

Kent Lawson & Kasia Nowak
524 Oasis Drive
Santa Rosa, CA

August 15, 2022

Appeals Committee
County of Sonoma

RE: Appeal of DRH22-0008 regarding APN 134-074-022

Dear Appeals Committee,

On August 3, 2022, the Design Review Committee held a hearing regarding a lot owned by the West County Transportation Agency (“WCTA”) that is adjacent to our home at 524 Oasis Drive. Our home is a renovated late 1800s farm house located on five acres in a rural residential area. The committee approved an oral motion “that we move this forward with the recommendations we’ve discussed here today.” It is unclear exactly what was approved. Nevertheless, we are writing today to appeal approval of the motion.

The recommendations included reducing the height of lighting poles, adding additional landscaping, and specifying the location of fencing. The Design Review Committee was well intentioned and based their suggestions on their professional experience. The Design Review Committee, however, overlooked that a resolution passed by the County Board of Supervisors in 1999 requires them to do much more regarding this particular project.

The 1999 county Board of Supervisors resolution is a 19-page document containing 57 conditions. It imposes detailed conditions to minimize the environmental impact of the project, reduce traffic, preserve the rural character of the area, and to minimize the noise and visual impact on neighboring homes. One of the conditions is that the Design Review Committee review the project for conformity with all of the conditions.

Each of the three Design Review Committee members made it clear that they did not feel that reviewing the conditions was within the committee’s purview. It was also clear that the Design Review Committee had not read the 1999 conditions. The oral resolution that the Design Review Committee approved did not find conformity with the 1999 conditions and the committee did not to approve a draft written resolution finding conformity with the 1999 conditions.

The 1999 Board of Supervisors’ conditions have the same force of law as the zoning laws in the county code. They are not negotiable or discretionary. The Design Review Committee has the legal obligation to strictly enforce all of the conditions and did not do so. The current WCTA proposal egregiously violates these conditions.

We would be grateful if you would systematically work through the 1999 Board of Supervisors conditions as part of the appeal process. These conditions and your review, may be the only line of defense for a rural residential neighborhood that is imperiled by WCTA's overreaching.

We list below the violations of the conditions that concern us the most. We would also be grateful for the opportunity to meet with you and address our concerns in person.

Sincerely,


Kent Lawson and Kasia Nowak

CONCERNS

1. The proposed project violates the 110 bus limit for all three WCTA lots.

The WCTA is proposing a bus and employee parking lot with 160 spaces on the western lot when the 1999 conditions only allow for a "school bus storage yard" consisting of 30 spaces. The 1999 conditions state as follows:

The project is conditioned to limit the western lot (APN 134-074-022) to a maximum of 80 vehicles, and the entire project to a maximum of 110 buses, . . .

The WCTA is disregarding the limit of 110 buses for the entire project. The WCTA's proposed plans show a total of 160 new parking spaces on the western lot. 80 of these spaces are bus spaces and 80 of them are employee parking spaces. The existing WCTA facility on the WCTA's eastern two lots has existing spaces for 51 large buses and 19 small buses or 80 buses total. The spaces are easily seen in the satellite photo that we submitted to the committee from google maps. The staff report mistakenly counted the number of existing buss spots at 30 based on a historical plan that is not being used.

The total number of bus spaces for the project as proposed by the WCTA would be 170 bus spaces (i.e. 90 new bus spaces + 80 existing bus spaces). The WCTA should be limited to spaces for 110 buses as required by the 1999 conditions. To stay within the size limitations, the WCTA should be allowed a bus storage lot for a maximum of 30 new bus spaces on the western parcel because 30 new bus spaces plus 80 existing bus spaces equals 110 bus spaces. The math is simple and the board of supervisors' size limitation should be enforced.

The WCTA has argued that even if it has 170 bus spaces that it will respect the 110-buss limit by keeping 60 spaces empty at all times. This argument ignores the 1999 conditions which require that land that is not being used for buss storage to be landscaped with plants or have grass growing on it. The intent of the conditions was to limit the size of the WCTA facility to preserve the rural residential character for the neighboring homes and to reduce traffic. The 110 buss limit should be enforced.

