

September 8, 2021

To whom it may concern:

I, Greg Hann, current owner of 15495 Arnold Dr, Glen Ellen, am adamantly against the proposed use of a cannabis dispensary next to my private residence. This proposed use will have a very negative affect on the property value of my home, and impact me greatly with traffic and parking issues. I am not against cannabis dispensaries, just not in this location where it will impact this neighborhood, which is 99% residential.

Thank you,

A handwritten signature in blue ink, appearing to read "Greg Hann", is written over a horizontal line.



VIA EMAIL

September 8, 2021

Chairperson Lynda Hopkins
Members of the Board of Supervisors
575 Administration Drive, Room 100 A
Santa Rosa, CA 95403

Re: *Opposition to UPC17-0094, Cannabis Dispensary at 15499 Arnold Drive*
(September 14, 2021 agenda item 44)
HL no. 233-01

Dear Chairperson Hopkins and Members of the Board:

On behalf of Appellant Protect Our Sonoma Valley Family Neighborhoods, a California non-profit association of concerned neighbors, I am writing in opposition to the Loe Firehouse cannabis dispensary proposed to be sited in this quiet, residential corner of Glen Ellen. The requested conditional use permit should be denied for three principal reasons:

1. The project is neither 100 feet distant from neighboring residential parcels nor benefitted by "actual physical separation" sufficient to protect those parcels;
2. The project provides both inadequate parking and improperly configured parking; and
3. Its traffic study improperly relies on outdated data while ignoring both approved and reasonably foreseeable projects that will contribute to traffic impacts.

As discussed below, the project as proposed does not conform with required zoning and parking standards and will result in traffic impacts which have yet to be fully or properly evaluated. The Negative Declaration therefore cannot be adopted, and the requested use permit should accordingly be denied.

The Project Is Too Close to Surrounding Residential Parcels

Recognizing the obvious incompatibility of locating a cannabis dispensary within residential neighborhoods, County zoning mandates that a dispensary "shall not be established on any parcel...within one hundred feet (100') of a residential zoning district."¹ The need for such separation is particularly acute for this particular .33-acre parcel which staff describes as located in a "small cluster" of three commercial parcels within a "surrounding area [that] is largely residential."² In fact, apart from an existing art gallery and small deli, this neighborhood is *entirely* residential: the next closest commercial use of any kind is Jack London Village located 1.3 miles away, while downtown Glen Ellen is located 1.9 miles away.

While the zoning code allows a reduction in this 100-foot setback upon a showing that "an actual physical separation exists between land uses or parcels such that no off-site impacts could occur,"³ no such showing can be made in this case. Notably, staff determined that adequate physical separation exists by virtue of the northern orientation of the customer entrance and parking lot away from residentially zoned parcels to the east, south and west.⁴ Its analysis fails to consider, however, the offsetting "gravitational pull" of the public transit bus stops immediately *in front of* the proposed dispensary, which means both residents of all ages will on a near-daily basis congregate alongside the dispensary.

¹ County Code § 26-88-256(f)(1). Unless otherwise indicated, all statutory references are to County Code.

² Staff report at pp. 2-3.

³ Section 26-88-256(f)(4).

⁴ Staff report at p. 5.



Figure 1: Project from western side of Arnold Drive



Figure 2: Project from southern side of Madrone Road

Similarly, while the location of Arnold Drive to the west and Madrone Road to the south may offer the illusion of separation,⁵ the record demonstrates that such public roads will not shield the project from the pedestrian infrastructure used to easily access the site:

"Existing sidewalks along both sides of Madrone Road and along the east side of Arnold Drive *provide pedestrian connections to people who may wish to access the site from the nearby residential areas.*"⁶

"Pedestrian facilities include sidewalks, crosswalks, pedestrian signal phases, curb ramps, curb extensions, and various streetscape amenities such as lighting, benches, etc. *In general, a network of sidewalks and curb ramps provides access for pedestrians at the intersection of Arnold Drive/Madrone Road and into the residential neighborhoods near the project site.*"⁷

The project is thus surrounded by, and insufficiently set back from, the following uses:

