road easement and associated parcel, 022-200-042, is owned by Fenix Farms, LLC and full access to the road parcel has been granted to TRV Corp.

Please see *Appendix E: CUP Forms* for Planning Application, Indemnification Agreement, Authorization of Agent, Lease Agreement & Articles of Incorporation, Statement of Operator Qualifications.

EXHIBIT D



Raven Road as viewed from Bodega Avenue
March 10, 2020



Raven Road looking downhill toward Bodega Avenue
March 10, 2020



Raven Road looking uphill toward Cannabis Parcel
March 10, 2020

EXHIBIT E

1 I, James Dickey, declare:

2 1. I am a Professional Land Surveyor, licensed to practice in the State of California
3 (License No. 7935). I am a principal and the President of Cinquini & Passarino, a professional
4 land surveying firm with headquarters in Santa Rosa. I have over 19 years of experience work-
5 ing as a professional land surveyor for various surveying and engineering firms. My experience
6 includes boundary surveys and analyses, subdivisions, large municipal projects, topographic and
7 utility mapping, right-of-way acquisition and calculations for construction projects. If called as a
8 witness, I could testify to the facts set forth in this declaration based on personal knowledge.
9

10 2. In March 2020, I was retained by attorney Kevin Block of Block & Block LLP to
11 confirm the location of the northeast and east property corners for 6125 Bodega Avenue (APN
12 022-200-025) adjacent to the access road, known as Raven Road, and to set line stakes to mark
13 the boundary at 20-foot intervals in the area where the road encroaches on the property line.
14

15 3. I began my work by examining a record of survey by licensed surveyor Ray
16 Carlson, recorded in book 788 of maps, at page 3 on August 14, 2017. A true and correct copy
17 of that survey, reduced to fit on 8.5 x 11 inch paper, is attached to this declaration as Exhibit A.
18 I have drawn red circles on the survey to show the monuments marking the northeast and east
19 corners of the subject property.
20

21 4. I first satisfied myself that the Carlson survey was based on reliable monuments,
22 such as iron pins or pipes set during previous surveys, as opposed to natural or man-made mark-
23 ers such as trees. I also looked at distances shown on the survey between monuments and saw
24 that they were based on actual field measurements as opposed to assumptions or calculations.
25 Finally, I compared some of the Carlson measurements against record measurements found in
26 deeds and verified that the Carlson measurements were accurate.
27
28

BASIS OF BEARINGS

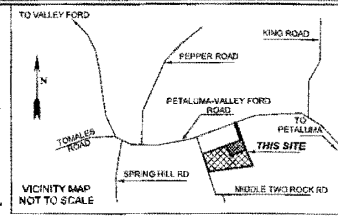
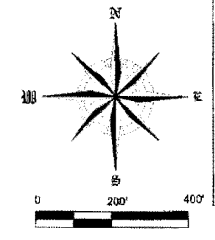
N 54°48'50" E, 1415.37' (N 54°26' 26" E, 1415.89', R1)
BETWEEN A FOUND IRON BOLT IN CENTER OF MIDDLE TWO ROCK ROAD AND
IRON PIPE ON THE WESTERLY SIDE LINE OF A 20 FOOT WIDE RIGHT OF WAY
AS SAID MONUMENTS ARE SHOWN AND DELINEATED ON THAT UNRECORDED PLOT OF SURVEY FOR MIKE MORRISON
BY JOHN ADAMS, L.S.2537, DATED AUGUST 1963, UNDER JOHN ADAMS FILE C3-23B.

NOTES

1. ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. ALL TIES ARE AT RIGHT ANGLES UNLESS OTHERWISE NOTED.

REFERENCES

- R1 - UNRECORDED PLOT OF SURVEY BY JOHN ADAMS / ON FILE IN THE OFFICE OF RAY CARLSON AND ASSOCIATES, INC.
- R2 - GREEN VALLEY RANCH SUBDIVISION / 105 MAPS 11-13
- R3 - ZIMMERMAN GRANT DEED / DN 2007-131817
- R4 - LESTER AND WRIGHT GRANT DEED / DN 2017-008738
- R5 - LESTER AND WRIGHT GRANT DEED / DN 2017-023271
- R6 - LOCKE GRANT DEED / DN 1995-0097305



SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF MICHAEL WRIGHT, IN APRIL 2017, AND BY M.TERRY ZIMMERMAN, IN JULY OF 2017.

DATED: 8-2-17

Ray Carlson
RAY C. CARLSON LS 3690

COUNTY SURVEYOR'S STATEMENT

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8766 OF THE PROFESSIONAL LAND SURVEYORS' ACT THIS 11th DAY OF August 2017.

Leonard H. Gabrielson, L.S. 781
COUNTY SURVEYOR, SONOMA COUNTY



RECORDER'S STATEMENT

FILED ON 19 DAY OF August 2017 AT 9:41 A.M. IN BOOK 388 OF MAPS AT PAGE(S) 3 AT THE REQUEST OF THE COUNTY SURVEYOR.

D.C. NO. 2017042455

William F. Rousseau
SONOMA COUNTY RECORDER

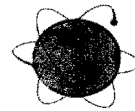
FEE PAID: \$9.00

Devin Wilson
DEPUTY COUNTY RECORDER

RECORD OF SURVEY

OF THE LANDS OF RACHAEL LESTER AND KRISTINE WRIGHT AS DESCRIBED IN THOSE GRANT DEEDS RECORDED AS DOCUMENT NUMBERS 2017-008738 AND 2017-023271, AND THE LANDS OF M. TERRY ZIMMERMAN AS DESCRIBED IN THAT GRANT DEED RECORDED AS DOCUMENT NUMBER 2007-131817, ALL SONOMA COUNTY RECORDS.

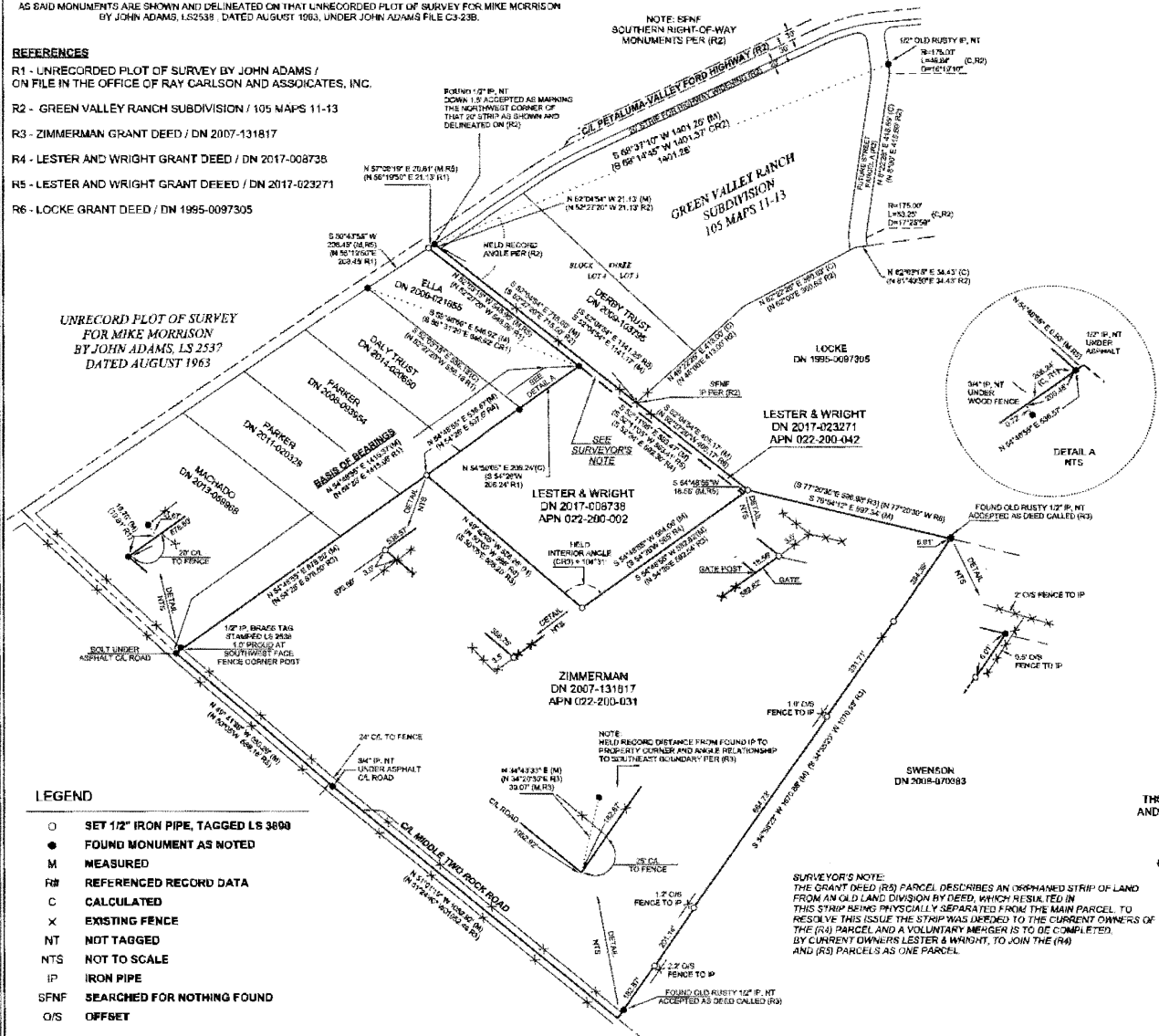
LYING WITHIN THE RANCHO LAGUNA DE SAN ANTONIO
COUNTY OF SONOMA STATE OF CALIFORNIA



RAY CARLSON
AND ASSOCIATES, INC.

Mapping for a Better World™
SURVEYING • MAPPING • GIS • CONSULTING
411 RUSSELL AVENUE, SANTA ROSA, CA 95405
EOMAPS.COM • 707-528-7649
©2016, Ray Carlson and Associates, Inc.

- LEGEND**
- SET 1/2" IRON PIPE, TAGGED LS 3690
 - FOUND MONUMENT AS NOTED
 - M MEASURED
 - R# REFERENCED RECORD DATA
 - C CALCULATED
 - X EXISTING FENCE
 - NT NOT TAGGED
 - NTS NOT TO SCALE
 - IP IRON PIPE
 - SFNF SEARCHED FOR NOTHING FOUND
 - O/S OFFSET



SURVEYOR'S NOTE:
THE GRANT DEED (R5) PARCEL DESCRIBES AN ORPHANED STRIP OF LAND FROM AN OLD LAND DIVISION BY DEED, WHICH RESULTED IN THIS STRIP BEING PHYSICALLY SEPARATED FROM THE MAIN PARCEL TO RESOLVE THIS ISSUE THE STRIP WAS DEEDED TO THE CURRENT OWNERS OF THE (R4) PARCEL AND A VOLUNTARY MERGER IS TO BE COMPLETED BY CURRENT OWNERS LESTER & WRIGHT, TO JOIN THE (R4) AND (R5) PARCELS AS ONE PARCEL.



EXHIBIT B TO DICKEY DECLARATION

March 12, 2020

EXHIBIT F

ELECTRONICALLY FILED
Superior Court of California
County of Sonoma
3/13/2020 3:39 PM

Arlene D. Junior, Clerk of the Court
By: Alexandria Hanks, Deputy Clerk

1 KEVIN P. BLOCK (121329)
kb@winelawyers.com
2 ROMAN BLOCK (306966)
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3 BLOCK & BLOCK LLP
4 1109 Jefferson Street
Napa, California 94559
5 Telephone: (707) 251-9871
6 Telefax: (707) 251-0368

7 Attorneys for Plaintiffs
8 CHRISTINE ELLA and PETER A. POLT, Trustees

9
10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SONOMA
12

13 CHRISTINE ELLA and PETER A. POLT,
14 Trustees of the ELLA-POLT 2018 TRUST,
dated August 23, 2018,

15 Plaintiffs,

16
17 v.

18 FENIX FARMS, LLC, a California limited
19 liability company; TWO ROCK VENTURES,
20 LLC, a California limited liability company; all
21 persons unknown, claiming any legal or equitable
22 right, title, estate, lien, or interest in the property
adverse to plaintiffs' title, or any cloud on plain-
tiffs' title to the property; and DOES 1 through
25,

23 Defendants.
24
25
26
27
28

Case No.: SCV-266221

**VERIFIED COMPLAINT
TO QUIET TITLE AND
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

VERIFIED COMPLAINT TO QUIET TITLE
AND FOR DECLARATORY AND INJUNCTIVE RELIEF

1 **Introduction**

2 1. This action seeks to prevent the overburdening of a prescriptive road easement on
3 plaintiffs’ property at 6125 Bodega Avenue in unincorporated Sonoma County. For decades, the
4 easement has been used to access two single family homes on adjacent parcels at 6045 and 6095
5 Bodega Avenue, which have been used exclusively for residential purposes.
6

7 2. Defendants purchased 6095 Bodega Avenue in 2017 and applied to Sonoma
8 County for a commercial cannabis permit. The application seeks permission to construct a
9 14,000 square foot facility, staffed by 6 full-time employees engaged in commercial cannabis
10 cultivation around the clock, generating an average of 45 vehicle trips per day.
11

12 3. Such a drastic change from residential to commercial use will overburden the
13 easement by changing the nature and increasing the amount of traffic on the road, which is lo-
14 cated 40 feet from plaintiffs’ house. Plaintiffs ask the court to enjoin use of the easement for
15 commercial purposes.
16

17 **The Parties and the Properties**

18 4. Plaintiffs CHRISTINE ELLA and PETER A. POLT, Trustees of the ELLA-POLT
19 2018 TRUST, dated August 23, 2018, own real property commonly known as 6125 Bodega
20 Avenue, Petaluma, California (APN 022-200-025), which is more particularly described in
21 Exhibit A attached to this complaint (the “Ella Parcel”).
22

23 5. Defendant FENIX FARMS, LLC, a California limited liability company, owns
24 real property commonly known as 6095 Bodega Avenue, Petaluma, California (APN 022-200-
25 002), which is more particularly described in Exhibit B attached to this complaint (the “Cannabis
26 Parcel”).
27
28

1 6. Defendant FENIX FARMS also owns real property (APN 022-200-042), which is
2 adjacent to the Ella Parcel and the Cannabis Parcel and which is more particularly described in
3 Exhibit C attached to this complaint (the “Road Parcel). On or about September 20, 2019,
4 FENIX FARMS voluntarily merged the Cannabis Parcel and the Road Parcel into a single legal
5 parcel and recorded a certificate of voluntary merger in the Official Records of Sonoma County
6 as Document No. 2019067380.
7

8 7. A map depicting the Ella Parcel, the Cannabis Parcel and the Road Parcel is
9 attached to this complaint as Exhibit D. All exhibits attached to this complaint are incorporated
10 herein by reference.
11

12 8. FENIX FARMS acquired the Cannabis Parcel in 2017 and now leases it to de-
13 fendant TWO ROCK VENTURES, LLC, which has applied to Sonoma County for a permit to
14 conduct commercial cannabis cultivation on the site. Plaintiffs are informed and believe and on
15 that basis allege that the owners and managers of FELIX FARMS and TWO ROCK
16 VENTURES are related by blood or marriage and are pursuing the commercial cannabis project
17 in concert.
18

19 9. Defendants named as “all persons unknown, claiming any legal or equitable right,
20 title, estate, lien, or interest in the property described in the complaint adverse to plaintiffs’ title,
21 or any cloud on plaintiffs’ title thereto” are unknown to plaintiffs. Said defendants, and each of
22 them, claim some right, title, estate, lien, or interest in the Ella Parcel adverse to plaintiffs’ title,
23 and their claims, and each of them, constitute a cloud on plaintiffs’ title to that property.
24

25 10. Plaintiffs are unaware of the true names and capacities of the defendants desig-
26 nated DOES 1 through 25, and therefore sue them by such fictitious names. Plaintiffs will
27 amend this complaint when such information is ascertained. Each of the DOE defendants claims
28

1 an interest in the Ella Parcel adverse to plaintiffs’ title or is otherwise liable, in whole or in part,
2 for the wrongful conduct alleged in this complaint.

