

Public Comment Regarding Cannabis Ordinance and  
Program Update

Received June 2023

**From:** [Crystal Acker](#)  
**To:** [Cannabis](#)  
**Subject:** FW: Bennett Valley Cannabis Exclusion Zone  
**Date:** Thursday, June 8, 2023 2:51:59 PM  
**Attachments:** [Scoping BVCA Exclusion Zone.pdf](#)  
[03202023 Grange Excl Zone letter.pdf](#)  
[scoping - Bennett Ridge.docx](#)  
[BVRSD Scoping.pdf](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image006.png](#)

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For ordinance public comments

**Crystal Acker, M.S.**

Supervising Planner

Planning Division | Project Review

[sonomacounty.ca.gov/cannabis-program](http://sonomacounty.ca.gov/cannabis-program)

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**From:** Tennis Wick <Tennis.Wick@sonoma-county.org>

**Sent:** June 08, 2023 2:43 PM

**To:** Scott Orr <Scott.Orr@sonoma-county.org>; Crystal Acker <Crystal.Acker@sonoma-county.org>;  
Ross Markey <Ross.Markey@sonoma-county.org>

**Subject:** FW: Bennett Valley Cannabis Exclusion Zone

FYI

**Tennis Wick, AICP**

Director

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**From:** Moira Jacobs <[moiraajacobs@comcast.net](mailto:moiraajacobs@comcast.net)>

**Sent:** Thursday, June 8, 2023 2:29 PM

**To:** Andrew Smith <[Andrew.Smith@sonoma-county.org](mailto:Andrew.Smith@sonoma-county.org)>

**Cc:** Susan Gorin <[Susan.Gorin@sonoma-county.org](mailto:Susan.Gorin@sonoma-county.org)>; Tennis Wick <[Tennis.Wick@sonoma-county.org](mailto:Tennis.Wick@sonoma-county.org)>

**Subject:** Bennett Valley Cannabis Exclusion Zone

Good afternoon Andrew,

It's not acceptable that your office provided a ministerial permit for a large commercial marijuana operation on Enterprise Road, providing that neighborhood with no opportunity for input, questions, or comments before allowing this commercial operation to start clearing land for its construction projects. Moreover, this commercial operation negatively affects all the surrounding rural residential neighborhoods and the broader Bennett Valley area. As noted many times - these ministerial permits violate our Bennett Valley Area Plan (BVAP) in over a dozen ways.

Once again, it's notable that this commercial operator is from Los Angeles, another absentee operator with no concern about the neighbors, the larger community or our environment. We've seen this play out here before, all except Wellspring ended as abandoned sites, yet only after causing our community much unnecessary suffering and environmental damages. Meanwhile, Wellspring continues as an ongoing violation of the BVAP and the Bennett Valley view shed as this industrial looking operation can be seen from throughout the valley, including from various parks.

Our community is completely unified in wanting the BVAP area to be designated an exclusion zone from commercial marijuana operations. The County has been told this numerous times. Once again please see letters attached representing all the community organizations in Bennett Valley: Bennett Valley Community Association, Bennett Valley Grange, Bennett Valley Grape Growers, Sonoma Mountain Preservation, Bennett Ridge Community Association, and Bennett Valley Residents for Safe Development. Each group supports a cannabis exclusion zone for all of the land that is included in the Bennett Valley

Area Plan.

The area plan is a logical planning/zoning designation that has existed since 1979 and contains probably the most restrictive land use policies in Sonoma County, and for many good reasons outlined in previous communications.

We are going to request Supervisor Gorin's assistance in obtaining an immediate moratorium on all ministerial cannabis permits in Bennett Valley, with this most recent one requiring a revocation, based on the multiple violations of the BVAP. This exception should and can be made immediately, solely based on the BVAP provision that no commercial facilities are allowed here.

Ministerial permits for commercial operations, which these operations are defined as under State law, should not be allowed in an area that prohibits commercial operations, such as Bennett Valley. As also noted, these commercial sites should not be placed next to rural residential neighborhoods. This is an unacceptable disrespect of our community's wishes.

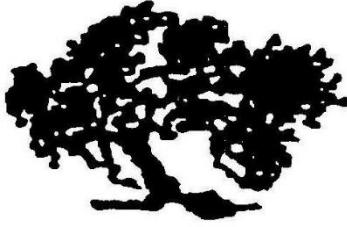
With roughly 1100 parcels and about 30 distinct rural residential neighborhoods, with thousands of residents (and voters), we demand the County do its job to serve the people who live here, not the handful of outside marijuana operators, and follow carefully the letter and spirit of the BVAP. We demand an immediate moratorium on ministerial permits here and exclusion zone status from this commercial activity.