- To the East: The project parcel is separated by *only 58 feet* from the R3-zoned 122-unit Grove apartment complex, which is home to hundreds of children. The Madrone Road driveway entrance to this multi-family complex is approximately 78 feet from the project site.
- To the South: The project parcel is, according to staff, separated only 75 feet from the R1-zoned residential parcels to the south across Madrone

⁵ While County Code does not define "physical separation," elsewhere it provides *examples* of such separation: "actual physical equivalent separation exists due to topography, vegetation or slope." Section 26-88-254(f)(6) and (8) (mandating setbacks from commercial cannabis cultivation). None of those physical elements of separation are present here.

⁶ *Id.* at p 21 (emphasis added).

⁷ Traffic Study dated July 24, 2021 at p. 8 (emphasis added).

Road. Actual measured distances to nearby residences are less: 32 feet from 998 Glenwood Drive and 54 feet from 989 Glenwood Drive.⁸

- To the West: The project parcel is located *only 50 feet* from one residential parcel, and 70 feet from a second residential parcel, both located on the west side of Arnold Drive. Staff's discussion of the siting and orientation of these and other homes is misplaced: The zoning code is unequivocal that setback distance must be measured from the *parcel line*, not a residential structure.⁹ Staff is not free to substitute an alternative interpretation of the meaning of "setback" different than what has been legislatively codified.
- To the North: The project site is bounded by an LC-zoned parcel to the north and therefore is technically compliant with the setback requirement in this direction, though it is worth noting that the legal nonconforming residence on this parcel is only 30 feet from the project site parcel line.

⁸ Email of neighbor Dave Palmgren dated March 29, 2021.

⁹ Section 26-88-256(f) ("Property setbacks for cannabis dispensaries shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis dispensary").



Figure 3: Project from southern side of Madrone Road

Finally, staff's reliance on five prior dispensary projects which received setback waivers is misplaced. First, it is the language of the ordinance that must control not staff's prior application of it. Otherwise, past erroneous decisions would impermissibly bind future decision-makers.¹⁰ Second, those projects were located in far more commercially oriented environments along major streets¹¹ and included "proposed visual screening measures, such as fences and landscaping."¹² By contrast, this proposed dispensary will be *unfenced* and *unobscured* by any vegetation on its

¹⁰ Cf. *Magruder v. Redwood City*, 203 Cal. 665, 674-75 (1928) (permit issued by local officials in violation of city ordinance cannot form basis of estoppel against city); *Pettitt v. City of Fresno*, 34 Cal. App. 3d 813, 822 (1973) (property owner cannot rely on erroneous, prior permit approval where to do so "would defeat the effective operation of a policy adopted to protect the public.")

¹¹ See, generally, "Summary of Approved Residential Setback Waivers" (Board packet attachment 24 at pp. 4-9).

¹² Staff report at p. 4

western and southern boundaries. Whatever weak precedential value these prior projects may hold, it is insufficient to justify a similar setback waiver in this case.¹³

The Project Provides Insufficient Parking

Under the County's Guidelines for Traffic Impact Studies, a "significant traffic impact" exists where the "proposed on-site parking supply does not meet County standards and does not adequately accommodate parking demand."¹⁴ Such is the case here where, although the project consists of 3,847 square feet devoted to retail, office, and storage space,¹⁵ staff has necessarily ignored half that floor area in order to find the project compliant with parking requirements relevant to a theoretical, smaller-sized project.

Staff reaches its erroneous determination by essentially re-writing the zoning ordinance applicable to dispensaries. According to staff, "[d]etermination of parking needs for a dispensary requires two separate calculations – one for customers and one for employees." Under this methodology, "[c]ustomer spaces are calculated" but "[e]mployee support spaces...are not included in the dispensary floor area."¹⁶

¹³ Section 26-92-080(a) (use permit may not be issued if proposed use is "detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or to the general welfare of the area"); *Snow v. City of Garden Grove*, 188 Cal. App. 2d 496, 503 (1961) (upholding city's denial of use permit for project deemed to be "detrimental...to the public health, safety, comfort and general welfare of the residents.").