3 11. Plaintiffs are informed and believe and on that basis allege that at all relevant
4 times each of the defendants was an agent or partner of each of the other defendants and was act-
5 ing in the course and scope of said agency or partnership.
6

7 **Raven Road**

8 12. Bodega Avenue is a public right of way. A private gravel road, commonly known
9 as Raven Road, provides access from Bodega Avenue to the Ella Parcel, the Cannabis Parcel and
10 a third parcel (APN 022-330-011) at 6045 Bodega Avenue (the “Jones Parcel”) as depicted on
11 the map attached to this complaint (Exhibit D).
12

13 13. Plaintiff CHRISTINE ELLA moved to the Ella Parcel in 1986 and has lived there
14 ever since. When ELLA took up residence on her parcel, Raven Road was in the same location
15 as it is today. At the time, the road was asphalted. Over the years, the asphalt wore away and
16 ELLA periodically placed gravel on the road, and filled potholes with gravel, to keep the road in
17 sound condition. ELLA maintained the road voluntarily. There was and is no agreement, formal
18 or informal, among the neighbors concerning upkeep of the road.
19

20 **The Prescriptive Easement**

21 14. At all times relevant to this complaint, a portion of Raven Road was and is located
22 on the Ella Parcel, as shown in the photographs attached as Exhibit E-1, Exhibit E-2 and Exhibit
23 E-3 to this complaint. There was and is no access easement of record burdening the Ella Parcel
24 or benefiting any other parcel, including the Jones Parcel and the Cannabis Parcel. A prescrip-
25 tive easement exists, however, appurtenant to the Jones Parcel and the Cannabis Parcel, entitling
26
27
28

1 the owners to access their properties over that portion of Raven Road that is located on the Ella
2 Parcel (the “Prescriptive Easement”).

3 15. Plaintiffs are informed and believe and on that basis allege that the Prescriptive
4 Easement came into existence long before ELLA took up residence on her property and has been
5 in continuous use ever since. The Prescriptive Easement arose because, for more than five years,
6 the current owners of the Cannabis Parcel and the Jones Parcel, and their predecessors-in-inter-
7 est, used Raven Road, including that portion of the road located on the Ella Parcel, to access their
8 properties, and did so in a manner that was open, notorious, continuous and adverse to the own-
9 ers of the Ella Parcel.
10
11

12 16. Throughout the prescriptive period, and at all times since, the Prescriptive Ease-
13 ment has been used solely for residential purposes to access single family homes on the Canna-
14 bis Parcel and the Jones Parcel. At no time since it came into existence, has the Prescriptive
15 Easement been used for access to a business or for any other commercial purpose.
16

17 **The Cannabis Application**

18 17. In or about August 2017, defendant TWO ROCK VENTURES filed an applica-
19 tion with Sonoma County for a use permit to operate a business on the Cannabis Parcel. The
20 application proposes to construct a 14,000 square foot greenhouse dedicated to the propagation
21 and cultivation of commercial cannabis. Access is proposed over the existing Raven Road, in-
22 cluding that portion of the road located on the Ella Parcel, i.e., over the Prescriptive Easement.
23

24 18. The facility will be constructed using heavy equipment, including excavators,
25 bulldozers, backhoes, graders, cement mixers and rollers. Once operational, it will be staffed by
26 6 full-time employees working 24 hours per day 7 days per week. A traffic study prepared for
27 the project states that it will generate an average of 45 vehicle trips per day based on Institute of
28

1 Transportation Engineers' ("ITE") standard trip generation rates. The ITE average daily trip
2 generation rate for a single family house is 9.

3 19. The TWO ROCK VENTURES application is scheduled for hearing before the
4 Sonoma County Board of Supervisors on March 24, 2020. TWO ROCK has represented to the
5 County that it has legal access to the Cannabis Parcel over Raven Road for its proposed cannabis
6 operation. Barring a subsequent court challenge, the Board's decision will be final.
7

8 **FIRST CAUSE OF ACTION**

9 **Quiet Title**

10 20. Plaintiffs refer to and incorporate by reference the foregoing paragraphs of this
11 complaint as if fully set forth herein.
12

13 21. Plaintiffs are informed and believe and on that basis allege that defendants claim
14 an interest in the Ella Parcel, adverse to plaintiffs' title, beyond that conferred on them by the
15 Prescriptive Easement. Specifically, defendants assert the right to use the Prescriptive Easement
16 to access their commercial cannabis venture, although the scope of the Prescriptive Easement is
17 limited to residential use.
18

19 22. Plaintiffs seek to quiet title against the claims of all defendants as of the date on
20 which this complaint is filed.
21

22 **SECOND CAUSE OF ACTION**

23 **Declaratory Relief**

24 23. Plaintiffs refer to and incorporate by reference the foregoing paragraphs of this
25 complaint as if fully set forth herein.
26
27
28

1 32. Use of the Prescriptive Easement for commercial purposes will entail unauthor-
2 ized entry onto the Ella Parcel which will interfere with plaintiffs' possessory rights and will thus
3 constitute trespass.

4 33. Plaintiffs will be damaged as a proximate result of defendants' overburdening of
5 the Prescriptive Easement, but the amount of damages for each instance of overburdening will be
6 difficult or impossible to ascertain, such that a multiplicity of actions will be required for plain-
7 tiffs to recover meaningful compensation.

8 34. Defendants' overburdening of the Prescriptive Easement will cause plaintiffs
9 great and irreparable injury by interfering with plaintiffs' peaceful use and enjoyment of their
10 property and, unless enjoined, may result in expansion of the road easement by prescription to
11 the detriment of plaintiffs' property rights.

12 WHEREFORE, plaintiffs pray for judgment against defendants, and each of them, as
13 follows:
14

15 1. On the first cause of action, for a judgment quieting title in favor of plaintiffs as
16 the fee simple owners of the Ella Parcel and decreeing that defendants have no right, title, ease-
17 ment or other interest in the Ella Parcel adverse to plaintiffs beyond the right to use the Prescrip-
18 tive Easement for residential purposes only.

19 2. On the second cause of action, for a declaration that defendants have no right to
20 use the Prescriptive Easement to access a commercial cannabis operation on the Cannabis Parcel
21 or for any other non-residential purpose.
22

1 3. On the third cause of action, for a temporary restraining order and preliminary and
2 permanent injunction prohibiting defendants, their agents, employees and others acting in con-
3 cert with them from using the Prescriptive Easement to access a commercial cannabis operation
4 on the Cannabis Parcel and for any other non-residential purpose.
5

6 4. On all causes of action, for costs and attorney's fees as allowed by law, and such
7 other and further relief as the court deems just and proper.
8

9 Respectfully submitted,
10

11
12
13 March 13, 2020



14 Kevin P. Block
15 Roman Block
16 BLOCK & BLOCK LLP
17 Attorneys for Plaintiffs
18 CHRISTINE ELLA and PETER A. POLT,
19 Trustees of the ELLA-POLT 2018 TRUST,
20 dated August 23, 2018
21
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23
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27
28

VERIFICATION

I, Christine Ella, am a plaintiff in this action.

I have read the foregoing verified complaint to quiet title and for declaratory and injunctive relief and know its contents.

The statements of fact set forth therein are true of my own knowledge, except as to matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 12, 2020 in Sonoma County, California.


Christine Ella

EXHIBIT G

Reply to Sonoma County Responses to Questions Posed by Board of Forestry

May 1, 2020

Sonoma County's letter to Jeff Slaton, BOF (April 22, 2020), asserts that the plain language of the CalFire regulations, as required by PRC § 4290, Office of Attorney General Opinion No. 92-807 (1993), and the letter from the Attorney General to the Planning Commission of Monterey County (October 25, 2019) is an "underground regulation." The county accuses the BOF of adopting its regulations without following the Administrative Procedure Act (APA) procedures.

This is silly.

The provision at issue in the CalFire rules has been adopted through APA procedures numerous times. The county's contention that development on pre-1991 roads is exempt from the regulations is belied by the express language in § 1270.02 (a)(1), which applies the rules to "the perimeters and **access to** all residential, commercial, and industrial building construction within the SRA approved after January 1, 1991" Emphasis added. Sonoma County's argument that the rules do not apply to new development on pre-1991 roads is based on the BOF erroneously certifying its 2016 ordinance, no longer in effect, without going through APA procedures.

Sonoma County's 2016 ordinance was never vetted by the Office of Administrative Law, and is a genuine underground regulation. Below is our reply to Sonoma County's responses to the questions posed by Jeff Slaton on April 17, 2020. They establish that Sonoma County's position is strained, ill-considered, and meritless. Sonoma County was not able to answer his questions, other than to say that they were irrelevant. Its current ordinance cannot be legally certified, and the proposed "emergency regulations" violate the law and do not respond to any emergency.

1. Provide the legal basis and analysis for the argument that PRC § 4290 does not apply to roads (or roads to legal parcels) that existed prior to the Subdivision Map Act or prior to 1991.

Sonoma County's response does not support its contention that CalFire regulations do not apply to roads built before 1991. Thus, it does not justify its approval of commercial development on dead-end roads as narrow as 8-9 feet, 10 feet, 11-12 feet, as well as commercial development on narrow, dead-end narrow roads over three miles in length. During the peak fire season, such development can bring to the wildland-urban interface 20 or more seasonal workers daily, as well as commercial truck traffic.

The plain language of PRC § 4290 provides that the regulations

apply to the perimeters and access to all residential, commercial, and industrial building construction within state responsibility areas approved after January 1, 1991

Emphasis added. This language is crystal clear, without ambiguity, and the BOF adopts it verbatim in CalFire § 1270.02. The rules apply to access to new construction beginning in 1991.

Under standard rules of statutory construction, legislative history is irrelevant unless the statute is ambiguous. “If there is no ambiguity in the language, we presume the Legislature meant what it said and the plain meaning of the statute governs.” *People v. Snook* (1997), 16 Cal. 4th 1210, 1215. It is well-known that during consideration and adoption of any legislation many divergent ideas are discussed, and advocates for a losing position sometimes create “history” that is false and misleading. What matters is the precise language that the legislature has adopted.

For these reasons, the legislative history of PRC § 4290 is irrelevant. Similarly, reading the tea leaves of statements made during the BOF rulemaking history in 1991 is immaterial to the language that the board ultimately adopted, especially where the rule reiterates the statutory phrasing.

Sonoma County wrongly dismisses the 1993 Attorney General Opinion as irrelevant. Because this opinion was issued close in time to the adoption of PRC § 4290 and the initial CalFire regulations, its conclusions are given great weight. The opinion concluded that the fire safety standards “apply to the perimeters and access to buildings constructed after January 1, 1991 . . . ” Emphasis added.

Sonoma County points to a 1995 Attorney General Opinion as support for its position that CalFire regulations do not apply to roads built before 1991. But that opinion merely responds to a question about the installation of a paved driveway and water tank, and does not address access to the property because that question was not asked. It states the uncontroversial proposition that the exercise of the police power is subject to the constitutional limitations (an issue discussed below), and that a builder must comply with the laws which are in effect at the time a building permit is issued. We agree that builders should comply with the laws that are in effect. Sadly, Sonoma County refuses to comply with the CalFire regulations that are in effect right now.

Sonoma County’s contention that a 2010 Attorney General Letter to the Board of Forestry is helpful to its support of development in fire-prone areas is misplaced. It concerns reconstruction of buildings after a fire. As detailed in the “Application of CalFire Board of Forestry SRA Fire-Safe Regulations to Rebuilding After Natural Disasters” (April 11, 2020), this is not an issue. Nevertheless, but we are not opposed to the BOF formalizing the ability to rebuild after natural disasters. Sonoma County raises this as an emotional red herring as a ploy to allow commercial development in fire-prone areas which will ultimately lead to more fires and more rebuilding.

Sonoma County is clumsy as it attempts to rewrite history with regard to the 2013 rulemaking in which the confusing wording on exemption for existing roads and streets was deleted. The county claims this phrase was deleted because it was redundant. This is patently false. That phrase was deleted to clarify that no county can exempt roads built before 1991. Footnote 1 of the May 17, 2010 draft (attached), cited the Office of Attorney General Opinion No. 92-807 (1993) as legally requiring this interpretation.

Necessity and Purpose: Deletes rule interpretation stating that existing roads, streets, private lanes, and structures are not subject to 14 CCR 1270 et seq regulations and instead explains application of the rules as required by PRC 4290.

Sonoma County's reliance on the update to the SRA Fire Safe Regulations is similarly misplaced. The county notes that the record states that the changes "would not apply to existing infrastructure, in other words existing infrastructure would not have to be brought into conformance." We agree with this statement as well as the board's response that the rules apply to new development "when landowners voluntarily decide to develop their property, and would not apply to existing infrastructure."

Sonoma County believes that the certification of its exemptions for pre-1991 roads in its 2016 ordinance allows it to promote commercial development in fire-prone areas in perpetuity. As stated on page 3 of the April 7, 2020 staff memo for this proceeding, the fact that Sonoma's ordinance contained this exemption in 2017 "does not preclude the Board from considering new information regarding this exemption in 2020." We understand that prior to 2017 the Sonoma County ordinance was never previously certified. A mistaken determination by BOF in 2017, which was never vetted by the Office of Administrative Law, does not change the law and should not be magnified by changing the regulations to meet Sonoma County's request.