2. The proposed project violates the 80-vehicle limit on the western parcel.

The 1999 conditions also limit the WCTA to a maximum of 80 vehicles on the western parcel. The WCTA is also flagrantly disregarding this limit. The WCTA argues that the 1999 conditions use the words “any one time” with respect to the 80-vehicle limit. It is true that this phrase is referenced once in the 1999 conditions, but it is not cited elsewhere. For example, please see the quotation immediately above. At one time is not defined. A reasonable way to read “at one time” would be in a day, not at any one millisecond, as the WCTA suggests. The WCTA’s reading is problematic and runs counter to the intent of the 1999 conditions.

The WCTA argues that in the morning, the 80 buses will leave the lot so that 80 cars can park during the day. Similarly, WCTA argues that in the afternoon, the 80 cars will leave so that 80 buses can park during the night. This is a disingenuous reading of the 1999 conditions. The purpose of the 80 -vehicle limit on the western parcel was not to create a game of musical parking spaces every morning and evening. The purpose of the size limits as stated in the 1999 conditions was to limit the noise and visual impact to the neighbors and to minimize traffic in the surrounding area. The WCTA is proposing ridiculous gamesmanship to disregard the size limitations.

3. Employee parking violates the permitted use for the Western parcel.

As stated in the 1999 Board of Supervisors’ resolution, the only permitted use for the western parcel is a “school bus storage yard.” The WCTA is arguing that this permitted usage also includes an “employee parking lot”. The Board of Supervisors could have written “school bus storage yard and employee parking lot” in the use permit for the western parcel. They did not. The literal language is the only permissible evidence of the Board of Supervisors’ intent. The Design Review Committee does not have the discretion to add words that are not there to the use permit. The use permit must be read as written and limited to “school bus storage.”

It is not appropriate to look beyond the plain language of the use permit, but doing so would demonstrate that an employee parking lot was not intended by the board of supervisors on the western parcel. Importantly, the 1999 conditions state:

No employees shall be stationed on this parcel, no work shall occur on vehicles / equipment on this parcel / no hazardous materials shall be stored on this parcel, and no refueling activities shall occur on this parcel. All buses positioned on this parcel shall be positioned so as to avoid the need for backing up in the morning. Horn checks and backup beeper checks may not occur on this parcel.” Hours of operation on APN 134-074-022 shall be limited to Monday through Friday from 6:00 a.m. to 6 p.m. Hours of operation on APNs 134-072-025 & 048 shall be limited to Monday through Sunday from 5:00 a.m. to 8 p.m.

If an employee parking lot was intended on the western parcel, there would have been similarly lengthy and detailed restrictions regarding employee parking. No employee parking lot was outlined because the intention was to keep employee activity on the eastern two parcels. The eastern two parcels have industrial zoning, a much broader permitted use, and far fewer restrictions. Putting an employee parking lot on the western parcel directly contradicts the intent to minimize employee activity. on that parcel.

The existing WCTA facility on the eastern parcels has operated for 20 years without an employee parking lot. The plans that were approved in 2000 for the existing facility on the eastern two parcels show only buss storage on the western parcel and no employee parking. The plan that was approved in 2000 is a good indication that no employee parking was intended at the time.

In fact, employees have parked on the street next to the WCTA for the past two decades. This practice is also good evidence of what the Board of Supervisors intended in 1999. Otherwise, an employee parking lot would have been created on the western parcel twenty years ago. Having the employees park on the street in an industrial area as they have been doing for the prior twenty years is preferable from a land use perspective to creating an employee parking lot next to homes in a rural residential area. Further, the extension of Juniper Avenue will create additional on-street parking. There is adequate street parking in the industrially zoned area to allow for the additional employees that would be needed as a result of the new bus storage on the western lot. Indeed, the only permitted use for the western parcel is a “school bus storage yard.” The design review committee is bound by this language and cannot expand the use of the western parcel to include an employee parking lot.

4. The proposed project violates the 1999 Board of Supervisors’ lighting restrictions.

The WCTA lighting plan will have a sever and negative impact on the surrounding homes. The WCTA has argued that its lighting plan is required by design standards for parking lots. This is precisely why an employee parking lot should not be allowed on the western parcel, and should only be limited to the permitted use of a “school bus storage yard”- as intended by the Board of Supervisors.