¹⁴ Guidelines for Traffic Impact Studies (May 2016) at p. 10.

¹⁵ Traffic Study dated July 24, 2021 at p. 4 ("[The retail portion of the dispensary would occupy 1,891 square-feet and the remaining 1,956 square-feet would be used for administrative and storage space.").

¹⁶ Staff report at p. 6.

The parking ordinance, however, says no such thing. Cannabis dispensaries are required to provide:

2 spaces, including at least 1 van-accessible space; plus 1 additional space for every 200 square feet of *gross floor area*, plus 1 additional space for each employee on maximum shift; but in no case less than 5 off-street parking spaces.¹⁷

This legislative language makes no distinction between customer-accessible floor area and private floor area. To the contrary, it describes floor area as “gross” – a word commonly understood to mean “consisting of an overall total *exclusive of deductions*.”¹⁸ Had this Board intended for staff to calculate only customer floor area, it would have employed the words “retail” or “customer,” instead of the word “gross.” Staff’s interpretation, untethered to the words of the ordinance, would thus invite the Board to impermissibly read into the ordinance words of limitation (“*net of employee space*”) which are not only absent but actually *contradict* the ordinance as written (“*gross floor area*”).¹⁹

Staff’s interpretation would also require the Board to accept a revised definition of “dispensary,” which under current state and County law means a “facility” consisting of both public and limited access areas.²⁰ Staff, however, suggests that limited access areas should now be *excluded* from the definition of “dispensary” – a

¹⁷ Section 26-86-010 (emphasis added).

¹⁸ Merriam Webster Dictionary (<https://merriam-webster.com/dictionary/gross>) (emphasis added).

¹⁹ *Linovitz Capo Shores LLC v. Cal. Coastal Com.*, 65 Cal. App. 5th 1106, 1121 (2021) (“We must presume the Legislature meant what it said, and we may not add words to the statute under the guise of legislative interpretation”); *Davis v. Harris*, 61 Cal. App. 4th 507, 512 (1998).

²⁰ 4 California Code of Regulations §§ 15000, 15402; County Code § 26-04-020(c)(11).

proposition that not even the applicant's traffic consultant accepted when correctly *including* the non-public second floor area in its evaluation of traffic impacts.²¹

As staff acknowledges elsewhere, the "proposed dispensary will occupy the *entire* building."²² Accordingly, the entire 3,847 facility should be evaluated under the parking standards governing dispensaries. Doing so would require that 27 parking spaces be required. Even if the remaining "non-customer floor area" were treated as office as opposed to dispensary use, 25 parking spaces would still be required.²³ But this project provides only 16 legal parking spaces – resulting in an unmitigated significant traffic impact.

The Project Provides Improperly Configured Parking

County code defines "parking spaces" as "usable off-street area with independent access."²⁴ In this case, parking spaces 16 and 17 are in tandem, rendering the interior space 16 *non-accessible* and therefore not a valid parking space. Staff suggests the requirement of "independent access" can safely be ignored, however, because the tandem spaces would be shared between commercial vendors and the dispensary's delivery driver.²⁵ Left unanswered is how parking is to be

²¹ Traffic Study dated July 24, 2021 at p. 13. ("The trip generation for that portion of the building not dedicated to retail was estimated using standard rates for 'General Light Industrial' (LU #110) as it was determined to be most representative of the processing, storage, and receiving space collectively.").

²² Staff report at p. 6 (emphasis added).

²³ The 1,891 square feet of dispensary customer floor area requires 17 parking spaces and the remaining *non-customer* floor area of 1,951 square feet (total of 3,847 project square feet) would require an additional 8 parking spaces (office space requires 4 parking spaces per 1,000 square feet). See, generally, Section 26-86-010.

²⁴ Section 26-04-020.

²⁵ Staff report at p. 7.

handled during the majority of the day when the delivery driver is not on one his two daily delivery rounds.²⁶

The project's parking configuration is further deficient in that it depicts 16 spaces as 9 x 18 feet, contrary to code requirement that they be 9 x 20 feet.²⁷ Staff's response is simply to "punt" this discrepancy to design review to ensure compliance with applicable standards. At a minimum, staff should have explicitly conditioned the project to ensure correctly sized parking spaces.