Finally, Sonoma County relies on an ambiguous comment in the 2020 rulemaking that "existing roads over a mile in length are considered 'existing nonconforming' and do not necessarily preclude development along the parcels that they serve." This comment does not address dead-end roads, which is where most problems arise. Even if it did address a dead-end road, in many cases development can proceed if another outlet can be created, and thus the CalFire rules would not "necessarily preclude development."

2. **Provide the legal basis and analysis for your interpretation of the 1993 Attorney General Opinion, particularly with respect to the position that the Opinion construes the 1991 exemption language in § 4290 as also exempting "legal parcels" prior to 1991 or the Subdivision Map Act.**

Sonoma County's response does not support its contention that CalFire regulations do not apply to roads build before 1991. Thus, it does not justify its approval of commercial development on dead-end roads as narrow as 8-9 feet, 10 feet, 11-12 feet, as well as commercial development on narrow, dead-end narrow roads over three miles in length. During the peak fire season, such development can bring to the wildland-urban interface 20 or more seasonal workers daily, as well as commercial truck traffic.

Sonoma County states that the 1993 Attorney General's Opinion did not apply to roads outside their parcel boundaries and did not require building permit applicants to upgrade the roads to 20 feet. First, the CalFire standards did not require 20-foot wide roads in 1993. The clear implication of the opinion that the standards "apply to the perimeters and access to buildings constructed after January 1, 1991 . . ." lead to this result. Regulations that only apply on a parcel and do not include safe "access" to that parcel are illogical as the "access" requirement is included in PRC § 4290. The 1993 Opinion states that "if more than one construction of a statute appears possible, we must adopt the one that leads to the most reasonable result." Furthermore, PRC § 4290 states that the regulations shall include "Road standards for fire equipment access." The California Fire Code requires that fire apparatus access roads are from the fire station to the facility, building or portion thereof, with current standards as 20 feet wide (CFC § 503.2). The only reasonable conclusion is that access is not limited to within the parcel boundaries.

Sonoma County again cites an irrelevant 1995 Attorney General Opinion, discussed above, that merely concerns the installation of a paved driveway and water tank.

Finally, again Sonoma County cites a 2010 Attorney General Letter to the BOF that concerns reconstruction of buildings after a fire. As discussed above, this is a red herring and not an issue.

3. **Provide the legal basis and analysis for the position that the 1993 Attorney General Opinion construes the 1991 exemption language in § 4290, or other language in § 4290, as exempting “existing structure, roads, streets, and private lanes or facilities” such that this language would be redundant with the conclusion by the Attorney General.**

Sonoma County’s response does not even address the question posed, and does not support its contention that CalFire regulations do not apply to development on roads built before 1991. Thus, it does not justify its approval of commercial development on dead-end roads as narrow as 8-9 feet, 10 feet, 11-12 feet, as well as commercial development on narrow, dead-end narrow roads over three miles in length.

Sonoma County again cites an irrelevant 1995 Attorney General Opinion, discussed above, that merely concerns the installation of a paved driveway and water tank. It also cites a 2010 Attorney General Letter to the BOF that concerns reconstruction of buildings after a fire. As already discussed, this is a red herring and a non-issue.

4. **Please explain how the language in § 13-25(f), that a road provides year-round unobstructed access, meets the minimum standards in regulation § 1273.00 requiring concurrent civilian evacuation and emergency wildfire equipment access. Simply because a road provides year-round access does not mean it will provide for concurrent civilian evacuation and wildfire equipment access. As the Board understands § 13-25(f), nothing in it addresses concurrent evacuation of civilians and wildfire equipment access. Not only does the ordinance not appear more stringent than the SRA fire safe regulations, it does not need even appear to meet the minimum standard. Similarly, please explain how the language in § 13-25(f), that a road provides year-round unobstructed access, meets the minimum standard in regulation § 1273.01 of two ten-foot traffic lanes. Nothing in § 13-25(f) requires two lanes, nor does it address the width of the lanes.**

Sonoma County does not respond to this question at all. It claims that its “exemption is a requirement for reasonable fire engine access on pre-1991 roads outside of a parcel’s boundaries.” Nowhere does the county explain how commercial development that it approves on dead-end roads as narrow as 8-9 feet, 10 feet, 11-12 feet, as well as commercial development on narrow, dead-end narrow roads over three miles in length is “reasonable for engine access.” Such roads cannot provide concurrent civilian evacuation and emergency wildfire equipment access. The county’s response insults the intelligence of Sonoma County residents and the BOF.

The county then points to the 2017 certification of its 2016 ordinance that exempts pre-1991 roads. As stated on page 3 of the April 7, 2020 staff memo for this proceeding, the fact that Sonoma’s ordinance contained this exemption in 2017 “does not preclude the Board from considering new information regarding this exemption in 2020.” The Office of Administrative Law never vetted this determination, so it is an underground regulation.

The county then provides over a page of its standards for the tiny number of roads that it does regulate, which is irrelevant to this discussion. The County states that it requires proof of year-

round unobstructed access on old access roads. Even here, the County has stated that ‘unobstructed’ only means there are no fences or other permanent impediments blocking the road. CalFire’s definition of unobstructed is more rigorous, referencing the Merriam-Webster Dictionary definition where obstruct means “to hinder, impede, or block.” A one lane road by definition cannot provide unobstructed access as traffic flow is hindered whenever one vehicle meets another, requiring both vehicles to stop and then one vehicle backs up until a turnout is reached, which could be several hundred feet, and risk losing control of the vehicle if it slips off the road and rolls over in steep terrain. The driver of a water tender died fighting the Nuns Fire in mid-October 2017 when he lost control of his vehicle on a narrow road. Yet the County routinely approves discretionary use permits for commercial development on 8-9-foot, 10-foot, and 11-12-foot-wide dead-end roads that fail to provide unobstructed access or concurrent civilian evacuation and emergency wildfire equipment access. These do not even meet the minimum standards of the County’s 13-25(f) exemption. To claim that these are “far above the minimum State standards” is ridiculous.

5. **Provide the legal basis and analysis for the position that applying § 4290 to building construction approved after January 1, 1991, except as specifically exempted, would constitute retroactive application of the statute.**

Sonoma County adds nothing to its previous discussion of this issue. It argues that the interpretation of PRC § 4290 in the 1993 Attorney General Opinion and the language in the CalFire rules since 2010 “is not grounded in any APA rulemaking procedure.” This argument is specious. The rulemaking was overseen by the Office of Administrative Law. Sonoma County’s ordinances going back to 1992 were never certified by CalFire until the mistaken certification in 2017. If any entity is guilty of not following APA procedures and is an underground regulation, it is Sonoma County.

6. **If you disagree with the analysis and conclusions reached by the Attorney General in the October 25, 2019 letter, please provide the legal basis and analysis explaining how the Attorney General’s analysis is flawed. If the Paraiso Springs Development was proposed in Sonoma County, under the same circumstances, how would the requirements in the Sonoma County ordinance ensure that access to the new development equaled or exceeded the minimum standards in the SRA fire safe regulations. If Sonoma County believes that if proposed in Sonoma County the Paraiso Springs development would be exempt from the SRA fire safe regulations, please provide the legal analysis to support this position.**

Sonoma County does not even address the question asked of why it believes the October 25, 2019 Attorney General’s letter is flawed. Instead, it again refers to a 2010 Attorney General Letter to the Board of Forestry, which concerns reconstruction after a fire. As detailed in the “Application of CalFire Board of Forestry SRA Fire-Safe Regulations to Rebuilding After Natural Disasters” (April 11, 2020) this is not an issue.

The county then contends, without authority, that the Paraiso Spring letter is not binding. Instead, it provides language that it attributes to the Attorney General concerning using police power to ensure evacuation and fire engine access to mitigate the situation, which in fact was not in the letter and is diametrically opposed to what the Attorney General concluded. It claims that

[f]or discretionary approvals, the County of Sonoma considers the impacts of a proposed development, and within the constitutional limits of nexus and proportionality, imposes

conditions of approval to mitigate impacts and protect public health and safety. For example, the County can exercise its police powers to require conditions of approval to upgrade pre-1991 roads and require secondary access roads to ensure the proposed development accommodates increased visitors and traffic in a proportionate manner that protects the public health and safety for fire engine access and civilian evacuation.

If the county exercises its police powers at all, its judgment typically is remarkably poor in most instances. It approves commercial developments on dead-end roads as narrow as 8-9 feet, 10 feet, 11-12 feet, as well as commercial development on narrow, dead-end narrow roads over three miles in length. It provides examples of conditions of approval at a hotel and a winery, but these exceptions prove the rule. The county provides no examples of denying commercial development on narrow, long dead-end roads which are the most dangerous roads for development in high fire prone areas. During the peak fire season, such development can bring to the wildland-urban interface 20 or more seasonal workers daily, as well as commercial truck traffic.

7. **Sonoma County appears to assert that applying § 4290 and the SRA fire safe regulations to building construction in the SRA approved after January 1, 1991, without exempting pre-1991 roads, would violate takings clauses under the federal and/or California constitutions. Please provide the legal analysis, including applicable case law, to support this assertion. Note, however that under Article III, § 3. 5 of the California Constitution, an administrative agency, such as the Board, has no power to declare a statute unconstitutional unless an appellate court has made a determination that such statute is unconstitutional.**

Sonoma County wrongly claims that the CalFire regulations are “land use exactions.” Exactions in the land use context are development fees or dedications of land to a governmental agency. The CalFire regulations require modern, safe roads, not the payment of fees or dedications of land.

Sonoma County again reiterates its hope that the CalFire regulations affect the reconstruction of homes after a disaster. The county gins up this “problem” as an emotional red herring to advance its interest in promoting rampant development in fire-prone areas. As we explained in the “Application of CalFire Board of Forestry SRA Fire-Safe Regulations to Rebuilding After Natural Disasters” (April 11, 2020), this is not an issue.

The two Supreme Court cases the county cites concerning Fifth Amendment taking challenges are irrelevant—*Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) (state’s grant of building permit was conditioned on the property owners recording an easement that allowed the public to traverse the beach on their property), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994) (city required a building permit applicant to dedicate a public greenway and a bike/pedestrian pathway). *Nollan* reasoned that requiring an easement for public access did not substantially advance a government purpose that would justify denying the permit. However, if a valid government purpose had existed, *Nollan* would have found no taking even if there were an outright appropriation of property.

Sonoma County fails to take notice into consideration. It, and possibly a few other counties, have delayed implementing the CalFire regulations on pre-1991 roads for almost thirty years. The law was clarified in 1993 in Office of Attorney General Opinion No. 92-807, and again in 2010 when

the BOF regulations eliminated any possible ambiguity. The phrase “ignorance of the law is no excuse” applies to investors who should undertake due diligence concerning the ability to develop land before they purchase it, as well as to counties that remain obtuse despite employing 30 staff lawyers. *See Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992) (no taking where development restrictions were inherent in the title itself and the state's property law); *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002) (takings claim rejected because where owners had time to develop before the regulations went into effect); *Dodd v. Hood River County*, 59 F.3d 852 (9th Cir.) (notice of possible change in law defeats taking claim). There is no federal constitutional right to be free of changes in land use laws. *Lakeview Dev. v. City of South Lake Tahoe*, 915 F.2d 1290 (9th Cir. 1990).

In *Lucas*, the Supreme Court held that there might not be a taking even if no development of any kind were possible in a wetland. Such an extreme result is unlikely in the application of the CalFire rules because requiring roads to be fire safe should not eliminate all economic use of property even if the roads cannot be improved. Property accessed by pre-1991 roads that lack commercial or residential structures has been used for some purpose for decades or a century—likely agriculture, forestry, or recreation. Requiring new development to meet the CalFire standards does not eliminate the prior economic use of the property. Reasonable investment-backed expectations are achieved even if the property cannot be developed to the extent that the owner might wish. *See Penn Central Transp. Co. v. New York City*, 438 U.S. 104 (1978). This is often the case, and nothing new.

Sonoma County complains that applying CalFire regulations is “retroactive regulation.” But the county never explains why it cannot grasp the plain meaning of PRC § 4290, the 1993 Attorney General opinion, or the plain meaning of the CalFire regulations that have been in effect in for a decade. While Sonoma County may disagree with a policy that has been in effect for over 30 years, this is hardly retroactive regulation. A failure to understand the plain meaning of the law is not a valid argument to promote unconscionable and increasingly dangerous land use policies in the wildland-urban interface.

Attachment: 1270 SRA Fire Safe Regulations Update, 2010

EXHIBIT H

PLANNING REFERRAL

COUNTY FIRE COMMENTS

File Number: UPC 17- 0018
Site Address: 6095 Bodega Avenue
APN: 022-200-002
Local Fire Agency: Sonoma County Fire and Emergency Services
State Responsibility: YES
Date: 02/02/2018
By: STEVE MOSIURCHAK

Scope:

Request for a Use Permit for 10,000 square feet of small mixed light cannabis cultivation and on-site processing on a 7.09 acre parcel zoned LEA (Land Extensive Agriculture).

Environmental Concerns:

None

Comments:

Permitting or development approval is subject to the Sonoma County Fire Safety Ordinance (Sonoma County Code). All applications for development approvals must be approved by the Sonoma County Fire Marshal, and shall be accompanied by: plans, engineering calculations, and other data necessary to determine compliance with the provisions of the codes, and shall be in compliance with the following conditions: *(Ref. California Code of Regulations Title-14, Division 1.5, Chapter 7, Subchapter 2, Articles 1 – 5, & Sonoma County Code Chapter 13, Article IV, Section 13-17 & Sonoma County Code Chapter 13, Article V, Division A, Section 13-24)*

1. Indicate the State cultivator license type. SB 837, Business & Professions Code §19332(g).
2. Verify if SB 837, SB 837, Business & Professions Code §19341(a) or (b) is applicable regarding Manufacturing Level 1 or 2 licensure.
3. BC Engineering Group indicates the use of pesticides under a discussion of Harardous Materials; demonstrate compliance with CFC Chapter 26.

4. Provide a detailed building code analysis for this building complex. Indicate all occupancies and type of construction. Clarify use of separated or non-separated occupancies. CBC Sec. 506.2.3, 508.3 and 508.4.
5. Verify maximum common path of egress travel. CBC Table 1006.2.1.
6. Verify maximum length of dead end corridors. CBC Sec. 1020.4.