Sincerely,  
Moir

Moir Jacobs  
President  
Bennett Valley Community Association  
[www.bennettvalley.org](http://www.bennettvalley.org)

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*Bennett Valley*  
*Community Association*

P.O. Box 2666, Santa Rosa, CA 95405  
<http://bennettvalley.org>

March 20, 2023

Via email:

Crystal Acker, Sonoma County Supervising Planner ([crystal.acker@sonoma-county.org](mailto:crystal.acker@sonoma-county.org))  
[cannabis@sonoma-county.org](mailto:cannabis@sonoma-county.org)

**Re: Scoping for Cannabis Ordinance—**

**Designation of Bennett Valley as an exclusion zone where commercial cannabis operations are prohibited**

Dear Crystal Acker,

The Bennett Valley Community Association (BVCA) was founded in 1971 and is a § 501(c) (3) organization. The BVCA represents the residents of unincorporated Bennett Valley within the boundaries of the Bennett Valley Area Plan (BVAP). With respect to the Notice of Preparation for the Comprehensive Cannabis Program Update, we request that the Cannabis Environmental Impact Report (EIR) research, evaluate and identify both “inclusion zones” and “exclusion zones,” the former where commercial cannabis is permitted to be grown and the later where cannabis activities are forbidden. Since the board of supervisors adopted the BVAP in 1979, this area has been a planning unit that readily lends itself to designation as an exclusion zone.

As outlined in the BVAP, which the BVCA Board of Directors is charged with protecting on behalf of our residents, multiple policies are violated by allowing any commercial cannabis operations within the BVAP boundaries.

On behalf of the residents of Bennett Valley within the boundaries of the BVAP, the Board of Directors of the BVCA urge that the EIR to study the environmental effects of designating this area to be an exclusion zone where commercial cannabis operations are prohibited so that the Supervisors can include such a designation for Bennett Valley in the revised ordinance.

We propose this Exclusion Zone designation based on the following considerations and request this be further assessed in the upcoming EIR:

- 1) Analyze the adequacy of Bennett Valley’s unique water resource conditions and constraints (a class 3 area, and possibility of class 4 at valley floor with updated data), including impacts on the Matanzas Creek Riparian Zone as a significant aquifer recharger for the entire valley. Include sensitive biotic and other natural resources that require special protections, including numerous state and federally-designated endangered or threatened species; and

- 2) Analyze the nine development policy guidelines as approved by the County in 1979 in the BVAP and enforced continuously since, and ALL environmental impacts associated with this development policy framework, including but not limited to: 1) Land Use; 2) Housing; 3) Conservation of Resources; 4) Open Space; 5) Public Safety; 6) Circulation; 7) Scenic Corridor; 8) Public Services; 9) Transportation. Please see the attached highlighted BVAP for reference of these nine development policy guidelines and associated environmental protections; and
- 3) Assess the impact of commercial cannabis operations on the health of the Matanzas Creek Riparian Zone, its multiple sensitive biotic resources and its critical role as wildlife corridor, especially in regards to the corridors integration with critical protected habitats and parks surrounding Bennett Valley, including: Taylor Mountain, Sonoma Mountain Open Space, Annadel State Park and Jack London State Park; and
- 4) Assess the impact of commercial cannabis operations on the health of the Matanzas Creek Riparian Zone specific to its 100-year floodwater assessment and the 2023 Matanzas Creek Dam Restoration Project; and
- 5) Analyze the impacts of commercial cannabis operations in regards to the scenic character and protected view shed status for Bennett Valley as described in the BVAP, with special attention to aesthetic incompatibilities and violations of the visual natural resources protected as part of the view shed protections in the BVAP and adjacent parks; and
- 6) Analyze the impacts of commercial cannabis operations on roads in Bennett Valley, including shared access private roads and roads so narrow that vehicles cannot safely pass each other at the same time; and
- 7) Analyze the impacts of commercial cannabis operations in Bennett Valley with respect to fire safety, including the designation of much of Bennett Valley as a high fire severity zone by various public agencies; and
- 8) Analyze the impacts of commercial cannabis operations in Bennett Valley with respect to the slow lead times for law enforcement to respond to emergencies; and
- 9) Take into consideration the overwhelming support for an exclusion zone status and the strong resistance to commercial cannabis activity throughout the community as evidenced by hundreds of petition signatures by the residents, urging the County designate the BVAP area as an exclusion zone, multiple community organization letters of support, and many hundreds of resident emails, phone calls and meetings with officials urging exclusion zone status for Bennett Valley.

Therefore, the BVCA Board of Directors urges the County to study the many unique environmental conditions in Bennett Valley as part of the EIR with a specific assessment of its requested exclusion zone status.

**Approved by BVCA Board of Directors**

Attachment: Bennett Valley Area Plan (highlighted), including BVAP Map

A faded, sketch-like illustration of a large, two-story wooden building with a gabled roof, surrounded by trees and a fence. The building is the Bennett Valley Grange #16.

## BENNETT VALLEY GRANGE #16

Santa Rosa, CA

Est. 1873

Proudly home to the oldest Grange Hall in the United States

4145 Grange Road, Santa Rosa, CA. 95404

March 17, 2023

Via email:

Crystal Acker, Sonoma County Supervising Planner (crystal.acker@sonoma-county.org) cannabis@sonoma-county.org

Re: Scoping for Cannabis Ordinance—

Designation of Bennett Valley as an exclusion zone where commercial cannabis operations are prohibited

Dear Crystal Acker,

The Bennett Valley Grange, founded in 1873 and serving our community as a California 501 (c) nonprofit corporation, is also a member of the larger National Grange network of over 2000 Granges nationwide. The National Grange organization is a non-partisan, fraternal organization that advocates for rural America and agriculture. The Grange has a strong history of grassroots activism, family values and community service.