The Traffic Study Is Inadequate

County guidelines require that traffic studies be updated after two years.²⁸ In this case, the applicant's traffic consultant testified at the BZA hearing that data for the Arnold Drive and Madrone Road intersection was collected over *three years* ago, in 2017-2018, and has never been updated. The consultant justified this deviation from County requirements on the ground that the pandemic "has had the effect of reducing traffic and changing patterns."²⁹ While that may be so, the logical implication of this temporary suppression in area traffic is not to conclude a project creates no significant traffic impact, but to postpone updating the traffic baseline determination until traffic has returned to normal. To proceed otherwise would silently nullify the requirement of updating data and render meaningless any environmental review, which is currently based on a baseline measurement conceded to be out of date.

²⁶ Staff asserts incorrectly that "it can also be found that a reduction [in parking spaces] is appropriate" under Section 26-88-010(i). That section, however, pertains to "outdoor vendors" not parking requirements. The language quoted by staff does appear elsewhere in the zoning code, but only in the Coastal Zone (Section 26C-310) not in the LC zoning applicable to this project.

²⁷ Section 26-04-020(p)(1).

²⁸ Guidelines for Traffic Impact Studies (May 2016) at p. 2.

²⁹ Traffic Impact Study Addendum dated May 19, 2021 at p. 3

As the Valley of the Moon Alliance has noted in their own opposition,³⁰ the traffic study is deficient for the additional reason that it fails to discuss much less evaluate the cumulative impacts of this project in light of "past, present, and probable future projects producing related or cumulative impacts."³¹ Future projects include those "of which the lead agency has knowledge, but for which no current plans have been submitted for review, so long as they are not unduly speculative."³²

And yet neither the traffic study nor the staff report discuss much less evaluate three upcoming cannabis dispensaries in Sonoma Valley: (1) the Sparc dispensary opening at 19315 Sonoma Hwy, City of Sonoma (approved May 13, 2021, now under construction); (2) the Haight Street dispensary (applicant John Lobro) at 15 Fremont Drive, unincorporated county (UPC 18-0023, now undergoing planning review); and (3) the Sonoma Finest 2.0 dispensary at 8910 Highway 12, Kenwood (UPC 19-0006, which may be set for BZA hearing as early as next month). More notably, it makes no mention or inclusion of any traffic impacts for the Sonoma Developmental Center reutilization project which is currently in the active planning stage and is estimated to include over one million usable square feet.

Finally, the study is questionable in how it arrived at its estimate of trip generation for the proposed dispensary. First it reviewed what it describes as a "small sample size of four [dispensary] studies" and then determined that *half* of those studies were "outliers" that should be disregarded.³³ The estimated trip generation of this project thus is based on no more than two sample studies and without any explanation as to why the supposed "outlier" studies were deemed unworthy of consideration.

³⁰ Letter of Valley of the Moon Alliance dated March 29, 2021 (Board packet attachment 29 at pp. 33-34).

³¹ 14 California Code of Regulations §15130(a)(1); Public Resource Code § 21083(b)(2).

³² AEP, *CEQA Portal Topic Paper: Cumulative Impacts* (2020) at p. 6.

³³ Traffic Study dated July 24, 2021 at p. 13.

Conclusion

This proposed dispensary may well be a beneficial, local-serving retail business, but not for this neighborhood. It is not situated in a commercial district in any common meaning of the phrase but is being unreasonably imposed on a residential neighborhood with insufficient separation from the many adults and children known to rely on the pedestrian thoroughfares and connections leading to and adjacent to the site. It also relies on a parking analysis that, under any reasonable reading of County Code, cannot be upheld. Finally, its traffic impacts have yet to be evaluated based on current traffic data and in light of known future projects.

For all the above reasons, it is respectfully submitted that this appeal be upheld and the use permit denied.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Haroche".