Conditions:

1. Due to the scope of this project a Fire Services Pre-Construction meeting is required.
2. The subject property (*or properties*) must currently be in full compliance with Building Code regulations, Fire Code Regulations and Hazardous Materials regulations.
 - a. A fire inspection shall be conducted by the Sonoma County Fire and Emergency Services Department to determine if the subject property (*or properties*) is currently in full compliance with applicable Building Code regulations, Fire Code Regulations and Hazardous Materials regulations.
 - b. The Sonoma County Fire and Emergency Services Department may charge and collect a fee for the inspection in an amount, as determined by the county, sufficient to pay its costs of that inspection.
 - c. Buildings may have to be fire sprinklered and contain a fire alarm system consistence with the occupancy type. Existing sprinklered buildings shall be verified based on design to be in compliance with specific occupancy type.
3. If this project is determined to be a "Project" according to the California Environmental Quality Act (CEQA), the Sonoma County Fire and Emergency Services shall be listed as a Responsible Agency for purposes of review and comment.
4. The subject property (*or properties*) must currently be in full compliance with Zoning regulations, Building Code regulations, Fire Code Regulations and Hazardous Materials regulations.

Operational Permits

1. Applicable Fire Code operational permits shall be obtained prior to the initiation of any activity where an operational permit is required by the California Fire Code as adopted and amended by Sonoma County Code.
 1. Cannabis type operations

2. Emergency responder radio coverage
 3. Private fire hydrants
 4. LP gas
-
2. An annual fire safety inspection is required for any facility requiring a Fire Code Operational Permit. The county or fire district which inspects the facility may charge and collect a fee for the inspection from the owner of the facility in an amount, as determined by the county or fire district, sufficient to pay its costs of that inspection.

Construction Permits

1. A building permit shall be obtained for any construction, or any change in the use or character of a building.
2. Fire Protection plan shall be provided and shall provide information about the property including but not limited to the following. See Chapter 4 of the California Fire Code and <http://sonomacounty.ca.gov/FES/Fire-Prevention/Cannabis/>
 - a. Emergency Contacts
 - b. Address
 - c. Property owner
 - d. Site map with property lines
 - e. Fire access roads including gates
 - f. Water supplies and hydrants
 - g. Location of hazardous materials
 - h. Utilities
 - i. Buildings and intended use
 - j. Employee training for use of regulated materials in the fire code
 - i. When required by the local fire jurisdiction special processing of cannabis may require the facility to have identified trained staff including a main point of contact to oversee and train employees in the special process.
 - ii. This process shall have an onsite training record for review and a manual in address emergencies associated with the special process. (Example is extraction equipment)

ACCESS

1. To facilitate locating an emergency and to avoid delays in response; all existing and newly constructed or approved roadways and buildings whether public or private shall provide for safe access for emergency fire apparatus and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during an emergency, and shall be constructed and maintained as required by Sonoma

County Fire Safe Standards and the California Fire Code, as adopted and amended by Sonoma County Code.

Water Supply

1. Emergency water supply for fire protection shall be available and accessible in locations, quantities and delivery rates as specified in the California Fire Code as adopted and amended by Sonoma County Code.

Vegetation Management

1. The project is located in a SFM Moderate Fire Hazard Severity Zone. To reduce the intensity of a conflagration by the installation of building fire protection features, the proposed project shall be in accordance with the California Fire Code as adopted and amended by Sonoma County Code and Sonoma County Fire Safe Standards.

Occupancy

1. Prior to occupancy, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.

EXHIBIT I



FSR19-0009 - UPC17-0018 FIRE ACCESS REVIEW

[Cancel](#) [Help](#)



Permit No. FSR19-0009	Inspection Type 783: Fire Progress Inspection	Scheduled Date 03/29/2019	Record Type Fire/Field Review/NA/NA
Status Approved With Comments	Inspection Date 03/29/2019	Total Time	Full Record ID 19FIR-00000-00012



Department FIRE	Inspector Steve Mosiurchak	Requestor Steve Mosiurchak	Requestor's
---------------------------	--------------------------------------	--------------------------------------	--------------------

Result Comment

At the request of the applicant. The intersection of Bodega Hwy and the private road provides year round access to conventional vehicles and fire apparatus. The existing private road is serving existing parcels and structures prior to 1991 meeting the Fire Safe Standards. The existing private road is gravel and shall have a minimum of one turn out provided were adequate and approved by the fire code official. The existing private road shall be maintained to continued to provide year round access to conventional vehicles and fire apparatus. During the inspection it was noted a full size 10 wheel dump truck safely navigated the private road to the parcel entrance. The private driveway shall be provided with an approved turnaround and access to new structures per the Fire Safe Standards.



FSR19-0009

Request Date 04/15/2019	Request Time 10:05
-----------------------------------	------------------------------

Request Comment

BECOLQ

Inspection Detail



From: [Deborah Eppstein](#)
To: [BOS](#)
Cc: [Crystal Acker](#)
Subject: 6095 Bodega Ave, UPC17-0018, Agenda #30 Public Hearing May 19, 2020
Date: May 16, 2020 10:05:58 AM
Attachments: [Attorney General Becerra Letter Oct 25 2019.pdf](#)
[6095 Bodega Ave letter to BOS 5-16-20.pdf](#)

May 16, 2020

Re Cannabis permit application UPC17-0018, 6095 Bodega Avenue

Item #30, Board of Supervisors Public Hearing May 19, 2020

Dear Chair Gorin and County Supervisors,

The application for a conditional permit UPC17-0018, 6095 Bodega Ave should be denied for several critical factors. I will focus on the access issues relative to state and local law.

The SRA Fire Safe Regulations have been in effect in Sonoma County since December 2, 2019. The CalFire Board of Forestry (BOF) did not certify the Sonoma County regulations, as they found them less stringent than the CalFire SRA regulations. In particular, the BOF noted that the exemption in 13-25(f) for pre-1991 roads was less stringent than the SRA regulations and did not provide for safe concurrent evacuation and fire engine ingress. As stated in those SRA regulations § 1270.03(c) “the local jurisdiction shall ensure that the applicable sections of this subchapter become a condition of approval of any applicable construction or development permit or map.” There is no ambiguity that these SRA regulations and not the prior Sonoma County fire regulations govern the ongoing allowance of all permits not previously issued, including the CUP for 6095 Bodega Ave.

The SRA regulations have many requirements to help ensure safety of firefighters and residents, including requirements for roads from a facility to the fire station, eg minimum width (20 ft plus shoulders) and length of dead-end roads (they still must be 20 ft wide, but no longer than 800 ft to 1 mile, depending on parcel size served). As the 20 ft wide requirement is ‘a minimum of two 10 ft wide traffic lanes, not including shoulders and striping,’ BOF has referred to this requirement as really 22 ft.

Raven Road does not meet these standards, as it is 12 ft wide or even less. It is impossible to have safe concurrent civilian evacuation as well as fire engine ingress on a one-lane road. Furthermore, cannabis operations generate much additional traffic further compounding road clogging on one-lane roads. It would violate the SRA regulation, ie state law, to approve this application.

The county now knows that its prior exemption for pre-1991 roads is less stringent than the CalFire regulations in effect, and knows that the Attorney General confirmed that exempting pre-1991 roads ‘would undermine the intent of the SRA regulations.’¹ In light of this knowledge, it would be unconscionable and grossly negligent as well as violation of state law for the county to continue to apply an exemption for pre-1991 roads that has been determined by CalFire to not provide for safe concurrent evacuation and fire engine ingress.

Raven Road not only does not meet the minimum standards of the SRA regulations, it does not have a legal access easement for commercial use. The road already violates easement rights, and could not be widened as it would further illegally encroach on neighbors’ property.

I will close with what should be an overriding requirement for approval of any CUP under the cannabis ordinance is as stated in § 26-88-254(f):

“Health and Safety. Commercial cannabis activity shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.”^[1]

We know for a fact that a commercial cannabis operation will subject neighbors to noxious gases and odors, as well as noise, traffic and light. The odors and associated side effects (respiratory issues, nausea, headache) will prevent neighbors from using their yards or opening the windows in their homes. Children cannot play in their yards. The minimal setbacks in the cannabis ordinance were arbitrarily chosen and are woefully inadequate as has been documented by many residents experience the adverse effects of near-by cannabis operations, even 700 ft away. Furthermore, cannabis operations, being a high value cash crop as well as a federally controlled substance, attract criminals. There are ample records in Sonoma County of criminal activities associated with cannabis operations, not only targeting the operations but also neighbors. I can personally attest to this, having been a victim of home theft from burglars targeting a cannabis operation at the end of our dead-end road.

Why does Sonoma County consistently ignore this important health and safety requirement in continuing to approve cannabis operations that are way too close to residents? Is this what Sonoma County has stooped to, selling out our residents and blatantly violating state law in favor of the cannabis industry?

I urge you to do the right thing and deny this permit.

Thank you.

Deborah Eppstein, PhD
801-556-5004

¹Letter from Attorney General Becerra to Monterey County, October 25, 2019, attached.

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October 25, 2019

Planning Commission of Monterey County
Monterey County Resource Management Agency
Attn: Mike Novo
1441 Schilling Place – South, 2nd Floor
Salinas, CA 93901
Sent via email: novom@co.monterey.ca.us

Re: Paraiso Springs Resort, Project No. PLN040183

Dear Mr. Novo and Commissioners,

We appreciate your preparation of a Final Environment Impact Report (“FEIR”) responding to public comments on the previous two Recirculated Draft Environmental Impact Reports (“RDEIRs”), including the comments we submitted on March 20, 2019 and July 9, 2019 regarding wildfire risks associated with the proposed Paraiso Springs Resort Development (the “Project”). After reviewing the additional information presented, we acknowledge and appreciate that you have provided more information regarding wildfire risks associated with the proposed Project and have revised certain mitigation measures to address some of those wildfire risks. While the additional information improves the Project and the environmental documents, we remain concerned that the Project still does not comply with state evacuation and fire suppression access requirements for development in a State Responsibility Area (“SRA”).¹ In addition, the FEIR’s discussion of the wildfire risks associated with the Project, particularly related to evacuation in the event of a wildfire, remains inadequate.

The Project does not comply with the state’s dead-end road limitations and road width limitations applicable to development within an SRA. (Cal. Code. Regs., tit. 14, §§ 1273.08 and 1273.01; adopted pursuant to Pub. Resources Code § 4290.) In response to our July 9, 2019 comments regarding the Project’s failure to comply with SRA regulations, the FEIR claims that Paraiso Springs Road is an existing road and thus exempt from such regulations. (FEIR, p. 617.) In support of such an exemption, the FEIR cites to Monterey County Code section 18.56.020(B)(2)(a) which states “[r]egulations contained in this chapter do not apply to the following building, construction, or development activities... (a) Existing structures, roads,

¹ This letter is not intended, and should not be construed, as an exhaustive discussion of the FEIR’s compliance with the California Environmental Quality Act (“CEQA”) or the Project’s compliance with other applicable legal requirements.

streets and private lanes or facilities.” (FEIR, p. 23.) However, neither the Monterey County Code nor the SRA regulations support an exemption for this Project for several reasons.

First, whether Paraiso Springs Road is an existing road is inconsequential. Paraiso Springs Road will now be the *sole* access to new commercial construction within an SRA. (February 2018 RDEIR, p. 2-45.) SRA regulations explicitly “apply to: (1) the perimeters and *access to* all residential, commercial, and industrial building construction within the SRA approved after January 1, 1991....” (Cal. Code Regs., tit. 14, § 1270.02, emphasis added.) It is indisputable that the Project involves commercial building construction within the SRA approved after January 1, 1991. Thus, the Monterey County Code exemption for existing roads is inapposite – the Paraiso Springs Road is now “access” to a Project that falls within the scope of the SRA regulations. In addition, the SRA regulations do not expressly exempt all existing roads. (14 Cal. Code Regs., tit. 14, § 1270.02(d) [exempting “[r]oads used solely for agricultural, mining, or the management and harvesting of wood products”].) The Monterey County Code cannot be read to apply less stringent standards than the SRA regulations because counties that assume responsibility for fire prevention and suppression in SRAs must “provide[] the same or higher intensity of fire protection to these lands as is provided under existing levels of state protection in other comparable areas of the state.” (Cal. Code Regs., tit. 14, § 1658.)

Second, contrary to the assertions in the FEIR (p. 22), the problems with the existing road cannot be cured through an exception pursuant to California Code of Regulations, title 14, section 1270.06 (outlining a process to apply for an exception to the applicability of the SRA regulations). An exception under that regulation still must provide “the same practical effect as” the SRA regulations. As the FEIR acknowledges, “the Fire Protection Plan cannot modify the dead-end nature of the road” (p. 618). Accordingly, the practical effect of prohibiting dead-end roads of certain lengths in an SRA, which are important to timely evacuation and fire suppression access, cannot be achieved through an exception. In addition, the Project applicant has not applied for an exception. (FEIR, p. 23.)

Third, annexation of Project land into the Mission-Soledad Rural Fire Protection District will not cure violations of the SRA regulations (see FEIR, p. 23 [describing annexation].) Annexation does not exempt a project from SRA regulations. Land can be both within a fire protection district and within the SRA. (Health & Saf. Code § 13811.)

Finally, we note that exempting the Project from the SRA regulations simply because Paraiso Springs Road is a pre-existing road would undermine the intent of the SRA regulations. SRA regulations are meant to ensure that “[t]he future design and construction of structures, subdivisions and developments in the SRA shall provide for basic emergency access....” (Cal. Code Regs., tit. 14, § 1270.01(b).) Constructing a new resort that includes a nearly 150,000 square foot hotel, an over 18,000 square foot “hamlet” with a spa and retail buildings, and over 75 timeshare units (February 2018 RDEIR, pp. 2-20, 2-27) at the end of a narrow road that exceeds the dead-end road regulations undermines emergency access in the SRA. While this road may have been exempt from SRA width and dead-end road limitations prior to development

of the Project, there is no basis for an interpretation that allows construction within the SRA of a large new resort that would depend upon the use of that road for the sole emergency access to and evacuation from the Project. It is the construction of a new project that triggers the application of the SRA regulations; the fact that the Project is being constructed at the end of an existing road does not negate the triggering effect of the new construction. A contrary interpretation would incentivize development without adequate evacuation routes and emergency access in the SRA rather than prevent it.

From a CEQA perspective, the concerns with SRA non-compliance are exacerbated by the gaps that remain in the disclosures the County is providing related to the wildfire risks associated with the Project and specifically the risks associated with evacuation. We will not reiterate our previous comments here, but at this time note the following continuing concerns related to evacuation: (1) the analysis related to evacuees trying to leave the site while emergency response personnel are trying to access the site remains inadequate and conclusory (FEIR, p. 623 [citing back to the Fire Protection Plan and the Wildland Fire Evacuation Plan, which identifies the issue (June 2019 RDEIR, p. 164), but does not describe how it will be addressed]); and (2) the reasonableness of the evacuation time – estimated to be a minimum of 17-18 minutes - has not been defined or compared to a standard of significance, nor is it supported by substantial evidence (June 2019 RDEIR, pp. 61, 140, 141-142).²

We appreciate your consideration of our comments and respectfully request that you refrain from certifying the FEIR until it is revised accordingly and refrain from approving the Project until it complies with the SRA. If you have any questions or would like to discuss our comments, please feel free to contact us.