It was also the board of supervisors’ intention that lighting be limited to minimize the impact to neighboring homes. Lighting the interior of the bus storage yard was prohibited by the 1999 conditions because the conditions restrict the hours of operation of the school bus storage yard from “Monday through Friday from 6:00 a.m. to 6 p.m.” The 1999 conditions state:

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

The 1999 conditions permitted only “exterior security lighting” around the “periphery of the property” and “not as flood lights”. The WCTA lighting plan violates each of these three requirements. The WCTA has rows of lights going up and down the interior of the parking lot on tall poles.

There is very little security risk to the school bus storage yard from the homes to the north and to the west. The WCTA only needs security lighting along its fence to the east and to the south. It should be limited to the minimum necessary for security and be on motion sensors to minimize the disturbance to the neighboring homes.

5. The proposed berm, set back, and landscaping do not meet the 1999 conditions.

The 1999 Board of Supervisors conditions require:

The berm and setback area shall contain a dense evergreen landscape screening which **shall shield the buses from view** in those directions.

The purpose of the required berm was to minimize the noise and visual impact on the neighboring homes. The berm should be designed with this purpose. The berm that the WCTA has proposed has been designed to maximize the size of the parking lot rather than to minimize the impact on neighbors. The berm is as close as possible to the property line and it is as steep as possible on the sides facing the neighbors. It resembles a strip mine or a shooting range. The proposed WCTA plan is to surround it with a chain link fence.

The berm should be placed as far back from the property line as possible, while still allowing for a parking lot large enough for the permitted 30 bus expansion. The slope should be made more gradual so that it can be planted with the required landscaping. Matthew Machi, the civil engineer on the WCTA design team, stated in the design review hearing that the berm slope would be 2.5 to 1 on the neighbors’ side of the berm and 2:1 on WCTA side. He also stated that anything steeper than a 2:1 slope is considered unstable unless it is designed by a geotechnical engineer, which he is not. Don MacNair, the landscape architect on the Design Review Committee, stated in the hearing that anything steeper than a 3:1 slope makes it difficult to dig holes for trees because a trees need a flat spot to hold water. Mr MacNair also said that he was trying to avoid putting trees on the berm because of the steep slope. Mr. Machi also explained the top of the berm would only be 1-2 feet wide which is too narrow to plant trees. The top is so narrow that it seems wrong to even call it a berm. It’s more of a hill. The Board of Supervisor’s intent was to have a berm that is wide enough to be planted on top.

The berm and setback need to be sufficient for planting the required landscaping. Currently, there are only a few feet between the edge of the berm and the property line. The berm is too low and too steep to grow “dense” screening that would “**shield the buses from view**”. The WCTA has stated that their school busses will be 13 feet tall. Trees clearly need to be planted on top of the berm to create a screen.

The WCTA landscaping plan is also inadequate in this regard. It relies on trees in 15-gallon containers that will likely only be a few feet tall. It should be required to use much larger trees. The proposed trees will not shield tall buses from view. The landscaping plan will likely not meet the requirements even after decades of growth. The current WCTA plan uses deciduous trees that will drop their leaves in winter instead of evergreen trees. There are large gaps between the trees that are landscaped with grasses and shrubs. The 1999 Board of Supervisors' resolution requires that all conditions be met before the bus storage yard can be used. Consequently, "a dense evergreen landscape screening which shall shield the buses from view" is required before the bus storage lot can be used. The WCTA landscape plan looks like it was designed by someone who was completely unaware (or otherwise, in direct disregard) of these conditions.

The WCTA has had over twenty years to start growing an adequate screen. It has done the exact opposite. In fact, the WCTA bulldozed out five redwood trees that were planted twenty years ago in a row along the west property line to make a screen. These five trees were part of a row of 23 redwood trees that you can see in the satellite photo. The WCTA stated that bulldozing the trees was a mistake and offered to replace the trees at the hearing, but the design review board required oak trees instead. Redwood trees would make a better screen, especially since we will see over short trees from our upstairs windows. Oak trees also do not make a screen near the ground when they reach their full height. The WCTA should be required to replace the redwood trees with redwood trees of the same size as those that it destroyed.