Bob Haroche

cc: Client
Planner Crystal Acker

From: [crabmates64](#)
To: [Crystal Acker](#)
Cc: [Susan Gorin](#)
Subject: RE: 1000% against the cannabis dispensary
Date: September 08, 2021 3:56:52 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image005.png](#)

EXTERNAL

Ooops we live on Sonoma Glen Circle not Glen Ellen Circle lol.

Kevin Mowrey

Sent from my T-Mobile 5G Device

----- Original message -----

From: Crystal Acker <Crystal.Acker@sonoma-county.org>
Date: 9/8/21 3:46 PM (GMT-08:00)
To: 'crabmates64' <crabmates64@yahoo.com>
Cc: Susan Gorin <Susan.Gorin@sonoma-county.org>
Subject: RE: 1000% against the cannabis dispensary

Received. Thank you, Kevin.

Crystal Acker, M.S.

Supervising Planner

www.PermitSonoma.org

County of Sonoma

Planning Division | Project Review

2550 Ventura Avenue, Santa Rosa, CA 95403

Direct: 707-565-8357 |

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





Due to the Public Health Orders, online tools remain the best and fastest way to access Permit Sonoma's services like permitting, records, scheduling inspections, and general questions. You can find out more about our extensive online services at PermitSonoma.org.

The Permit Center has reopened with limited capacity Monday, Tuesday, Thursday, Friday from 9:00 AM – 4:00 PM and Wednesday, 10:30 AM – 4:00 PM.

Thank you for your patience as we work to keep staff and the community safe.

From: crabmates64 <crabmates64@yahoo.com>
Sent: September 08, 2021 2:50 PM
To: Crystal Acker <Crystal.Acker@sonoma-county.org>
Cc: Susan Gorin <Susan.Gorin@sonoma-county.org>
Subject: 1000% against the cannabis dispensary

EXTERNAL

Hi,

My wife and I bought a whole duplex on Glen Ellen Circle just down the street from Arnold Drive and Madrone.

Please see attached in which I agree with everything listed on the attachment.

I personally do have deep concerns about the dispensary being in that location so close to a apartment complex with young adults AND KIDS.

I personally am 100% against the dispensary being so close to my home where the neighborhood has young children residing.

I am NOT against dispensaries for medicinal purposes AND I have no problem with what per se the next person does on their own property, for each their own.

I am extremely nervous about the fact of a dispensary being so close to my home with extreme lack of parking at madrone/Arnold, "I do not need traffic or parking in front of my residence so people can go purchase and smoke pot"!!!!

My tenants are wonderful people who have TWO very young children who play in the

front yard unfenced and will feel very uncomfortable with a dispensary in the neighborhood.

I personally will probably move out of the neighborhood if a dispensary/pot house is allowed to open for business

Kevin Mowrey

Sent from my T-Mobile 5G Device

THIS EMAIL ORIGINATED OUTSIDE OF THE SONOMA COUNTY EMAIL SYSTEM.

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

GET INVOLVED TO STOP THE PROPOSED GLEN ELLEN CANNABIS DISPENSARY!

- Located at the corner of Arnold Drive & Madrone – this is 99% a residential neighborhood, NOT a Commercial District or Zone!
- This 3,847 square foot dispensary is under parked by 69% according to Sonoma County Codes (16 provided, 27 required)
- The Project is LESS THAN the required 100 feet of 5 residential properties with no "Physical Separation". This is against Sonoma County Code.
- Hundreds of children and adults use the two Sonoma County Transit bus stops daily - one at the dispensary and one across the street!
- The Traffic Study is over two years old (*no longer valid*) and includes ZERO traffic for the upcoming million square foot plus Sonoma Developmental Center redevelopment now in the active planning stage.
- The Project is in Violation of CEQA – the "California Environmental Quality Act" – and thus legally should not be approved.
- Supervisor Susan Gorin promised to "Protect our Neighborhoods" in her re-election campaign. Hold Supervisor Gorin to this Promise!

Send your Opposition Letter by email by September 10 to:

- Crystal Acker, Planner - Crystal.Acker@sonoma-county.org.
- Supervisor Susan Gorin – Susan.Gorin@sonoma-county.org

There are already HUNDREDS OF RESIDENTS opposed to this proposed cannabis dispensary. WE DO NOT OPPOSE CANNABIS DISPENSARIES – WE OPPOSE LOCATING SUCH DISPENSARIES IN AREAS WHICH THEY ARE NOT ALLOWED.