Sincerely,



NICOLE U. RINKE
Deputy Attorney General
HEATHER LESLIE
Deputy Attorney General

For XAVIER BECERRA
Attorney General

² We also note that some of our previous comments have not been as fully addressed as would be desirable to fully inform decision-makers and the public. For example, the FEIR assumes that the Project will exacerbate wildfire risk, but does not describe the risk in any detail, making it more difficult to evaluate and address that risk and the associated issues related to evacuation. (See June 2019 RDEIR, p. 64.)

From: craigspencerharrison@gmail.com
To: [Crystal Acker](#)
Subject: Cannabis Permit Application UPC 17-0018, 6095 Bodega Avenue, Item 30, May 19 Board Meeting, 2 PM.
Date: May 18, 2020 11:23:02 AM
Attachments: [Bodega Avenue.pdf](#)

EXTERNAL

May 18, 2020

Chair Susan Gorin
Supervisor David Rabbitt
Supervisor Shirlee Zane
Supervisor James Gore
Supervisor Lynda Hopkins

**Re: Cannabis Permit Application UPC 17-0018,
6095 Bodega Avenue, Item 30, May 19 Board Meeting, 2 PM.**

Dear Board of Supervisors:

This application highlights a fundamental problem with your cannabis ordinance. Permits for cultivation should be banned on shared access roads unless all road users agree to allow the cultivation. These situations provoke many of the most serious and contentious issues—neighbor security because of mistaken home invasions, over-burdening of easements, and commercial activities that are too close to residences to be compatible with the neighborhood.

This could be resolved here by invoking § 26-88-254(f), the health and safety measure that is intended to ensure that cannabis operations do not create a public nuisance or affect the health and safety of neighbors. This provision seems to be rarely, if ever, invoked, which calls into question whether the county administers cultivation applications in an even-handed manner.

This application must be rejected because the access road does not meet CalFire standards. The California Board of Forestry and Fire Protection (BOF) has been evaluating Ordinance 6296 for five months, and concluded unequivocally on May 6 that it cannot be certified because the county does not apply it to roads built before 1991. BOF counsel Jeffrey Slaton sent an email to Sonoma County Counsel in January 2020 emphasizing that unless and until the Sonoma County ordinance is certified, the county must implement the CalFire regulations. *See* CalFire § 1270.04(d).

Raven Road is about 12 feet wide, and does not come close to meeting the 20-foot wide requirement. The CalFire rules are predicated on requiring concurrent access for firefighters and civilian evacuation, which cannot be achieved here. CalFire § 1270.03(c) requires that its road width requirements to be included as a condition in any conditional use permit.

CalFire rules are intended to protect the health and safety of firefighters and residents. To paraphrase Michigan Governor Whitmer last week concerning resistance to her Covid-19 executive orders, the CalFire regulations are not a “suggestion,” nor “thoughts about how you can protect yourself.” The regulations have the force of law, and Sonoma County is expected to follow the law even when it might disagree with it.

Sonoma County is gaining a reputation as a rouge, scofflaw county because it often refuses to implement state law. Last year it allowed cultivations in the PRP program to continue without a CalCannabis permit, which CalCannabis Enforcement confirmed is a violation of state law.

This decision may have fostered black market sales activity. When Sonoma County refuses to enforce state law, it undermines its moral authority to enforce its own ordinances and health orders. Why should residents obey ordinances and health orders with which they may disagree when the county refuses to follow state law? Sonoma County should not be a “Fire Roads Sanctuary County” that allows development on roads that puts firefighters and residents at risk.

Reject this permit.

Sincerely,

Craig S. Harrison
Bennett Valley/Santa Rosa

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Dear Supervisor Rabbit,

My Name is Jesse Jones. I live at 6045 Bodega Ave, directly adjacent to the proposed commercial project for review on May 19, 2020 at 6095 Bodega Ave.

My wife, myself and our 3 small children (11, 9 and 6) live, learn and work from our home. We have no interest in the politics or nature of the proposed development and have listened to everyone in the community, the applicants and the neighbors with an open mind. That said it is clear to us that this development does not belong at this location. The site in question:

- Is on a shared 1 lane 12ft. road (the gates to our properties are literally feet apart).
- Has always been a residential property and not for commercial use for 50+ years.
- Our home is 300ft. away from the site.
- The proposed processing building is less than 100ft and in direct view of my children's play area in our back yard.
- If is within a couple 100ft of another child's basketball court.
- Is under 10 acres. The reason the board changed the size requirement for projects of this nature is because they are not appropriate for the suggested use.
- If you look at an aerial view of the site you will see it is truly a residential community and the site in question has never been a commercial property for good reason.
- Ignores state SRA road requirements.
- Ignores significant property rights issues.
- Is predicated on conflicting and erroneous compliance and plan data.
- This project has created an extreme amount of enmity among neighbors and as I have come to understand, has created legal battles that will likely be adjudicated for years to come.

The board made a mistake when it opened up sites of this nature in the first place and later corrected that mistake in order to avoid the types of issues this project creates. The board should look at this project for what it is, an entrepreneurial endeavor that was envisioned in exactly the wrong place.

If every project is treated the same or granted a permit based on exemptions, favorable developer interpretations, ignorance of law regarding civil and property rights claims and outright disregard for key provisions of your ordinance (specifically neighborhood compatibility and the impact to the neighbors) then you are what philosophical opponents to your ordinance say you are, a rubber stamp for industry at the sake of your citizens.

I have attached a picture of my children so you can see who is impacted from your decision and who you will be accountable for if this project moves forward and heaven forbid, has disastrous results.

Sincerely,

Jesse C. Jones



From: [Peter Polt](#)
To: [Crystal Acker](#)
Cc: [David Rabbitt](#); [Susan Gorin](#); [Shirlee Zane](#); [Lynda Hopkins](#); James.Gore@sonoma-county.org; [Pat Gilardi](#); [Andrea Krout](#); [Tracy Cunha](#); [Jenny Chamberlain](#); [district5](#)
Subject: UPC17-0018
Date: May 15, 2020 2:07:23 PM
Attachments: [Letter-5-13-20-Crystal-Acker.docx](#)

EXTERNAL

Crystal, thanks for considering the attached document and comments regarding the TRV Ventures cannabis application for 6095 Bodega Ave., Petaluma.

The following points (and document) need to be added to the public record for this application and for the permit review scheduled for May 19th. In reviewing the UPC17-0018 planning materials and submissions on the Sonoma County 'Permit Sonoma' website, the following issues were noted:

1. Property access over the prescribed roadway easement, including roadway clearance, concurrent fire-civilian passage, and turnouts.
2. Raven Rd. - Bodega Ave improvements that require development on the Polt-Ella Property
3. Security access gate/card-key improvements to Raven Rd.
4. Ongoing maintenance and cost sharing for prescriptive rights easement of the Raven Rd.
5. Power right of way access to Polt-Ella property to upgrade electrical service from single phase to three-phase power, including residential to commercial conductors. Enlarged transmission lines and RF interference/exposure.
6. Errors and omissions in the hydrological report, to wit, missing the Polt-Ella well in the best-case drawdown analysis.

Thank you for considering these important issues, and getting this document added to the public record.

Christine Ella

Peter Polt

6125 Bodega Ave.
Petaluma, CA 94952

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May 13, 2020
Peter Polt
Christine Ella
6125 Bodega Ave.
Petaluma, CA

Crystal Acker
Planner III
County of Sonoma
Planning Division Project Review
2550 Ventura Avenue, Santa Rosa, CA

Thank you for taking the time to read and respond to our continued concerns.

In reviewing the May 19th 2020 planning materials for the proposed permit application, UPC 17-0018 for the 6095 Bodega Ave parcel, we have found additional issues and significant omissions that require addressing, since our January 9, 2018 and March 7, 2018 correspondence.

The raised issues were discovered from reviewing the published materials and listed in order of their appearance on the Permit Sonoma website.

Top issues that were omitted and not developed in the planning materials include:

1. Access over the prescribed roadway easement, including sufficient roadway clearance, concurrent fire-civilian passage, and assumed change of scope from residential to commercial use.
2. Raven Rd. - Bodega Ave improvements that require development on the Polt-Ella Property
3. Security gate/cardkey access to Raven Rd.
4. Ongoing maintenance and cost sharing for prescriptive rights easement of the Raven Rd.
5. Electrical power right of way access to Polt-Ella property to upgrade electrical service from single phase to three-phase power, including residential to commercial conductors. Enlarged transmission lines and RF interference/exposure not planned nor mitigated.
6. Errors and omissions in the hydrological report, to wit, missing the Polt-Ella well in the hydrological 'best-case' drawdown analysis.

Document Attachment 1: Draft Board of Supervisor Resolution

Section 2 CEQA Compliance

2.5A Biological Resources

1. As confirmed by the site supervisor for TRV Ventures, there is evidence of an American badger on the NW TRV property line adjoining the Ann Daly property. March 2020 conversation

2.5B Hydrology

1. Ann Daly property failed to PERC, 1990s. See county records.
2. Original TRV property well is low flow rate, poor quality conversation with previous property owner 2016-2017
3. Well #022-200-025 water is muddy/sandy mid-July-August, under minimal water usage. Evidence/conversation 2010-2019
4. TRV septic drainage inadequate. In the wet season the existing TRV residential septic field overflows, discharging flows onto NW side of Raven Rd., observed Jan-Feb 2017, 2019. Previously included in letter to Tennis Wick January 9th 2018.

Section 3.3 Zoning Consistency

Site Security

1. Full details of the security plan have not been shared with residential neighbors.
2. Permission has not been granted for the proposed Raven Road gate key lock on the Polt Ella property.
3. Adjoining residential access for vendors and deliveries have not been allocated for prescribed use shared roadway.

Document Attachment 2: Exhibit A Conditions of Approval

Section 19 Signage

1. Signage on Bodega Avenue is strongly discouraged, personal opinion.

Section 31 Preconstruction Surveys

1. Evidence of Badger on property, see above
2. Observed nesting birds, turkey population native to the adjacent properties
3. Existing evidence of deer and fox on adjacent properties.

Section 64 Grading and Storm Water

1. Observed drainage of storm water down Raven Rd. into blue-lined Stemple Creek tributaries adjacent to Bodega Avenue during rainy season.

Section 73 Fire Access

1. Concurrent emergency fire apparatus & civilian evacuation is not possible under current Raven Road conditions.

Section 74 Fire Water Supply

1. The fire water supply wells are dependent on interruptible PG&E electrical power therefore there is possibility no water during a fire.

Section 79 Abandon Existing Wells Lacking 100' annular seal

1. Open conflict with Hydrology report. Open issue, is the TRV property well to be used as a monitoring well or to be abandoned lacking an annular seal?

Section 102 Private Roadway

1. The current width (section 102a) does not meet the minimum 24' required throat width, without impinging on the Polt-Ella property.
2. The minimum radius requirement of 25' impinges on the Polt-Ella property.
3. 25' minimum pavement (section 102d) requirement may cross the existing culvert, and also impinge on the Polt-Ella property.

Section General

1. In general, there have been several multi-vehicle accidents within 1000' of the Raven road access. This part of Bodega Ave is the first passing area (dotted line) after Wiggins hill westbound. Weekend traffic including Dillon beach destined cyclists, RVs, cruiser bikes and sport cars frequently is passed and traffic often exceeds posted speed limits.
2. Traffic access from/to Raven Rd. by left-hand turns on/off of Bodega Ave. is challenging. The traffic report makes no mention of the CHP accident rate here, as compared to adjacent Bodega Ave sections.
3. The DRAFT Conditions of Approval document is deficient; it does not mention the power needs nor the power right of way considerations; informal discussions with PG&E engineers have indicated that the existing residential power distribution system is not sized for a commercial cannabis operation. The poles and associated distribution switchgear is sized for residential use only and is in aged condition. See Document 10 comments below. The poles are located on the Polt-Ella property, and electrical replacement / upgrade modifications would require permissions to access across fenced private property. Such access construction is within 50' of the blue-lined Stemple creek tributary.

Document Attachment 5: Project Work Areas Aerial Map

1. Areas of roadway work in this areal view impinge on the Polt-Ella property; permissions have not been requested not granted for that effort. Pacific Engineering and Construction needs to reconcile and correct this diagram to the actual property surveys. This document is in error as it stands.

Document Attachment 8: Site Plan Overview

1. The 300' neighboring separation radius is unclear; does it extend from the neighboring residence or from the attached decking? The measurements need to be further specified.
2. The existence of agricultural bee installations are not mapped on the site plan, the impact of construction/traffic commercial activity on that installation needs to be mitigated accordingly.
3. The existing leach field (E) in the north quadrant of the property has leaked in the past; see above for further details. That field is not adequate for the current residential requirements, based on flow overflow observation during the rainy season. As per this plan, the wastewater plan is incomplete, and needs further details.
4. The proposed designated cannabis compost area is located in the confines of the seasonal creek watershed, south central quadrant of the TRV property.

Document Attachment 10: Floor Plan

1. The power needs required in the elec. room int. elevation drawing are not available on this site; the current power distribution to the site is single phase, 12KV to the end of pole transformer.
2. Since this a technical line extension, it has to be compliant with current fire, environmental and engineering PG&E standards. For a tier 2 fire area, which includes this area, it is required to be 'overhead tree' wire, requiring new 'H-class' poles, 40-50 inch base diameter, to withstand 120 mph wind loading. There may be a requirement to have underground service, based on county evaluation/requirements.
3. With prescriptive rights, the access to install overhead three phase lines, switchgear and poles are determinant on the property owners' approval.

Document Attachment 11: Mitigated Negative Declaration

1. The sections including Aesthetics, Energy (Power), Hydrology, and Wildfire are incomplete. Issues and concerns raised from the public comments before February 14, 2020 were not addressed in this mitigation document.
2. The section 'Utility Improvements' calls out the original well to be designated a monitoring well, however, wells without a 100' annular seal are required to be closed, as per section 79 of the Exhibit A, Conditions of Approval, see above.
3. The access road, driveway section is incomplete, as it does not resolve the 24' width requirement with the reality of the 19'-22' existing space.
4. There is no discussion/plan on who is maintaining and paying for the prescribed easement of the shared roadway. The overall road management plan is missing. Access and construction on the Raven Rd. /Bodega approach are within 50' of the federally managed Stemple creek tributary. The existing culvert design is not engineered to manage modern commercial traffic loading.
5. The three phase power and energy requirements are conveniently missing from the Mitigated Negative declaration.
6. Aesthetic views from directions other than perpendicular to the property will show the entire unobstructed site.