The membership of the Bennett Valley Grange was made aware of the upcoming Scoping for Cannabis Ordinance and the letter which the Bennett Valley Community Association (BVCA) provided in support of an Exclusion Zone Designation for Bennett Valley, an exclusion zone where commercial cannabis operations would be prohibited.

Our membership recently voted unanimously to support making Bennett Valley an exclusion zone from commercial cannabis operations and we are completely supportive of the attached BVCA letter and all of its requests, recommendations and supporting materials. The Bennett Valley Grange and the BVCA have been very closely aligned partners since 1971, the founding of the BVCA. We both serve our same community with complimentary missions and are tightly aligned on this issue. The Bennett Valley Grange membership cares deeply about our environment, the safety and well being of the families and children of Bennett Valley, and promotes sustainable agriculture which provides nutrition to our citizenry. Moreover, as an agricultural community we care deeply about our water resources, safety from wildfires, safe roads, and protection of our agricultural lands from misuse or environmentally unsound exploitation.

Therefore, we urge the County to pay close attention to the Bennett Valley Area Plan and all of the recommendations in the BVCA letter attached as you proceed with your scoping project. Moreover, we provide additional requests for significant environmental and worker safety issues that require in-depth research and analysis throughout the County EIR process, provided below.

To be clear, this letter only represents the Bennett Valley Grange's membership, this does not represent any other Grange's views in this County, nor in the rest of California. It is worth noting that in the previous national meeting of Granges from across the United States, resolutions presented to promote cannabis production as a core Grange initiative were rejected. Most members of Granges across America do not support the concept of treating cannabis production the same as traditional Ag which delivers food, providing wholesome nutrition. The policy imperatives and consequences are very different between drug production and food based agriculture and must be carefully addressed.

**Here is a list of issues we urge be researched and analyzed as part of this EIR process:**

1) **Worker safety and cannabis production:** It is critical to study the impacts of commercial cannabis production on worker safety and health. THC is included on State of CA Prop 65 list of known carcinogens and there has not been

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enough research yet on the cannabis cultivation/production process impacts on human health, especially when daily contact with the high potency THC cannabis of today occurs. Furthermore, the entire production process should be carefully studied for how it impacts human health and environmental health. This includes how cannabis plants and the production process may impact any area wildlife, the soil, the water resources, including groundwater aquifers, the surrounding air quality, bee colonies, and native flora.

As to worker safety, please research and analyze all below, taken from the highly respected Health and Safety Magazine, links included.

**2) Impacts, Incompatibilities and Conflicts between Traditional Ag and Cannabis production:** Research and analyze the impacts and conflicts between cannabis production operations and their highly sensitive requirements versus all other potential traditional Ag on neighboring parcels. Please reference the attached letter from the Yolo County Farm Bureau (YCFB) to the Supervisors there and these same issues should be researched and analyzed for Sonoma County, especially in regards to grape growers and cannabis operations. As the YCFB members point out, the process for their ordinance was also perceived to be overwhelmingly led and strongly influenced by cannabis producers early on, not taking into account a myriad of environmental issues between vineyards, livestock ranches, poultry, dairy, and outdoor cannabis productions. This same complication exists in Sonoma County and must be carefully addressed.

**3) Setbacks:** The initial recommended setbacks of at least 1,000 feet from any rural residence, and concentrations of RR neighborhoods, must be thoroughly researched and analyzed. As the attached YCFB letters demonstrate with on the ground witnesses, setbacks are needed to protect both residences and traditional agriculture from cannabis operations.

**4) Commercial Activity:** Further research and analyze the fact that cannabis production is excluded from the definition of agriculture, not considered traditional agriculture and is defined as “commercial activity” by the State of California. Cannabis production activity is fundamentally a drug production operation as the end product being marketed to the general public is predominantly a drug, with THC the main active ingredient, widely recognized as a narcotic by definition and still on the Federal Schedule 1 for controlled substances. Due to the current ambiguities of conflicting State of CA and Federal drug and health policies, Cannabis, THC, and all its Cannabinoids are still widely unregulated and vastly unverified scientifically regarding human health and worker safety. THC, which has no nutritional value, remains widely unstudied and unscientifically promoted to the general public. The entire outdoor cannabis production process, all of its inputs and outputs, and every related activity must be researched and analyzed to better understand where this commercial activity is best sited (commercial zones? indoor in more concentrated industrial Ag areas, away from residential neighborhoods). The fact that the BVAP calls out “commercial activity” is not conducive to the preservation of the rural residential character, including view shed protected status, of Bennett Valley.

**5) Safety:** Research and analyze exact response time for Sheriff to reach all points in rural Bennett Valley and current and planned resources assigned to Bennett Valley. These resources were never researched or analyzed before multiple cannabis operations were placed next to various rural residential neighborhoods in Bennett Valley, with no prior notice, no opportunity for feedback nor questions given to the community. There have been many incidents reported and unreported to the Sheriff regarding thefts, trespassing, loose deadly attack dogs, gunfire and threatening use of firearms from neighboring cannabis operations.

The County and State of CA appear to be negligent in enabling the vast cannabis production and marketing apparatus to operate with little regulation while neglecting any comprehensive research which by any scientific standards is much needed. The Bennett Valley Grange hopes the County views this EIR exercise as an opportunity for a policy course correction.