Neighbors have organized and have formed an association which appealed this PROJECT to the Board of Supervisors on Tuesday, September 14, 2021 at 2 PM.

PLEASE ATTEND THE ZOOM MEETING: ITEM 2021-7033

<https://sonomacounty.ca.gov/Board-of-Supervisors/Board-Meetings/>

PROTECT OUR SONOMA VALLEY FAMILY NEIGHBORHOODS

From: [Ann Storms](#)
To: [Crystal Acker](#)
Subject: Glen Ellen Dispensary
Date: August 25, 2021 12:37:16 PM

EXTERNAL

Ms. Acker & the county permit department:

I realize that letters & opinions opposing cannabis count for nothing any longer in your department.

The vast majority of Sonoma County does **NOT** want a single more "dispensary" aka marijuana outlet in our county.

Between the city of Santa Rosa and the county, we know this area is hell-bent on bending over backwards to one

special interest group, the THC drug pushers.

How did we ever get to this calamity, with little or no public input?

Ann Storms

THIS EMAIL ORIGINATED OUTSIDE OF THE SONOMA COUNTY EMAIL SYSTEM.

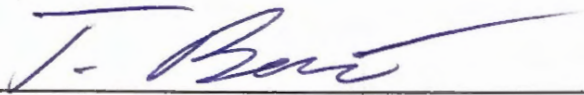
Warning: If you don't know this email sender or the email is unexpected, **do not** click any web links, attachments, and **never** give out your user ID or password.

September 8, 2021

To whom it may concern:

I, Trevor Barrie, current owner of 998 Glenwood Dr, Sonoma, am adamantly against the proposed use of a cannabis dispensary next to my private residence. This proposed use will have a very negative affect on the property value of my home, and impact me greatly with traffic and parking issues. I am not against cannabis dispensaries, just not in this location where it will impact this neighborhood, which is 99% residential.

Thank you,



From: [Greg Camporelli](#)
To: [Crystal Acker](#)
Subject: Proposed Cannabis Dispensary
Date: September 08, 2021 9:19:34 PM

EXTERNAL

Dear Crystal Acker,

We are in opposition to the proposed cannabis dispensary at 15499 Arnold Dr, Glen Ellen CA.

My wife and I have lived on Madrone Road for 27 years and have seen many changes in our neighborhood both good and bad. Fortunately most of the changes have been positive for the last 10 years. Up until about 3 years ago there was one residence on our block that was in an extreme state of disrepair, had people coming and going like a revolving door at all times of the day (drug sales undoubtedly), loud music, fights and yelling, Sonoma County Sheriff Officer visits regularly and neighborhood theft on a regular basis, including our residence (lawn mower, garden hose, forced entry into our car). It had a negative effect on real estate values in our surrounding area.

That resident has departed the area thankfully, along with all the problems associated with him, and the neighborhood has benefited immensely. The house that was once the blight of the neighborhood was sold and is now one of the nicest houses on the block. Real estate values rebounded, and it's not just coincidence. We feel that a cannabis dispensary would again affect real estate values negatively, much the same way a dedicated liquor store would in a residential neighborhood.

Traffic is another issue on Madrone Road. Madrone is a major artery that is travelled heavily by traffic between Arnold Drive and Hwy 12 at present. The traffic study performed for this project is over two years old and is no longer accurate. Additionally, with the forthcoming development project of the former Sonoma Developmental Center, traffic will increase exponentially. On top of it all, the proposed cannabis dispensary would certainly add to this congestion possibly even into the early evening hours based on the proposed operating hours. The intersection of Arnold Drive and Madrone road is extremely busy and not without accidents, the latest occurring the third week of August.

A cannabis dispensary would, without a doubt, attract undesirables some of which could cause potential problems in our neighborhood. Bordering the proposed cannabis dispensary site is a 5 acre apartment complex with many children and additional residential properties that could be affected by such a business. We know that various building codes, rules, regulations and requirements have been given a pass. Would another operation such as a liquor store receive the same treatment? We currently have a nice community and would like it to remain that way.