Document Attachment 12: Hydrogeologic Assessment Report

The hydrology report is out of sync with the actual use case application; the Use Case Application is for 10,000 sq. ft., the hydrologic report is for 12,500 sq. ft. The greenhouse size is in contradiction, the report is for a 15,000 sq. ft. greenhouse versus a 14,000 sq. ft. greenhouse in the use case application.

In section 2.3, the pond described 900' to the SE is not apparent on any overlays or maps. There is a seasonal pond on the Polt-Ella property, 900' to the NW.

Contrary to the statement in the report, access to neighboring properties is not only from Bodega Ave, but also from Raven Rd.

The rainwater catchment system does not specify the downstream impact on neighboring properties; rainwater catchment systems are documented to have an adverse affect on adjacent groundwater environments and plant life.

Table 3 is missing the Polt-Ella well, well #022-200-25. As this well is developed at 255 ft., it lies in the similar subsurface formation as the 2018 TRV well. Consequently, the impact analysis in section 7.0 omits the impact on well 022-200-25. HES makes the best-case assumption that the best-case yield test transmissivity is 84 gpf/day. The worst-case analysis is not developed.

Attached is the scanned pdf of the 022-200-25 well completion report.

Arsenic has been found within ½ mile on neighboring properties; see the attached scanned document, dated February 22, 2011. The 15 ppb (parts per billion) concentration exceeds the US EPA federal standard of 10 ppb. There is no mention in this report of arsenic mitigation.

Based on the observable obvious errors and omissions in the hydrological report, the report needs an independent peer review to correct flaws and missing information.

Document Attachment 17: Public Comments Received Before February 14, 2020

The comments and items in the Polt-Ella email were not addressed.

Scanned Attachments:

TRIPPLICATE
Owner's Copy

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
WATER WELL DRILLERS REPORT

Do not fill in
No. 177254

Notice: Permit No. _____
Local Permit No. or Date: 25-85 State Well No. _____
Other Well No. _____

<p>(1) OWNER: Name <u>Paul Thomann</u> Address <u>P. O. Box 604</u> City <u>Santa Rosa, CA</u> zip <u>95402</u></p> <p>(2) LOCATION OF WELL (See instructions): County <u>Sonoma</u> Owner's Well Number <u>022-200-25</u> Well address if different from above <u>6125 Bodoga Ave.</u> Township <u>Petaluma</u> Range _____ Section _____ Distance from cities, roads, railroads, fences, etc. _____</p>	<p>(12) WELL LOG: Total depth <u>255</u> ft. Depth of completed well <u>255</u> ft. from ft. to ft. Formation (Describe by color, character, size or material)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>0 - 1</td><td>Topsoil</td></tr> <tr><td>1 - 6</td><td>Brown sand and clay</td></tr> <tr><td>6 - 30</td><td>Blue clayey sand with sandstone</td></tr> <tr><td>30 - 57</td><td>Blue clayey sand with streaks of sandstone</td></tr> <tr><td>57 - 70</td><td>Blue sandy clay with sandstone ledges</td></tr> <tr><td>70 - 105</td><td>Blue sandy clay with a trace of clam shells and sandstone ledges</td></tr> <tr><td>105 - 165</td><td>Blue sandy clay with sandstone ledges and traces of shells</td></tr> <tr><td>165 - 255</td><td>Blue clayey sand with sandstone ledges</td></tr> </table>	0 - 1	Topsoil	1 - 6	Brown sand and clay	6 - 30	Blue clayey sand with sandstone	30 - 57	Blue clayey sand with streaks of sandstone	57 - 70	Blue sandy clay with sandstone ledges	70 - 105	Blue sandy clay with a trace of clam shells and sandstone ledges	105 - 165	Blue sandy clay with sandstone ledges and traces of shells	165 - 255	Blue clayey sand with sandstone ledges
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105 - 165	Blue sandy clay with sandstone ledges and traces of shells																
165 - 255	Blue clayey sand with sandstone ledges																
<p>(3) TYPE OF WORK: New Well <input checked="" type="checkbox"/> Deepening <input type="checkbox"/> Reconstruction <input type="checkbox"/> Reconditioning <input type="checkbox"/> Horizontal Well <input type="checkbox"/> Destruction <input type="checkbox"/> (Describe destruction materials and procedures in Item 12)</p> <p>(4) PROPOSED USE: Domestic <input checked="" type="checkbox"/> Irrigation <input type="checkbox"/> Industrial <input type="checkbox"/> Test Well <input type="checkbox"/> Stock <input type="checkbox"/> Municipal <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>(5) EQUIPMENT: Rotary <input checked="" type="checkbox"/> Reverse <input type="checkbox"/> Cable <input type="checkbox"/> Air <input type="checkbox"/> Other <input type="checkbox"/> Bucket <input type="checkbox"/></p> <p>(6) GRAVEL PACK: <u>interlayers</u> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Size <u>1/2 x 20</u> Diameter of bore <u>12</u> <u>9 7/8</u> Packed from <u>100</u> to <u>255</u> ft.</p>																
<p>(7) CASING INSTALLED: Steel <input type="checkbox"/> Plastic <input checked="" type="checkbox"/> Concrete <input type="checkbox"/></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>From ft.</th> <th>To ft.</th> <th>Dia. in.</th> <th>Gage or Wall</th> <th>From ft.</th> <th>To ft.</th> <th>Slot size</th> </tr> </thead> <tbody> <tr> <td>0</td> <td>255</td> <td>6"</td> <td>CI200</td> <td>135</td> <td>245</td> <td>.032</td> </tr> </tbody> </table>	From ft.	To ft.	Dia. in.	Gage or Wall	From ft.	To ft.	Slot size	0	255	6"	CI200	135	245	.032	<p>(8) PERFORATIONS: Type of perforation _____ Size of screen _____</p>		
From ft.	To ft.	Dia. in.	Gage or Wall	From ft.	To ft.	Slot size											
0	255	6"	CI200	135	245	.032											
<p>(9) WELL SEAL: Was surface sanitary seal provided? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, to depth <u>100</u> ft. Were strata sealed against pollution? Yes <input type="checkbox"/> No <input type="checkbox"/> Interval _____ ft. Method of sealing <u>sand grout on pack</u></p>	<p>Work started <u>6/26</u> 19 <u>85</u> Completed <u>7/2</u> 19 <u>85</u></p> <p>WELL DRILLER'S STATEMENT: This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.</p> <p>SIGNED <u>Gerald G. Thompson, Jr.</u> <u>Ward Thompson</u> (Well Driller)</p>																
<p>(10) WATER LEVELS: Depth of first water, if known _____ ft. Standing level after well completion <u>0</u> ft.</p>	<p>NAME <u>WEEKS DRILLING AND PUMP COMPANY</u> (Person, firm, or corporation) (Typed or printed) Address <u>P. O. Box 176</u> City <u>Sebastopol, CA</u> Zip <u>95472</u> License No. <u>057-177681</u> Date of this report <u>July 5, 1985</u></p>																
<p>(11) WELL TESTS: Was well test made? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, by whom? <u>weeks</u> Type of test Pump <input type="checkbox"/> Bailor <input checked="" type="checkbox"/> Air lift <input type="checkbox"/> Depth to water at start of test <u>0</u> ft. At end of test <u>225</u> ft. Discharge <u>10</u> gal/min after <u>2</u> hours Water temperature <u>cool</u> Chemical analysis made? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, by whom? _____ Was electric log made? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, attach copy to this report</p>																	

DWR 180 (REV. 7-78) IF ADDITIONAL SPACE IS NEEDED, USE NEXT CONSECUTIVELY NUMBERED FORM



COUNTY OF SONOMA
DEPARTMENT OF HEALTH SERVICES

Rita Scardaci, PHN, MPH – Director
Ruth Lincoln, PHN, MA – Assistant Director

Public Health Division
Mary Maddux-Gonzalez, MD, MPH
Health Officer & Division Director
Environmental Health & Safety
Walter L. Kruse, REHS, MA
Director of Environmental Health

February 22, 2011

Bacteria
Nitrate
Arsenic

Dear Property Owner:

This letter is to advise you that there has been a detection of groundwater contamination in a well located within 1/2 mile of your Sonoma County property(ies) in the 6400 block of Bodega Ave in Petaluma. The chemical identified in the contamination is:

- 15 ppb (parts per billion) Arsenic

Public drinking water supplies operate under governmental permit and are tested to ensure that water quality meets state standards. Public water system operators are required, at least once each year, to provide a notice of water quality to their customers. **If you are on a public water supply (i.e. you get a water bill each month) and do not have a well, this letter does not apply to you.**

The quality of water from private wells is not regulated by government agencies. **If you get your water from a private well, the only way to be sure your water is safe is to have it tested.** On the reverse is a list of local laboratories certified by the State of California to perform water quality testing.

While the standards established for public drinking water systems are not enforceable for private well water, they can provide a parallel indication of the quality and safety of water that comes from private wells. Standards associated with public drinking water supplies are:

- MCL is the Maximum Contamination Level permissible in public drinking water supplies. MCLs are established based on a number of considerations, including health risk, technological feasibility, treatment costs to water systems, and public hearings.
- PHG is the Public Health Goal established for public drinking water based on health risk assessment alone and is the level at, or below which, health effects are not expected to occur from a lifetime of exposure.

Sonoma County, operating under the Sonoma County Groundwater Contamination Response Plan, believes that its citizens should be promptly informed of any contamination in groundwater occurring above the PHG that may present a potential threat to public health. Enclosed is an information sheet for arsenic.

Following is a chart showing the established standards for public drinking water systems for the chemical discovered in the groundwater contamination at this site.
(over)

	ARSENIC (ppb)
Amount Detected	15
MCL	50/10*
PHG	0.004

*The current California MCL is 50 ppb; however, California is required to adopt an MCL at least as stringent as that of the federal United States Environmental Protection Agency (USEPA) and is in the process of doing so. The current USEPA MCL for Arsenic is 10 ppb. As of January 2006, the USEPA standard of 10 ppb applies in place of the California standard until California adopts new regulations.

For more information on water quality and private wells, please visit the Sonoma County Department of Health Services, Environmental Health Division, website at:

http://www.sonoma-county.org/health/eh/water_quality.htm

If you have questions about potential health risk, please contact Sonoma County Environmental Health Division at (707) 565-6565.

WHERE CAN I HAVE MY WATER TESTED?

Water should be tested at a laboratory certified by the State of California to do water testing. Certified laboratories located in or near Sonoma County include the following:

ALPHA ANALYTICAL
208 Mason Street
Ukiah, CA 95482
(707) 468-0401

ANALYTICAL SCIENCES
110 Liberty Street
Petaluma, CA 94952
(707) 769-3128

BRELJE & RACE
425 South E Street
Santa Rosa, CA 95404
(707) 544-8807

CALTEST ANALYTICAL
1885 North Kelly Road
Napa, CA
(707) 258-4000

Running an Inorganics Panel (17-22 chemicals) is **recommended** over requesting tests for individual chemicals. Should you have an arsenic contamination and choose to add a treatment system to your water supply for arsenic removal, knowledge of other inorganic constituents is essential, as some of these chemicals compete with the binding material for arsenic removal and they must be removed prior to adding the arsenic treatment system.

To Scott Orr,

Good Morning. On March 29th my husband and I went to a meeting of the Petaluma Valley groundwater sustainability agency. We sat next to Gary Mickelson, which is a co-owner of Jerry & Don's Yager Pump Well Service. They are located at 1290 Bodega Ave. Petaluma Ca. Phone number is 707 763-1473. They have been providing water systems for over 50 years in this Petaluma area. Gary has been in the business over 30 years and grew up with his father in this business.

Gary Mickelson's information I think is a valuable piece of information in the process of issuing permits in on 3215 Middle Two Rock, 334 Purvine, and 6095 Bodega Avenue. Here are some of the pieces of information I learned from him.

- An eight-inch city water pipe was put in from Petaluma all the way to the coast guard station in the late 1940's early 1950's because of no water in this area. The coast guard would not exist today without that water pipe pumping water from Petaluma to the coast guard station.
- Wiggins Hill is on Franciscan rock formation. This is the hill coming down the west side where the Stemple creek water shed is. This Franciscan rock formation comes down along the homes including my home 6125 and 6095 Bodega Avenue. Petaluma, where the application for the permit UPC17-0018. There are many parts of this Franciscan rock formation when you hit it, this blue shale, water cannot pass through.
- Gary Mickelson said we are in a very scarce water area and if the owners at 6095 put a new well in located at the bottom of there property closes to our well most likely they will draw water from the same water shelf that we are on. If they do then our well is in jeopardy of going dry with the amount of water usage, of up to 4500 gallon per day.
- Also if 6095 were bare land today they would not pass code to build a single-family house without a 2-gallon minimum. Right now they pull less than 2 gallons on that 7-acre parcel.

My concern again is the water usage and how this will affect the whole neighborhood. Sustainability is an important issue for our future children's generation.

Thank you for your time. Please add these comments to the file UPC17-0018

Christine Ella
Peter Polt

operation. s concerns and trepidation over the environmental impact of this proposed

operation. s concerns and trepidation over the environmental impact of this proposed

Christine built our home at 6125 Bodega Ave, parcel 022-200-025, and has lived here continuously since 1986. As a gardener and landscaper, she is familiar with the water and leach field resources in this neighborhood. Water availability has always been a challenge for all the neighbors in the parcel area. The local residents know this for a fact, and adopt an environmentally low water use lifestyle. Patrick and Elizabeth Dauphinais, the previous owners of the 6095 Bodega Ave property, parcel 022-200-002, have had chronic water shortages. That family could never take a bath and run the laundry without waiting for the well to refill. Art and Joanne Derby, at the adjacent 6045 Bodega Ave, often ran out of well water with a household of 4. Art, as he got older, would leave the drip irrigation system on overnight, and run out of water in the morning. He had wait a day to allow his well to refill. As the last hydrological survey was done in the 1980's, with a zone designation of '2', these parcels have a track record of low ground water availability.

We also have leach field drainage concerns. Our property, while located on 2.5 acres, was only able to 'perc' for a 3-bedroom home in the 1980's. The 2.5-acre property to the immediate west, 6157 Bodega Ave, parcel 022-200-023, never met the county 'perc' tests in the 1990's. That property remains undeveloped. Last year, during the January 2017 winter rains, the existing leach field at 6095 Bodega Ave. overflowed and drained down our shared driveway. That leach field is up-slope of us, located directly to the south of our property. The tenant dug in the leach field extensively afterwards, in an attempt to remedy the leaks.