Sincerely,

Moira Jacobs  
President  
Bennett Valley Grange #16  
Santa Rosa, CA 95404

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**Data on Worker Health and Safety - requires further research and analysis within this scoping exercise:**

**Reference:** <https://www.safetyandhealthmagazine.com/articles/21427-workplace-exposures-in-the-cannabis-industry>  
*June 29, 2021*

In the cultivation phase, the main hazards are pesticides, carbon dioxide and cleaning compounds. In addition, mold, yeast and fungi are serious health threats during cultivation and extraction/trimming. These chemical hazards can cause allergic reactions, coughing, wheezing and nasal congestion, as well as throat, eye and skin irritation. A certified industrial hygienist can monitor air quality to determine spore levels. Individuals with preexisting respiratory conditions may be more susceptible to reactions to mold.

Marijuana industry workers are also exposed to chemical hazards not only in the production process, but as part of housekeeping procedures. Some of the hazards include:

**Carbon dioxide.** At high concentrations, carbon dioxide acts as a simple asphyxiant. Workers exposed to high levels can also suffer burns.

**Carbon monoxide.** Exposure can result in carbon monoxide poisoning.

**Pesticides.** Marijuana cultivation facilities often use insecticides and fungicides. The EPA Federal Insecticide, **Fungicide, and Rodenticide** Act provides standards and guidance for the safe handling, storage and application of pesticides to avoid pesticide poisoning, which has multiple health effects, including cancer.

**Volatile organic compounds.** These can cause eye, nose and throat irritation; headaches; vomiting; dizziness; and worsening asthma symptoms. Long-term exposure can cause additional health effects, including kidney and liver impacts, respiratory impacts, and cancers.

**Nutrients and corrosive materials.** In the cannabis industry, the practice of mixing nutrients during the cultivation stage to improve the quality of the plant is increasing. However, the raw materials used to formulate nutrients may cause acute and chronic health effects. The most common corrosives include hydrochloric acid, phosphoric acid, sulfuric acid, ammonium hydroxide, potassium hydroxide and sodium hydroxide.

**Cleaning products.** Chemical products used for cleaning indoor environments and surfaces can cause respiratory or skin irritation, burns, irritation of eyes, and asthma. Improper mixing of chemicals can cause severe lung damage.

**Butane.** Extracting using butane is cost effective, but it also presents higher hazardous risks. Open releases of butane to the atmosphere during extractions is prohibited by OSHA, EPA and fire departments.



March 21, 2023

VIA ELECTRONIC MAIL

Crystal Acker, PRMD Supervising Planner [crystal.acker@sonoma-county.org](mailto:crystal.acker@sonoma-county.org)

## **Re: Scoping for Cannabis EIR**

These comments are submitted on behalf of Bennett Valley Residents for Safe Development, located in Bennett Valley. The project description is so vague and ambiguous that we have no genuine opportunity to identify the specific issues that should be studied. These comments are based on our best guesses, but we should not have to guess. We reserve the right to raise additional issues for study at any time after we have a better idea of the specifics of the project.

### **I. Exclusion Zone for Bennett Valley.**

The EIR study all aspects of designating all of Bennett Valley within the Bennett Valley Area Plan as an exclusion zone (“combining district overlay zone”) that forbids the commercial cultivation, processing, or sale of cannabis. This request has also been made by the Bennett Valley Community Association, Bennett Valley Grange, Bennet Ridge Community Association, and Bennett Valley Grape Growers.

We incorporate by reference our recommendations about establishing exclusion and inclusion zones throughout the county that we submitted on December 17, 2021. We resubmitted these when formal scoping began. Those comments stated that applying our recommended approach would be better for neighborhoods, the cannabis industry, and the Sonoma County government. Exclusion zones have long been an option in the cannabis ordinance, and Bennett Valley residents will continue to strongly resist commercial cannabis activity here with or without an exclusion zone.

The EIR should study not only the concept and a mechanism to create exclusion and inclusion zones, but also specifically include sufficient study of Bennett Valley so that the ordinance can designate it as an exclusion zone without further CEQA study or any administrative processes (e.g., petitioning).

An exclusion zone would mitigate and avoid most environmental impacts of cannabis activities in Bennett Valley. If Bennett Valley is not declared an exclusion zone, the following impacts of cannabis on this pristine area need to be studied:

- Air quality modeling to ascertain air quality degradation in this valley that has thermal inversions and still air much of the summer. The modeling must include a sensitivity analysis of various acreages of cannabis crops.
- The effects of cannabis cultivation on the riparian habitat of the Matanzas Creek watershed where five species of state or federally threatened and endangered species reside: California giant salamander, California freshwater shrimp, red-bellied newt, red-legged frog, and yellow-legged frog.
- Wildfire risks from cannabis operations in an area that is mostly designated as high or very high fire risk. Include in the study an analysis of fires that started at grow sites in Sonoma County.
- Conflicts with the Bennett Valley Area Plan, including Land Use Policy 3 (development shall be coordinated with the public's ability to provide police and other needed services.) and Land Use Policy 5 (development, including appurtenances greater than 200 square feet, shall be reviewed for site design and consistency with development guidelines)
- The visual blight from hoopouses and greenhouses from various distances, including blight caused by light pollution and how these conflict with the policies of the Bennett Valley Area Plan regarding scenic vistas, scenic corridors, views from parks, etc.