Then there is the parking issue. The parking code calls for 27 spaces and only 16 are provided. With this being the one and only cannabis dispensary in the valley, this will be a problem. We personally don't use cannabis, but have driven by dispensaries, one in particular in Cotati. Not only is parking at a premium at that location, many times there is a line of people out the door with delineators to keep the line ruly (this was pre-Covid). The location in question is not suitable for such an operation. Please protect our neighborhood.

Respectfully,

Gregory Camporelli
Lisa Camporelli
852 Madrone Rd
Glen Ellen, CA 95442
707-939-8345
camporelli@sbcglobal.net

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

Ricardo Capretta
1200 Morningside Mountain Drive, Glen Ellen, CA 95442

September 8, 2021

Supervisor Susan Gorin
575 Administration Drive, Room 100 A
Santa Rosa, CA 95403

Re: Loe Firehouse Cannabis Dispensary Application – UPN 17-0094

Dear Supervisor Gorin:

I have written an opposition letter to this proposed project before the BZA Hearing and I live within the 100-foot residential setback. This proposed cannabis dispensary would significantly affect the quality of our residential neighborhood with increased traffic, off-site parking and noise. The three major issues I have previously raised have now all been professionally and legally addressed by, Bob Haroche, the attorney for Protect our Sonoma Valley Family Neighborhoods. I want to take this final opportunity with the County to add some color to these legal observations.

1. The 100-foot setback from Residential Property

The County placed this condition within their Code of Ordinances for a specific and obvious reason: to give residential homeowners the right to not be subjected to close and adjacent traffic, parking and noise impacts. It's an intelligent code condition and it's the right I am fighting for the most.

Regarding the term “physical separation”, I simply feel that the County is not honoring the intent of this term. The County has even defined the term in the cannabis cultivation section of the Code. Staff plays this down as a different section but look at the obvious logic here: Would the County create two separate definitions for the same term? I don't think so. Certainly, a public street – with no median or barrier – only 50 feet between a cannabis dispensary and four single-family zoned properties AND connected by a handicap sidewalk ramp, an unmarked crosswalk with no topography and a Sonoma County Transit bus stop is the most extreme example of what does not constitute public separation. As an example of what would logically qualify as “public separation – topography, slope or vegetation” as defined in the code, I believe this photograph on Highway 12 exemplifies a condition where Staff could make a reasonable argument. Not our flat land condition as shown in this photo on the right.



Highway 12 Vegetation Median



50 Foot Arnold Drive Separation (Haroche letter)

2. The Lack of Parking Issue

Attorney Bob Haroche has explained this issue well. I just want to point out the most eye-popping reference to this issue. In the Staff Report attachment called “Summary Report”, please look at Item 3, page 6. In one sentence, Staff states *“Code Section 26-88-010(c) sets parking requirements for dispensaries based on **customer floor area** and employee number:”*. In the very next sentence Staff states that the parking requirements are based on *“...gross floor area....”*. I believe Staff has now clearly clarified this issue for all parties. This is a very basic and simple calculation. This issue all stems from Staff electively deciding to only count 1,891 square feet of the 3,847 square foot facility. There is simply no logical explanation for this decision. Further, the noticing for this Project – on three separate occasions – defined this project as an 1,891 retail floor area facility – that was very misleading to the public for the legal project notices.

Finally, the applicants traffic study – first sentence under the Executive Summary states: *“The proposed Apothevert Dispensary would occupy the existing 3,847 square-foot building located at 15499 Arnold Drive. As proposed, the retail portion of the dispensary would occupy 1,891 square-feet and the remaining 1,956 square-feet would be used for administrative and storage space.”* It’s good to see that the Traffic Consultant considered the entire cannabis facility... it’s a mystery to us why Staff would consider only the 1,891 square feet for calculating the parking. Required parking obviously effects appropriate traffic analysis.