Based on the above data, a new hydrological survey would be prudent, given the available dated hydrological data and the experience and observations of the current property owners in this neighborhood.

Last, we are concerned over the ethics and honesty of the applicant. When they acquired the property, about a year ago, they converted the large two car garage/workshop into a potential grow operation. We have not seen a valid use permit for this operation. When confronted over the use of the building, the tenant was evasive, and did not tell the truth. Since they took possession, two large air conditioning/evaporators have been installed, along with a large propane tank, all adjacent to the workshop. The PRMD permitting website does not show a permit for these improvements. The workshop was fitted with solar panels by the previous owner. The locks, covered windows, loads of fertilizer, odor and security surrounding the workshop are indicative of a typical grow operation. This operation is less than 300 feet from our back deck.

This is a formal complaint against a possible non-compliant cannabis grow operation. A PRMD permit application cannot proceed when the property is in violation of the very same application. Please check out these serious non-compliant allegations, and if true, add the non-compliance investigation to the permit file. We expect this non-compliance to be cleaned up.

Thank you for your consideration of these important environmental issues. Please add this letter to the UPC17-0018 permit file.

Christine Ella

Peter Polt

msella143@gmail.com

papolt@gmail.com

THIS EMAIL ORIGINATED OUTSIDE OF THE SONOMA COUNTY EMAIL SYSTEM.

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

Applications for cannabis cultivation in the Middle Two Rock community.

1 message

Christine Ella <ms.ella143@gmail.com> Wed, Mar 7, 2018 at 5:35 PM
To: David Reibitt@sonoma-county.org, susan.garin@sonoma-county.org, Andrea.Krout@sonoma-county.org, Shirlee.Zane@sonoma-county.org, Michelle.Whitman@sonoma-county.org, James.Care@sonoma-county.org, Jenny.Chamberlain@sonoma-county.org, Lynda.Hopkins@sonoma-county.org, Susan.Upchurch@sonoma-county.org, Pat.Glerdi@sonoma-county.org

Christine Ella & Peter Pott
6125 Bodega Avenue
Petaluma, CA
415 246-7271
ms.ella143@gmail.com
415 246-0107
ppott@gmail.com

March 7th, 2018

David Rabbit and Supervisors,

We our writing to you in response to:

Application No.: UPC 17-0020: The proposed permit for cannabis cultivation at 334 Purvine Road.

Application No.: UPC 17-0018: The proposed permit for cannabis cultivation at 6096 Bodega Avenue.

Application No.: UPC 17-0095: The proposed permit for cannabis cultivation at 3215 Middle Two Rock Road.

As neighbors to these properties, we are greatly concerned about these application and the potential impacts of yet more large scale and commercial cannabis operation on our countryside and greater Middle Two Rock community. We are also disappointed that are other neighbors have not already been notified about this application by the County's Permit & Resource Management Department.

Specifically, we reside at 6125 Bodega Ave and own 2.45 acres approximately 300 feet from the Bodega Avenue proposed application and within 1 mile from the other two application sites. We have lived in this area for the last 32 years. Over the years, my neighbors have been denied expansion of their business by the County on the premise of water availability and inadequate utility services. As property owners in close proximity to these proposed cannabis business, which is a high-yield crop, we have many concerns about this industry's impact on our area's water quality and availability. The safety of our community is of utmost importance, and the county seems ill-prepared to adequately notify, inform and protect the surrounding communities, and to mitigate our concerns. Furthermore, we believe that the application for this proposed commercial cannabis grow will undeniably contribute to increased theft, odor and traffic, and will have permanent irreversible effects on the cultural and natural landscape of the area.

Sincerely,

Christine Ella & Peter Pott

Deliver to:

Sonoma County Board of Supervisors and County staff related to this project

David Rabbitt
Shirlee Zane
Susan Gorin
Lynda Hopkins
James Gore

RE: 6095 Bodega Avenue, UPC17-0018

Dear Supervisors and staff:

I'm a tax paying citizen of Sonoma County and writing to strongly object to the commercial marijuana/ THC operation being proposed at 6095 Bodega Avenue, right smack in the middle of a peaceful (to date) rural residential neighborhood.

You have received strong and steady opposition to this proposed project from the immediately impacted neighbors, and many others in this Petaluma area, for years now.

This strong and consistent opposition is based on many valid private property rights and security/fire safety concerns which will likely be addressed in the courts eventually, whether for this specific case or another, and hopefully the right side will ultimately win.

This case in particular has many problems, including:

- 1) Scarcity of water resource issues
- 2) Fire safety problems: clear added endangerment to the residents in the immediate neighborhood. Site located down a fire emergency unsafe road (too narrow to accommodate evacuation of residents and fire safety trucks concurrently, and water scarcity)
- 3) Complete neighborhood incompatibility: commercial drug operations much too close to children and their right to a peaceful and safe childhood environment.
- 4) Questions of legal easement for the increased commercial truck and car traffic the project will bring.

These issues, and more, are all very well detailed in multiple reports from the immediate neighbors impacted.

I'd like to add additional observations and demands for fairness in this entire process.

Please especially note #6 below: **MARIJUANA ON PROP 65 as of January 2020**: This alone must trigger a new CEQA review for ALL of Sonoma County Marijuana projects, the current ordinance must be changed. At the very least, allowing the manufacturing and processing of THC next to family residential areas should not be allowed, and especially not near any ground water wells for drinking water until a full CEQA review on this matter is completed. How much THC could possibly leach into the groundwater?

- 1) **Please apply the "Supervisor test"**: if you were living on the parcel next to this proposed commercial THC drug operation, sited 100 feet and closer to your young children's play areas, would you be ok with it? Would you be ok with a significant new drain on your scarce water resources? Would you be ok with the fact that the entry road passes your home every day with many new vehicle and truck trips past your once quiet home? I challenge you to think about this carefully and answer honestly!

- 2) **Support letters of this project from outside Sonoma County:** there are many letters of support of this project from people that do not even live in Sonoma County. They must NOT be allowed in the final review of this. One of the letters is from a man in San Francisco who is in the security camera biz, widely used by commercial drug producers. Are you serious!? That letter must be totally dismissed.
- 3) **This is a COMMERCIAL drug production operation.** As many of us have stated countless times, your misguided policy decision of allowing and even promoting the placement of large scale commercial drug THC production operations in rural residential areas, next to family homes with children, is wrong, it's bad public policy. These belong in commercial and industrial areas.
- 4) THC **Processing IS Manufacturing:** please fully elaborate on exactly what is entailed in "processing" at this proposed commercial drug production site. in fact this is **THC Processing, see #6!** The project states there will be processing on site. This is additional proof that the activities at a site like this are primarily manufacturing and NOT traditional "agriculture." These are commercial drug manufacturing operations and in other parts of USA are being mostly placed in industrial and commercial zones. Sonoma County is one of the few counties in California that is aggressively placing these drug manufacturing operations throughout rural residential areas. For your benefit, please see below two items you need to review carefully, at end of this letter attachment A:
 - 1) Legal definition of "**Marijuana/THC PROCESSING**"
 - 2) Two current job descriptions on Indeed for Marijuana Processing Specialist at a site very comparable to this current proposed project (includes similarly large "greenhouse facilities.") Note how the one job description, for a "processor" at facility in CA almost identical to this project calls out this useful prior experience: Prior cannabis, clean room assembly, packaging, or lab experience is helpful, but not required.

This information clearly proves how the activities at these THC DRUG PROCESSING FACILITIES are commercial and industrial processing or manufacturing, NOT agriculture. These are NOT "gardens" - although the THC DRUG operators will always use their deceptive tactics and propoganda to fool elected officials.

- 5) **CEQA: Sonoma County is still NOT in compliance with State law** and in so doing has caused and continues to cause prejudicial harm to all of its citizens. Based on a "look the other way" policy which has consistently and corruptly put the interests of the DRUG THC OPERATORS above the interests of the greater good and the majority of citizens, Sonoma County continues to skirt the law, or make countless "exceptions." All of the problems with this proposed COMMERCIAL DRUG THC PROCESSING OPERATION clearly demonstrate why Sonoma County's decision to find a corrupt "end run" around CEQA has resulted in this utter FAILURE of a policy. If you had done the CEQA process properly to begin with the result would have been a more measured approach, reflective of citizen and environmental concerns, not a quick and dirty ordinance at the service of the industry. Yet you keep digging the hole deeper!
- 6) **MARIJUANA ON PROP 65 as of January 2020:** This alone must trigger a new CEQA review for ALL of Sonoma County Marijuana projects, the current ordinance must be changed. At the very least, allowing the manufacturing and processing of THC next to family residential areas should not be allowed, and especially not near any ground water wells for drinking water. Further, what measures have Sonoma County taken to ensure safety of workers directly in contact with high levels of THC all day long? Has a thorough CEQA analysis of THC affects to well water at all THC production sites been completed? If not, this at a minimum is required before any further activity should be allowed at the many THC processing sites you've already approved.

This is taken directly from CA Office of Environmental Health Hazard Assessment:

Effective January 3, 2020, the Office of Environmental Health Hazard Assessment is adding cannabis (marijuana) smoke and Δ9-tetrahydrocannabinol (Δ9-THC) to the list of chemicals

known to the state to cause reproductive toxicity (developmental endpoint) for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)[1]. At a public meeting on December 11, 2019, the Developmental and Reproductive Toxicant Identification Committee (DARTIC) in its official capacity as the “state’s qualified experts” determined that cannabis (marijuana) smoke and Δ9-tetrahydrocannabinol (Δ9-THC) were shown to cause reproductive toxicity based on the developmental endpoint. Regulations for the listing of chemicals by the DARTIC are set out in Title 27, California Code of Regulations, section 25305(b)(1). A complete, updated Proposition 65 chemical list is available on the OEHHA website at <https://oehha.ca.gov/proposition-65/proposition-65-list>.

Why has Sonoma County allowed this public policy debacle to happen?

There are two possibilities:

- 1) Either the Sonoma County Board of Supervisors is incredibly naive and ignorant to what is really happening here, OR
- 2) You are complicit in one of the worst cases of local government corruption in the history of California and USA.

Or, perhaps it’s a bit of both above.

Clearly you’ve also allowed certain corrupt County staff, who are completely aligned with the THC Drug Operator interests to run the show here and “dance the dance” - giving you cover wherever and whenever you need it.

If you approve this horribly conceived project, it will simply prove you don’t have enough backbone to stand up to this industry and enough integrity to protect your citizens from this scourge they have brought to Sonoma County.

We know, we know, we’ve heard the lame excuse for this policy a million times: “we must allow and enable this “industry” in order to shut down the black market marijuana operators.” The fact that you could never see how wrought with contradictions and inconsistencies this fallacy contains only illustrates once again your naïveté or complicity in corruption.

I know one thing for certain in all of this, after fighting your horrible policy decisions and rampant corruption for over three years now: I have now made it my mission to expose the corruption of Sonoma County for all to see, especially the citizen voters.

The one hopeful development is this: most people are waking up to the BIG LIE of marijuana and THC, and how it rots the brain and body. The CBD elements may yet prove to have truly proven beneficial therapies, still to be fully determined, through legitimate medical and scientific channels. However none of this remotely supports Sonoma County’s current policy of aggressively placing COMMERCIAL DRUG THC MANUFACTURING sites throughout rural residential areas.

Sincerely,
Moiria Jacobs
Bennett Valley
Sonoma County

IF IT QUACKS LIKE A DUCK, IT'S A DUCK:



“Marijuana/THC Processing means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.” Legal definition by Law Insider

Note especially highlighted areas, these are manufacturing operations of THC, as of JAN 2020 also on Prop 65 toxic chemicals list. This is NOT traditional Ag!! Quack, quack quack!!!!

Processing Specialist Job Description, Example 1:

Primary job functions specific to the Processing Specialist position:

- Trim, manicure and prepare cannabis products in the variety, size, and quality prescribed by company and department standards.
- Follow approved procedures for receiving, preparing, storing, arranging, and manicuring product to ensure quality and accuracy.
- Assist with shucking and sorting.
- Consistently meet minimum quality and productivity metrics.

Primary job functions specific to the Packaging Specialist position:

- Accurately weigh cannabis into various denominations of packaging, from grams to ounces.
- Apply labels and tamper seals.
- Assemble shipping boxes and partitions. Apply labels and prepare for shipping.
- Consistently meet minimum quality and productivity metrics.
- Perform quality control check on finished products.
- Flexibility to assist other departments as needed.

Minimum Required Qualifications:

The minimum required qualifications for this position include, but are not limited to the following:

- Ability to proficiently read, write, speak, analyze, interpret, and understand the English language.
- Ability to perform basic math.
- Ability to stand, bend, twist, reach, push, pull and occasionally lift up-to 35 lbs.
- Ability to stay focused while performing repetitive tasks.
- Ability to work in varying temperatures.
- Ability to work with fresh, dried and/or processed products without negative allergic consequences.
- Ability to tolerate dust and cleaning agents during routine housekeeping duties.
- Ability to operate trimming and packaging equipment such as scissors, knives and cutters.
- Ability to stand/walk/sit for the duration of a scheduled shift.
- Ability to interact with co-workers in a friendly and helpful way.
- Ability to work all assigned work schedules and comply with all time and attendance policies.

If you want to love your job and the company you work for, please apply to this posting with your resume in word doc format. Prior cannabis, clean room assembly, packaging, or lab experience is helpful, but not required. We are open to training the right individuals that are trainable, hard-working, and passionate about the industry. If offered a position, you will be required to pass a thorough criminal background check. We look forward to receiving your resume and application!

Keywords: trimmer, trim, processor, cannabis, marijuana, weed, pot, cultivation, grow, grower, indoor, outdoor, greenhouse

JOB DESCRIPTION EXAPLE 2:

Grassroots Cannabis is looking for a Trimmer/Packager who can become an integral part of our organization and grow with our company. The ideal candidate is proactive, innovative and passionate, able to be flexible in a fast-paced and dynamic environment while multi-tasking to achieve harvest and packaging goals and deadlines.

In this role, you will work to efficiently trim cannabis plants, while creating minimal waste, resulting in a high-quality product that is compliant and ready for sale or processing. Once the plants are cured or processed, product must be successfully packaged while maintaining quality and achieving necessary efficiencies. Additionally, this role will perform some administrative duties when needed including: data entry, data transmitting, phone answering, email answering, and document production. This person will be responsible for maintaining and following Grassroots Cannabis cultivation procedures.