Residents of Bennett Valley have forcefully resisted commercial cannabis projects since the original ordinance was adopted in 2016. By our count, there have been 17 attempts to cultivate within the Bennett Valley Area Plan. There has been resistance to each one, and today only one survives. The 55 acre property at 3803 Matanzas Creek Lane where a cannabis grow was attempted sold in late 2022 for \$1.75 million, \$200,000 less than its purchase price in early 2017. With transaction costs, the loss exceeded \$300,000. The attitude of Bennett Valley residents will not change, and any future projects will be opposed by all available means. “Come to Bennett Valley to grow marijuana and lose your shirt” is the local motto. Many potential growers hail from other counties or states, and are not informed by realtors of the resistance to growing in Bennett Valley. Thus, establishing an exclusion zone in Bennett Valley benefits potential growers whose time, money, and efforts would be better spent elsewhere.

## **II. Proposition 65 Carcinogens.**

Countywide, analyze whether outdoor cultivation complies with Proposition 65 regarding the presence of THC and beta-myrcene, listed carcinogens. Beta-myrcene averages 20% of total terpene content in cannabis. What remedies and mitigations are available to ordinary citizens who are exposed to these carcinogens in their homes without their permission?

## **III. Sonoma County’s Inability to Enforce its Ordinance.**

Any mitigation must be feasible and enforceable. In this regard, analyze the county’s record since 2017 in implementing the cannabis ordinance and enforcing mitigations provisions that

supposedly protect residents (Attachment 1 provides 26 specific examples). While many mitigation provisions in the current ordinance are feasible, they are not enforceable because the county lacks the will or perhaps even the intention of enforcing them. The DEIR must realistically assess staff and support required to enforce the revised ordinance. This is especially crucial because the supervisors have lowered cannabis fees to such an extent that general funds must pay for enforcement. Less revenue suggests county enforcement efforts will be weaker in the future than they have been since 2017. The ordinance should have a mechanism for ensuring that enforcement is funded. The premise of the ordinance is that the rules will be followed and enforced, and if it is not the entire program should be terminated because the mitigations required by CEQA are unenforceable.

#### **IV. Restrictions on potency of cannabis products cultivated, manufactured, or sold in Sonoma County.**

Analyze forbidding the cultivation, manufacture, or sale of cannabis or cannabis products above various levels of THC, such as 15%, 40% or 50%. Marijuana plants are being bred to produce higher and higher concentrations of THC. In the 1960s, levels were less than 2% and in the 1990s it was 5%. By 2015, it was over 20%. “Dabs” can concentrate THC to as much as 95- 99% THC, a level of potency that can be highly addictive and [has a huge negative health impact on users](#). Many similar studies have been published in peer-reviewed journals and are summarized in Neighborhood Coalition Letter to Sonoma County Administrator (March 13, 2023) “Impact of Cannabis on Health and Safety of Sonoma County Residents” (Attachment 2).

In addition, the county should study whether cannabis products sold in Sonoma County should contain warnings that it is safer to smoke tobacco than cannabis, as concluded in the peer-reviewed study by the Department of Radiology, Ottawa Hospital, Canada, [Radiology by Luke Murtha et al., Chest CT Findings in Marijuana Smokers](#). It should also study whether cannabis products should warn older cannabis users that the University of California San Diego School of Medicine has published a study in the Journal of the American Geriatrics Society that [emergency room visits by Californians over the age of 65 for cannabis-related concerns have skyrocketed nearly 3200% in recent years](#).

#### **V. Economic study of cannabis industry.**

The Framework for the revised cannabis ordinance (March 2022) includes an economic analysis “to help inform relevant policy decisions.” This analysis should include a robust and credible financial and economic analysis of grows of various sizes and types (outdoor, indoor, mixed light) and competition from other counties and mega-growers in California to estimate the number of acres or projects that the county might permit. Analyze the amount of total projected cannabis consumption within California as compared to the amount being grown already and the amount that would be permitted to be grown in Sonoma County.

The price for outdoor cultivated cannabis is in freefall, and industry experts think that is the new normal. If the economics of outdoor cultivation in Sonoma County are marginal, analyze

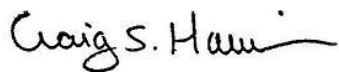
whether the economic benefits of outdoor cannabis cultivation justify the negative impacts on residents and the environment.

The cannabis industry has successfully lobbied for significant state and county tax reductions. The economic study should determine if cannabis cultivation pays for itself with reduced revenues.

Analyze the impact of canna-tourism on the current revenue from the Transit Occupancy Tax. Napa County concluded that canna-tourism would undermine existing tourism and harm its tax base.

Thank you for the opportunity to submit these comments on scoping.

Sincerely,

A handwritten signature in black ink that reads "Craig S. Harrison". The signature is written in a cursive, slightly slanted style.

Craig S. Harrison  
For Bennett Valley Residents for Safe Development

Attachment 1. Because Sonoma County Irresponsibly Implements its Cannabis Ordinance, Mitigations in the CEQA Process Are Unenforceable (March 2023).