6. Drainage / Erosion Plans / Approval by the Director of PRMD

The edge of the western berm is just a few feet from a drainage ditch on the neighboring properties to the east. The drainage ditch serves much of the entire neighborhood. A culvert under Oasis Drive connects the pastures to the north of Oasis Drive to the drainage ditch. The WCTA is planning to make the berm as steep as legally possible in the county without the approval of a geotechnical engineer. The WCTA has also put the berm just a few feet from the property line and the drainage ditch. Erosion from the berm has already filled much of the drainage ditch. The problem will likely worsen when it rains and when the berm is irrigated. Mr. Machi the WCTA civil engineer has stated that "maintenance will be done on a multi-annual basis" by a WCCTA crew to deal with any erosion or sloughing into the drainage ditch. The problem with his proposed solution is that the drainage ditch is on the neighbor's property and not on WCTA property. The last thing I want is a WCTA crew on my property, especially after they bulldozed the redwood trees on our property line.

The project requires that an engineered drainage plan be submitted to the PRMD for review and approved by the director of PRMD prior to the start of any on-site construction to avoid adverse drainage impacts. An "erosion control plan (winterization plan)" is also required. The WCTA plan that was submitted only addresses drainage for the bus storage yard and does not address run off and erosion coming from the berm. Moving the berm back away from the drainage ditch to make room for a well landscaped drainage swale would be appropriate.

7. The proposed chain link fence to the north and to the west violates the 1999 conditions.

The proposed WCTA plans show a chain-link fence around the entire perimeter of the western parcel. The 1999 conditions required "a dense evergreen landscape screen" on the north and the west. It states "a chain link fence with slats or other view blocking fence design at least 6 feet in height shall surround all other areas that are not shielded by the berm." An evergreen screen and not a chain-link fence is required on the north and west. The purpose of the berm and the landscaping was to minimize the visual impact to the neighbors. A chain-link fence with slats is unappealing, and inappropriate facing homes in a rural residential area. It is also contrary to the 1999 conditions.

8. EV Charging

The resubmitted plans show "EV" charging stations. The 1999 conditions prohibit "refueling activities" and are intended to limit noise. EV charging stations often create a humming noise. The purpose of the 1999 conditions was to limit activity on the western parcel as much as possible. For these reasons, EV charging stations should be prohibited.

9. Wetland Mitigation

Condition 40 of the 1999 document states:

The westerly portion (one acre) of APN 134-074-022 shall be permanently set aside for wetlands mitigation and an open space easement shall be recorded over it. If an alternative wetlands mitigation site is found at a later date that is recommend by the State Department of Fish and Game and approved by the County Permit and Resource Management Department, the applicant may apply to rescind the open space easement over APN 134-074-022 after a new open space easement has been applied over the alternative site. Wetland areas to be disturbed on the eastern portion of the parcel shall be mitigated through creation of at least an equal amount of new wetland area in the set aside area. Alternately, the applicant shall purchase an equal value of Wetlands Mitigation Bank Credits. All applicable U.S. Army Corps of Engineers and Fish and Game permits shall be obtained prior to disturbance of any wetland area.

We have requested documentation showing that these each of these specific requirements have been met. We have received nothing in response. Having appropriate documentation showing that each of these conditions have been met is an important part of the approval process. The project should not be approved until documentation showing that each of these specific requirements has been met.

1. Back-up Beepers

Please consider changing the school bus storage lot layout in the WCTA's plan so that the layout is like the layout in the approved plans for phase one of the WCTA project in 2000. The layout in the approved plans was designed so that the buses do not have to back up into their parking spots when they are parking. The noise from the back up beepers from the construction equipment during the construction process this past summer was horrible. We can hear the beepers from inside our house with all the doors and windows closed. The noise is going to be far worse when there are many times more buses with back up beepers using the school bus storage lot.

2. 110 School Bus Limit for all three WCTA Parcels Combined

Please consider changing the parking lot size in the WCTA's plan to respect the 110-total bus limit for all three WCTA parcels combined. The 1999 conditions limit all three WCTA parcels to a combined total of 110 buses. The existing WCTA parking lot has striping for 75 buses, which can be counted using Google Maps. Only 35 more bus spaces should be allowed on the western parcel. $75 + 35 = 110$. The 1999 conditions require that the lot be sized for 35 buses only and that unused space be landscaped rather than paved.