3. The Incomplete and Expired Traffic Study

There are a few obvious issues at play here. First, Staff correctly states in the Staff Report that: *“Because the study was more than two years old, staff requested it be updated in 2020 to reflect any new development, changes in roadways or traffic patterns, or changes in the regulatory environment.”* The problem is that the applicant did not “update” their traffic report. Their January 4, 2021 “addendum” is simply that – an addendum – which only covers the topic of VMT and revised traffic counts because a change of operation hours. The clear intent of the Sonoma County Traffic Guidelines to “update” a report means you need to update all sections of the report. Per the staff report, *“The original Traffic Impact Study for the project was submitted July 24, 2018, and was based on data collected in 2017 and 2018. An Addendum was submitted January 4, 2021, which included an analysis of Vehicle Miles Traveled (VMT), as is now required under the California Environmental Quality Act.”* You can’t blame Covid for not updating a traffic report. Traffic consultants routinely use historical assumptions and growth patterns to update data collection estimates within traffic studies. The applicant did not do that and that is why the applicant’s collective traffic documents now comprise a traffic study older than 2 years old. Finally, their updated May 19, 2021 second Traffic addendum should not be considered as it was presented after the BZA hearing. It now conveniently states all of the same language from the January 4, 2021 addendum except for an added ending paragraph which states *“all previous findings remained valid and did not require updating”*. That is simply not accurate. The traffic counts also needed to be analyzed and updated. Mr. Haroche outlines all of the relevant legal arguments. The VOTMA opposition letter also details many relevant omissions.

Second, the County and the applicant were noticed numerous times that their traffic report does not include any traffic counts for Sonoma Developmental Center. The BOS is fully aware that the redevelopment plans for this site are actively being pursued with multi-million-dollar consultants and monthly meetings. How could any traffic consultant assume no traffic impacts from such a major traffic generator which is approximately 1/2 mile away on Arnold Drive? It is not a small commission – it’s a gross omission of critical data – and data which is required to be included per the County Traffic

Guidelines – “Data on projects in the study area that have been approved but not yet constructed, projects that are pending approvals, as well as general projections of growth within or affecting the study area is available from PRMD. A tabulation of land uses by type and parcel number with the respective trip generation rates **must be identified.**”

Third, since the applicant Traffic Study only considers 17 parking spaces, based on the arguments in Section 2 above, the traffic study is inaccurate in that it should have included a 27-space parking impact, which obviously would create different and more intense traffic study results.

Supervisor Gorin, you have been kind to have a telephone conversation with me regarding my concerns about this project. You asked “*what would some alternative locations be in the area*”. I think there are a few including Jack London Village, a large (for the area) retail /restaurant complex that has vacancy, has significant parking, and has significant surrounding land which is not inhabited by homeowners. Second, Downtown Glen Ellen is another alternative where there have been recent vacancies and which is the area’s major commercial area with numerous retail and restaurant businesses and wineries. Third, the future Sonoma Developmental Center redevelopment is likely to have a commercial area and this use, with the appropriate parking, could easily be included.

As I have stated before, I support any use that has been vetted and adopted in the Sonoma County Municipal Code of Ordinances – that’s how the system works. A use gets proposed, it is subjected to review by the public, and then the County approves it. Please honor the Code that the County approved for cannabis dispensaries. This site simply does not comply with County code for use as a cannabis dispensary.

I appreciate your consideration of this letter. Please uphold our Appeal and do not allow this highly inappropriate use to damage the quality of our neighborhood.

Regards,



Ricardo Capretta

CC: Crystal Acker
Protect our Sonoma Valley Family Neighborhoods

From: [richard fashbinder](#)
To: [Susan Gorin](#)
Cc: [Crystal Acker](#)
Subject: Cannabis Dispensary at Arnold & Madrone
Date: September 08, 2021 5:53:41 PM

EXTERNAL

I stand in opposition to the dispensary at this location. Except for a burrito shop and one unknown business, this is an entirely residential, rural out of the way neighborhood. This type of business belongs in a more urban concentrated area that is more convenient to more people. I am not opposed to dispensaries in the right location, but this one does not make sense.

Thanks for your attention, Richard Fashbinder

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