Attachment 2. Impact of Cannabis on Health and Safety of Sonoma County Residents.

cc: [cannabis@sonoma-county.org](mailto:cannabis@sonoma-county.org)

# Attachment 1

## Because Sonoma County Irresponsibly Implements its Cannabis Ordinance, Mitigations in the CEQA Process Are Unenforceable.

March 2023

**Introduction.** Sonoma County has irresponsibly implemented its cannabis ordinance since 2017. The 26 case studies outlined below reveal that for six years county officials have twisted any sensible interpretation of the ordinance into decisions that invariably favor growers over neighbors. The county protects the cannabis industry at the expense of ordinary residents and the environment who are harmed by the refusal or failure of county officials to properly implement the law. For this reason, it is questionable that any mitigations in the EIR for the revised cannabis ordinance are truly enforceable and qualified.

County officials essentially seek to find ambiguity in a “Stop sign,” and invent twisted ways of reasoning to justify why they can allow growers to violate county and state requirements. This harms the environment and residents. Their decision making is ad hoc, opaque, arbitrary, capricious, and contrary to law. The county’s approach to most anyone who objects to a grower not complying with the cannabis ordinance or state law is “sue me” One supervisor captured the attitude when he said in a public meeting “if you don’t like it, you can move somewhere else.” The county knows that few residents can afford to file expensive suits to ask a judge to provide adult supervision. This behavior is corrosive to the public trust.

County officials have allowed growers to cultivate without having required state licenses that are required for legal sales (examples 4, 6, 7, 8, 11, 12, 13, 17). This violates California law, making the county an enabler or partner through tax receipts of black-market sales. PRMD and the Department of Agriculture refuse to destroy illegal plants that they find, and allow growers to transport them in movable plastic tubs to other locations where they can be harvested and sold on the black market (example 23). This behavior undermines Proposition 64 and the stated intent of the cannabis ordinance—to foster **legal** activity.

County officials have allowed or even encouraged growers to cultivate more acreage or plants than allowed in their permits (examples 4, 6, 7, 10, 11, 12, 13). They allow and even approve sites in blatant violation of the state SRA Fire Safe Regulations (examples 4, 9, 18, 19, 22). They ignore or defer action for years on code violations with respect to grading, cutting trees, lighting, electric wiring, greenhouses, and water hauling (examples 1, 4, 7, 15, 16, 17, 19, 22, 25, 26). They have allowed cultivation on a site that was ineligible under the ordinance because it was too close to a park (example 8) and on sites that are plainly visible from parks (examples 4, 19). They have allowed cultivation in the critical habitat of an endangered salamander. They have allowed cultivations that violate setback standards (examples 19, 21), and where a grower lacked a valid easement that is required under a conditional use permit (example 7). In the midst of the

most terrible drought in memory, the county is still approving new cannabis grows, a water thirsty plant, when farmers are having to sell livestock, cut back in crop planting.

There are many plausible explanations for the county's poor implementation: (1) PRMD and the Department of Agriculture are overwhelmed and have inadequate staff or financial resources; (2) the cannabis program officials, county counsel, PRMD, and the Department of Agriculture lack the will to enforce the law because they desperately want a failing program to succeed; and (3) county staff are incompetent. It doesn't matter which explanation, or which combination of explanations, is correct. The end result is identical for residents and the environment who are harmed by marijuana cultivation. Sonoma County officials cannot be trusted to protect the environment or its residents and proffered mitigations in the DEIR are likely to be illusory and unenforceable.

**Penalty Relief Program.** The temporary code enforcement penalty relief program (PRP) was instigated in 2017 with little notice to or involvement from the public. The PRP has explicit requirements that county officials frequently ignore or overrule without legal authority. Building code, grading, nuisance, and other violations are not addressed until a permit decision is made, a period now of four years and counting. The authorizing ordinance does not empower the county to ignore illegal greenhouses, wiring, grading, tree removal, or other code violations. Growers had to commence cultivation by July 5, 2017 and were explicitly forbidden to increase the size of their grow after that date. Yet many growers cheat brazenly, and officials look the other way or refuse to assess meaningful penalties. The county could easily investigate many violations using satellite imagery from the comfort of the office and at the expense of the grower. Dozens of growers got a "get out of jail free card" for the first growing season in 2017 by submitting one-page PRP forms without even a fig leaf of an application for a permit, let alone submitting any of the required reports. When confronted, county officials took no action to shut down the illegal grows.

What follows are 24 examples of problems with the implementation of this program. One could write a treatise on this subject. Additional information on any of the examples is available on request.

**Example 1. 885 Montgomery Road, Sebastopol (UPC18-0001).** Since July 2017, the non-resident owner of a ten-acre parcel near Sebastopol has allowed a third-party company to grow about an acre of commercial marijuana. Forty-seven properties surround the cannabis business within a 1,000-foot radius, and seven of them border the flag lot on all sides. Thousands of outdoor plants are located just a few feet from gardens, barbeques, a horse dressage arena, and homes. The stench, noise, and fear of an armed conflict has made the lives of neighbors miserable. One family tried to sell their home and failed. Some wear masks when they spend more than fifteen minutes outside to avoid feeling nauseous or getting a headache.<sup>1</sup> For a year, county officials have ignored neighbor complaints about odor, noise, night light pollution, and security cameras trained on neighboring homes. The county failed, neglected, and refused to verify false statements in the grower's Penalty Relief Application Form -- that they had 38,484