3. 80 Vehicle Limit for the Western Parcel

Please consider changing the parking lot layout in the WCTA's plan so that it is sized to meet the 80-vehicle limit for the western parcel in the 1999 conditions. The 1999 conditions require that the lot be sized for 80 vehicles and that unused space be landscaped rather than paved. The WCTA's plan is for a lot sized for 160 vehicles. The WCTA asserts that the 80-vehicle limit allows them to park 80 employee cars during the day while the 80 buses are being used off of the bus storage lot. If this arrangement was intended by the Board of Supervisors in 1999, it would have said so instead of imposing an 80-vehicle limit.

4. Permitted Use Limited to a School Bus Storage Yard

Please consider requiring that the sole permitted use of a "school bus storage yard" be respected. The WCTA's plan includes an employee parking lot and a "school bus storage yard." An employee parking lot was not an intended use when the use permit was granted in 1999. The approved plan in 2000 for phase one of the WCTA project shows only bus storage spaces on the Western parcel and no employee parking spaces. Having the employees park on the street in an industrial area, which is where they have parked for the last twenty years, is preferable to having 80 employees park next to rural residential homes.

5. Lighting Limitations

Please consider requiring changes to the WCTA's lighting plan so that it is limited to the minimum amount of lighting necessary for the "exterior security lightning plan" as required by the 1999 conditions. The WCTA's lighting plan includes 66 lights on tall poles. Some of the poles are as high as 32 feet. The WCTA has stated that it plans to leave the lights on all night. We will see the lights shining off the white school bus tops from our second story bedroom windows. The hours of use on the western parcel are limited from 6:00 am to 6:00 pm. Lighting

the interior of the storage yard is not necessary for security and violates the 1999 conditions. All that is needed for security is perimeter bollard lighting that is on timers and motion sensors.

6. Berm Design, Set Back, and Landscaping

Please consider requiring that the design of the berm, the set back of the berm, and the landscaping be changed to meet the 1999 conditions. The 1999 conditions require that “The berm and setback area shall contain a dense evergreen landscape screening which shall shield the buses from view . . .” The landscape architect on the Design Review Committee stated that the berm is too steep to plant trees. Please consider requiring a hedge of redwood trees similar to the hedge of redwood trees what was planted around the existing WCTA facility. Please also consider requiring that the redwood trees used be equivalent in size to the twenty-year-old redwood trees that the WCTA bulldozed from along the western property line.

7. Drainage and Erosion

Please consider requiring a landscaped drainage swale along the WCTA’s western property line. The 1999 conditions require a drainage and erosion plan. The WCTA’s plan does not address water and soil coming from the berm into the drainage ditch on neighbors’ property to the west. The western berm needs to be made more gradual and set farther back from the drainage ditch. The drainage ditch failed to drain in the last rain storm and water backed up as a result of soil and water coming from the berm.

8. Chain Link Fence Location

Please consider requiring that the WCTA’s chain link fence with slats be located inside the berm instead of along the WCTA’s northern and western property lines. The 1999 conditions require a landscaped berm and not a fence along the north and west in order to give the homes in the rural residential area something attractive to look at. The 1999 conditions require a chain link fence with slats on the other two sides of the WCTA lot where there are no homes. It makes no sense to sandwich the required landscaping between a chain link fence with slats and the berm where no one will be able to see it.

9. Electric Vehicle Charging Stations

Please consider requiring that no charging stations for electric vehicles be allowed. The 1999 conditions prohibit “refueling activities” on the Western parcel and are intended to limit noise. A single EV charging station can create enough humming noise to draw complaints. Having many charging stations next to homes in a rural residential area is a much greater concern.

10. Wetland Mitigation

Please consider requiring that the WCTA provide documentation showing that each of the specific wetland mitigation requirements in the 1999 conditions has been met or require the WCTA to change its plans accordingly. We have requested documentation proving that the requirements have been met multiple times and suspect that it does not exist because no documentation was provided to us or to the Design Review Committee.