Role Responsibilities:

- Hand trim flower from plants in a quick and efficient manner, while ensuring a quality product
- Package, label, and fulfill product orders while maintaining high levels of quality
- Maintain a clean and organized work environment
- Count, transport, and track inventory and raw material levels as directed

- Sit and/or stand for long periods of time while focusing on detail-oriented trimming and packaging
- Track the amount of unusable waste for each plant/batch, in addition to usable by-products
- Demonstrate proficiency with weights, measurements, and basic math
- Assure daily compliance with Company policies including but not limited to: state/local regulation compliance, security protocols, access protocols, dress code, and work schedules
- Perform any other duties as assigned

Role Requirements

- Experience with legal marijuana growing, trimming, and packaging preferred
- Must have accuracy and consistency while trimming and weighing product
- Familiarity with warehouse and inventory procedures
- Computer, mathematics, language, and reasoning skills
- Basic weights and measurement skills, ability to operate a scale
- Ability to stand on feet or sit for extended periods of time
- Ability to use repetitive use of hands, wrists, and forearms
- Must have the ability to focus on a task for long periods of time
- High school diploma or General Education Diploma (GED)
- Must be 21 + years of age
- Must be able to obtain a state issued cultivation badge, which includes passing an FBI and State background check with no felony or drug related convictions
- Excellent organizational and communication skills
- Candidate must be a self-starter, flexible to work in a collaborative structure and thrive in a fast-paced environment.

NOTE: This job description is not intended to be all-inclusive. Employees may be required to perform other related duties to meet the ongoing needs of the organization including but not limited to cleaning, deliveries, minor repairs, stocking, receiving, waste disposal (driving to landfill), smoke alarm testing, etc.

From: [Moir Jacobs](#)
To: [Crystal Acker](#)
Cc: [Susan Gorin](#); [district4](#); [Lynda Hopkins](#); [David Rabbitt](#); [Tennis Wick](#)
Subject: 6095 Bodega Avenue, UPC17-0018 - VIOLATION OF PROP 65 toxins list
Date: May 18, 2020 11:44:18 AM
Attachments: [MAY17 2020 BOS.pdf](#)

EXTERNAL

Dear Crystal,

Could you please replace my previous message and document with this updated message and document, for the public record? There is new information I added, so the previous note/document from yesterday can be deleted.

I urge the Board of Supervisors to reject this permit application. Please see my full letter and attachment A in PDF attached.

Please confirm receipt and confirm this document will be included in the packet.

Thank you,

Moir

>

THIS EMAIL ORIGINATED OUTSIDE OF THE SONOMA COUNTY EMAIL SYSTEM.

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

>

Deliver to:

Sonoma County Board of Supervisors and County staff related to this project

David Rabbitt
Shirlee Zane
Susan Gorin
Lynda Hopkins
James Gore

RE: 6095 Bodega Avenue, UPC17-0018

Dear Supervisors and staff:

I'm a tax paying citizen of Sonoma County and writing to strongly object to the commercial marijuana/ THC operation being proposed at 6095 Bodega Avenue, right smack in the middle of a peaceful (to date) rural residential neighborhood.

You have received strong and steady opposition to this proposed project from the immediately impacted neighbors, and many others in this Petaluma area, for years now.

This strong and consistent opposition is based on many valid private property rights and security/fire safety concerns which will likely be addressed in the courts eventually, whether for this specific case or another, and hopefully the right side will ultimately win.

This case in particular has many problems, including:

- 1) Scarcity of water resource issues and other environmental concerns
- 2) Fire safety problems: clear added endangerment to the residents in the immediate neighborhood. Site located down a fire emergency unsafe road (too narrow to accommodate evacuation of residents and fire safety trucks concurrently, and water scarcity)
- 3) Complete neighborhood incompatibility: commercial drug operations much too close to children and their right to a peaceful and safe childhood environment.
- 4) Questions of legal easement for the increased commercial truck and car traffic the project will bring.
- 5) Damage to property values
- 6) Operation of a criminal enterprise in violation of federal law
- 7) Noxious emissions into the air
- 8) Crime and safety concerns

Many of these issues, and more, are all very well detailed in multiple reports from the immediate neighbors impacted.

I'd like to provide these additional observations, demands and calls for fairness in this entire process.

Please especially note #6 below: **MARIJUANA ON PROP 65 as of January 2020**: This alone must trigger a new CEQA review for ALL of Sonoma County Marijuana projects, the current ordinance must be changed. At the very least, allowing the manufacturing and processing of THC next to family residential areas should not be allowed, and especially not near any ground water wells for drinking water. In any case a full Countywide CEQA review on this matter must be completed.

How much THC or THC growing chemicals could possibly leach into the groundwater aquifers? Does the County have definitive environmental studies that prove there are no environmental or worker safety

dangers given the January 2020 State of California decision to add marijuana and THC to the Prop 65 toxins list?

Since Sonoma County never conducted a full CEQA report before embarking on its wholesale aggressive promotion and placement of THC operations throughout rural residential areas countywide, this must trigger a requirement for CEQA before any further permits are approved. Moreover, as to worker safety, look carefully at the low wage “processor” job descriptions in attachment A as further evidence of the INTENSE exposure to high THC concentrations the low wage workers will be forced to endure. The January 2020 THC listing on CA Prop 65 toxins list, affecting reproduction organs of both women and men, should also trigger a complete rewrite of the Sonoma County ordinance to ensure you are in compliance with CA OSHA requirements, or any State mandates to ensure safe work environments. Our low wage workers must be protected from these newly discovered and verified harms of intense exposure to THC.

Please review all of these considerations. Once carefully reviewed, your decision could only be to deny approval of this terribly misguided proposal to produce THC products in a rural residential area:

- 1) **Please apply the “Supervisor test”**: if you were living on the parcel next to this proposed commercial THC drug operation, sited 100 feet and closer to your young children’s play areas, would you be ok with it? Would you be ok with a significant new drain on your scarce water resources? Would you be ok with the fact that the entry road passes your home every day with many new vehicle and truck trips past your once quiet home? I challenge you to think about this carefully and answer honestly!
- 2) **Support letters of this project from outside Sonoma County**: there are many letters of support of this project from people that do not even live in Sonoma County. They must NOT be allowed in the final review of this. One of the letters is from a man in San Francisco who is in the security camera biz, widely used by commercial drug producers. All letters from people outside Sonoma County should not be included.
- 3) **This is a COMMERCIAL drug production operation**. As many of us have stated countless times, your misguided policy decision of allowing and even promoting the placement of large scale commercial drug THC production operations in rural residential areas, next to family homes with children, is wrong, it’s bad public policy. These belong in commercial and industrial areas.
- 4) THC **Processing IS Manufacturing**: please fully elaborate on exactly what is entailed in “processing” at this proposed commercial drug production site. In fact this is **THC Processing, see #6!** The project states there will be processing on site. This is additional proof that the activities at a site like this are primarily manufacturing and NOT traditional “agriculture.” These are commercial drug manufacturing operations and in other parts of USA are being mostly placed in industrial and commercial zones. Sonoma County is one of the few counties in California that is aggressively placing these drug manufacturing operations throughout rural residential areas. For your benefit, please see below two items you need to review carefully, at end of this letter attachment A:

- 1) Legal definition of **“Marijuana/THC PROCESSING”**
- 2) Two current job descriptions on Indeed for Marijuana Processing Specialist at a site very comparable to this current proposed project (includes similarly large “greenhouse facilities.”) Note how the one job description, for a “processor” at facility in CA almost identical to this project calls out this useful prior experience: Prior cannabis, clean room assembly, packaging, or lab experience is helpful, but not required. **Assembly, packaging, extraction of ingredients, packaging equipment: these are all terms associated with product manufacturing, in this case it is a drug product. See attachment A.**

The information in attachment A includes many references to packaging and manufacturing actions that by any objective analysis show these sites are indeed commercial manufacturing of a drug (primarily being THC) and not traditional agriculture. There are additional activities outlined in the job descriptions which prove how these THC DRUG PROCESSING FACILITIES are commercial and industrial processing or

manufacturing, NOT agriculture. These are NOT “gardens” in the true sense of that word - although the THC DRUG operators will always use their deceptive tactics and propaganda to fool elected officials.

- 5) **CEQA: Sonoma County is still NOT in compliance with State law** and in so doing has caused and continues to cause prejudicial harm to all of its citizens. Based on a “look the other way” policy which has consistently and corruptly put the interests of the DRUG THC OPERATORS above the interests of the greater good and the majority of citizens, Sonoma County continues to skirt the law, or make countless “exceptions.” All of the problems with this proposed COMMERCIAL DRUG THC PROCESSING OPERATION clearly demonstrate why Sonoma County’s decision to find a corrupt “end run” around CEQA has resulted in this utter FAILURE of a policy. If you had done the CEQA process properly to begin with the result would have been a more measured approach, reflective of citizen and environmental concerns, not a quick and dirty ordinance at the service of the industry. Yet you keep digging the hole deeper!
- 6) **MARIJUANA ON PROP 65 as of January 2020:** This alone must trigger a new CEQA review for ALL of Sonoma County Marijuana projects, the current ordinance must be changed. At the very least, allowing the manufacturing and processing of THC next to family residential areas should not be allowed, and especially not near any ground water wells for drinking water. Further, what measures have Sonoma County taken to ensure safety of workers directly in contact with high levels of THC all day long? Has a thorough CEQA analysis of THC potential for harming well water at all THC production sites been completed? If not, this at a minimum is required before any further activity should be allowed at the many THC processing sites you’ve already approved.

This is taken directly from CA Office of Environmental Health Hazard Assessment:

Effective January 3, 2020, the Office of Environmental Health Hazard Assessment is adding cannabis (marijuana) smoke and Δ 9-tetrahydrocannabinol (Δ 9-THC) to the list of chemicals known to the state to cause reproductive toxicity (developmental endpoint) for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)[1]. At a public meeting on December 11, 2019, the Developmental and Reproductive Toxicant Identification Committee (DARTIC) in its official capacity as the “state’s qualified experts” determined that cannabis (marijuana) smoke and Δ 9-tetrahydrocannabinol (Δ 9-THC) were shown to cause reproductive toxicity based on the developmental endpoint. Regulations for the listing of chemicals by the DARTIC are set out in Title 27, California Code of Regulations, section 25305(b)(1). A complete, updated Proposition 65 chemical list is available on the OEHHA website at <https://oehha.ca.gov/proposition-65/proposition-65-list>.

- 7) **The marijuana facility can be subject to a RICO lawsuit.** The federal Racketeer Influenced and Corrupt Organizations (RICO) Act prohibits a person (also a corporation) from investing in, acquiring, or participating in the affairs of an enterprise that engages in racketeering activity. RICO applies to "medical" marijuana and recreational marijuana production and sales as both are illegal under federal law and are racketeering. RICO creates a private right of action for injury to business or property. 18 U.S.C.A. §§ 1962, 1964. The plaintiffs can contend that the marijuana facility adjoining their land has both interfered with their present use and enjoyment of the land and caused a diminution in its market value for many reasons. They can use a RICO lawsuit to seek financial damages and declaratory and injunctive relief against the related parties for acting and conspiring to distribute marijuana in violation of the Controlled Substances Act (“CSA”), 21 U.S.C. §§ 801–904.

Why has Sonoma County allowed this public policy debacle to happen?

There are two possibilities:

- 1) Either the Sonoma County Board of Supervisors is incredibly uninformed about what is really happening here, OR
- 2) You are complicit in corruption or malfeasance.

Or, perhaps it's a bit of both above.

Clearly you've also allowed certain County staff, who are completely aligned with the THC Drug Operator interests, to run the show here and "dance the dance" - giving you cover wherever and whenever you need it.

If you approve this horribly conceived project, it will simply prove you don't have enough backbone to stand up to this industry and enough integrity to protect your citizens from this scourge they have brought to Sonoma County.

We know, we know, we've heard the excuse for this policy a million times: "we must allow and enable this "industry" in order to shut down the black market marijuana operators." The fact that you could never see how wrought with contradictions and inconsistencies this fallacy contains only illustrates once again your naïveté or complicity in corruption.

I know one thing for certain in all of this, after fighting your horrible policy decisions and malfeasance for over three years now: I have now made it my mission to expose the corruption of Sonoma County for all to see, especially the citizen voters.

The one hopeful development is this: most people are waking up to the BIG LIE of marijuana and THC, and how it rots the brain and body. The CBD elements may yet prove to have truly proven beneficial therapies, still to be fully determined, through legitimate medical and scientific channels. However none of this remotely supports Sonoma County's current policy of aggressively placing COMMERCIAL DRUG THC MANUFACTURING sites throughout rural residential areas.

Sincerely,
Moiria Jacobs
Bennett Valley
Sonoma County

IF IT QUACKS LIKE A DUCK, IT'S A DUCK:



“Marijuana/THC Processing means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.” Legal definition by Law Insider

Note especially highlighted areas, these are manufacturing operations of THC, which as of JAN 2020 is also on Prop 65 toxic chemicals list. This is NOT traditional Ag!! Quack, quack quack!!!!

Processing Specialist Job Description, Example 1:

Primary job functions specific to the Processing Specialist position:

- Trim, manicure and **prepare cannabis products** in the variety, size, and quality prescribed by company and department standards.
- Follow approved procedures for **receiving, preparing, storing, arranging, and manicuring product to ensure quality and accuracy.**
- Assist with shucking and sorting.
- Consistently meet minimum quality and productivity metrics.

Primary job functions specific to the Packaging Specialist position:

- Accurately **weigh cannabis into various denominations of packaging, from grams to ounces.**
- **Apply labels and tamper seals.**
- **Assemble shipping boxes and partitions. Apply labels and prepare for shipping.**
- Consistently meet minimum quality and productivity metrics.
- Perform quality control check on finished products.
- Flexibility to assist other departments as needed.

Minimum Required Qualifications:

The minimum required qualifications for this position include, but are not limited to the following:

- Ability to proficiently read, write, speak, analyze, interpret, and understand the English language.
- Ability to perform basic math.
- Ability to stand, bend, twist, reach, push, pull and occasionally lift up-to 35 lbs.
- Ability to stay focused while performing repetitive tasks.
- Ability to work in varying temperatures.
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- Sit and/or stand for long periods of time while focusing on detail-oriented trimming and packaging
- Track the amount of unusable waste for each plant/batch, in addition to usable by-products
- Demonstrate proficiency with weights, measurements, and basic math
- Assure daily compliance with Company policies including but not limited to: state/local regulation compliance, security protocols, access protocols, dress code, and work schedules
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Role Requirements

- Experience with legal marijuana growing, trimming, and packaging preferred
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