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<sup>1</sup> Fuller, 'Dead Skunk' Stench from Marijuana Farms Outrages Californians, *New York Times* (December 22, 2018). [What it's Like to Live 100 feet from 15,000 Cannabis Plants?](#) *North Bay Biz* (Dec. 3, 2020).

square feet of cannabis cultivation. The operator secretly denuded, graded, and terraced an acre of hillside in June 2017, without a county grading permit to create their initial outdoor cannabis cultivation site. No outdoor cannabis plants existed until mid-July, 2017. The county refused to shut down the operator after receiving evidence that the operator never qualified for the PRP. The county has allowed the grower to conduct indoor cultivation in three structures that lack building permits, exposing neighbors to fire risks. The operator has harvested at least 4 outdoor crops and at least 15 indoor crops without a county permit. County officials tricked the CalCannabis to issue the operator a temporary state license to allow it to sell cannabis. For almost four years, the county has shown no desire to stop activities that are ruining the ability of neighborhood residents to enjoy their property. This failure to enforce the law is causing significant environmental harm. County officials have for 48 months refused to hold a hearing to decide whether to issue a permit, thereby allowing the growers to make millions while neighbors suffer.

**Example 2. 1700 Barlow Lane (APC20-0079 and APC20-0080).** From March 2020 and continuing into 2021, the neighbors surrounding 1700 Barlow Lane alerted Permit Sonoma Code Enforcement and the Department of Agriculture as to why two ministerial cannabis applications should be denied based on at least 10 witnessed and evidenced code violations. The Department of Agriculture and Code Enforcement issued one ground disturbance violation with no monetary fine, and overlooked the other violations in order to issue one permit. “Zoning Permits for Cannabis Cultivation - Guidelines for Ministerial Review” are the county’s guidelines that provide a checklist that county staff must use to determine consistency with the Zoning Code. The guidelines state, “To the extent a project deviates from such standards and regulations in a manner that would require Staff to exercise judgment to determine whether the project conforms to the standards and regulations, the project may be subject to discretionary review and additional analysis under CEQA.” County Staff exercised judgment or deliberation in determining whether the project conforms to the standards and regulations throughout the application process. The county failed to require additional environmental analysis, in violation of the cannabis ordinance, its own guidelines, and CEQA. This failure to enforce the law is allowing significant environmental harm to occur.

**Example 3. 3062 Adobe Road, Petaluma (UPC18-0018).** Sonoma County’s enforcement of its marijuana cultivation program is so poor that four families in Petaluma had to file a federal Racketeer Influenced and Corrupt Organizations Act (RICO) suit to shut down a grow that was wreaking havoc on their homes. They suffered noxious odors that caused significant breathing problems, including to a young paraplegic who uses a breathing tube and an asthmatic.<sup>2</sup> The illegal grow was reported to the county in April 2018, and the county sent a notice ordering the company to cease all cannabis activities on May 29, 2018. Yet in late August marijuana was still being grown and causing environmental problems for neighbors. The county settled the case after the RICO suit was filed by agreeing to let the grow continue until November 1<sup>st</sup> when the growers agreed to pay the county a \$400,000 penalty. The penalty seemed to be a bribe that

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<sup>2</sup> Julie Johnson, “[Neighbors file federal lawsuit to shut down Sonoma County cannabis grower.](#)” Press Democrat (Aug. 31, 2018).



allowed the grower to sell millions of dollars of marijuana on the black market at the expense of neighbors who endured several more months of environmental harm. The county lacks the will or the legal tools to shut down an illegal grow for six months,<sup>3</sup> harming residents and the environment.

**Example 4. 2260 Los Alamos Road, Santa Rosa (UPC18-0037).** For 48 months, the county has allowed the applicant to grow marijuana without complying with the cannabis ordinance. Satellite images indicate the small grow in June 2017 more than doubled to 47,000 square feet in October 2017, then to 69,000 square feet in 2018, and then to 80,600 square feet in 2019. Satellite images also confirmed unpermitted tree removal between February-May 2018, which is prohibited by the cannabis ordinance. Despite submitting an application that omitted ten required items, the county allowed the grower to continue past the June 2018 deadline required for a complete application. The county took a month to declare the application incomplete, and then extended the deadline another month. The county eventually sent a cease-and-desist letter, but the grower appealed. By this time, satellite imagery shows he had illegally removed mature trees to expand his cultivation site in 2018, illegally expanded to 1.5 acres in 2018 and then almost 2 acres in 2019. The satellite images were provided to the county and the county could have assessed \$280,000 in penalties, but instead allowed him to continue growing.

In addition, he was allowed to grow without a state license for well over a year, so any sales were on the black market. This application was solely for using surface water, which according to the application could support maximum of 1 acre of cultivation. He had 2 wells supposedly only for domestic use. He did not provide a hydro-geo report (this is in water scarce zone 4), yet the county has granted his request to drill a third well. Although it is not supposed to be used for cannabis irrigation, the county did not confirm the well monitoring logs. Despite being shown satellite images showing the illegal constructions of a 3,000 square foot likely drying and processing structure, the county refused to cite him. He exceeded the one-acre limit, and paid taxes on only 35,000 square feet of cannabis for four years despite the Agriculture Commissioner being aware of the increased canopy size. He also violated the ordinance by the canopy being plainly visible from the entrance of Hood Mountain Regional Park. A county official confirmed the visibility but said it was insignificant.

The county performed a road evaluation and applied outdated regulations despite being informed that his operation is in violation of the state Fire Safe Regulations. The access road Los Alamos Road is 5 miles dead end to the private access via Weems Road. The Fire Safe Regulations limit dead-end roads to a maximum of 1 mile (or ½ mile when they serve any parcel less than 20 acres, which is the case here), and require 20-foot-wide roads. Los Alamos Road narrows to 12 feet wide for the last mile before Weems Road enters it. Weems Road is also only 12 feet wide. Thus, this site would not be permitted under state law. This has been pointed out to the county on several occasions since 2018, yet the county continues to allow it to operate in this remote, fire-prone area which burned in the 2020 Glass Fire.

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<sup>3</sup> Julie Johnson, "[Petaluma-area cannabis farm whose neighbors sued agrees to shut down.](#)" Press Democrat (Aug. 31, 2018).

Despite all of these transgressions, the county has refused to terminate this operation or even hold a public hearing after more than 5 years. The county is eager to cater to illegal growers at the expense of the environment and neighbors.

**Example 5. 1737 Wood Road, Fulton (UPC17-0034).** The Board of Zoning Adjustments Staff Report (December 12, 2019), page 11, states that this project “is exempt from the provisions of the CEQA” because “the project will be rejected or disapproved by the County of Sonoma.” Page 2 of the Staff Report explains:

The applicant cannot obtain the necessary federal permits for the project. The project site is located within designated Critical Habitat for the California Tiger Salamander, a federal-listed and state-listed Threatened species for which Incidental Take Permits are required from all state and federal agencies with jurisdiction over the California Tiger Salamander. The applicant does not have and cannot obtain the required permits due to Federal policy preventing Take Permit issuance for cannabis (a controlled substance) operations.

In addition (page 2),

The project includes structures located within the 100-foot setback from designated wetlands required by the Sonoma County General Plan and California State Waterboard Cannabis Cultivation Policy. No verified wetland delineation has been submitted with this application and the applicant is unable to obtain a determination from the U.S. Army Corps of Engineers due to Federal laws pertaining to cannabis as a controlled substance.

The Board of Zoning Adjustments denied the permit application in December 2019, but the cannabis cultivation project has continued for 20 months pending an appeal hearing that the County refuses to schedule. A nearby resident testified at the Board of Zoning Adjustments hearing that the hoop houses are located on what was vernal pools until the applicant graded it without a permit. This whole area is a riparian corridor, with many vernal pools.

In comments to the Planning Commission (March 16, 2021) on proposed revisions to the cannabis ordinance, neighbor Katie Moore wrote “When I complained to one county official about the impact of the smell on my home and property value, I was told ‘this is here to stay. If you don’t like it, then move.’” The county official was Supervisor Gore.

**Example 6. 4050 Grange Road, Santa Rosa (UPC17-0085).** This Bennett Valley property seems to have been allowed in the Penalty Relief Program under false pretenses. It was conveyed to Bennett Rosa LLC in late August 2017. The operator, Sonoma Grange Farms LLC, claimed on its Penalty Relief Application forms that the grow began June 30, two months before Bennett Rosa LLC owned the land and just before the July 5 deadline for eligibility. None of the LLCs were registered with the Secretary of State before mid-July. John Chen, who pled guilty in 2012 to six felonies related to defrauding the state and environmental crimes, owns the property and the operating company through his alter ego LLCs. Satellite imagery shows that the grow on the adjacent 4.9-acre parcel (4065 Grange Road) had not begun on July 9, 2017. The county allowed the 2018 harvest to be sold despite an absence of a state license, so any marijuana sold was on

the black market. The Department of Agriculture conducted a compliance inspection on June 11, 2020. The report for that inspection notes for this property

there were two mixed light hoop houses. The permit is for outdoor cultivation only. I also noticed an indoor grow in one of the barns, and noticed that the other barn was also equipped for indoor operations. There was a tremendous amount of garbage and debris on the property ...My estimate of the total square footage of canopy is 20,000 sq. ft. Well over the 10,647 sq. ft. allowed under the penalty relief agreement. They DO NOT have a valid state license with the CDFA for that site. There are no porta-potties or bathrooms on site ....

The Department of Agriculture failed to shut down the site for non-compliance with the terms of the penalty relief agreement, including having twice the allowable amount of marijuana and having mixed light and indoor grows. Failing to have a state license violates state law. Despite these egregious violations, the county issued “no penalties” in 2020. A letter dated April 13, 2021 informed the grower that it owed the county almost \$45,000, much of it apparently since 2017. Under the Penalty Relief Program, the owner and operator are required to be current. Even with this and other chronic transgressions and violations of law, the county as of June 2021 would not remove this project from the Penalty Relief Program but instead described the status as “on hold.” The county’s failure to enforce not only allows environmental harm, it encourages growers to ignore regulatory requirements because there are no serious consequences for violations.

**Example 7. 4065 Grange Road, Santa Rosa (UPC17-0082).** The County allowed the 2018 harvest of this Bennett Valley property to be sold despite the fact that the growers lack State licenses and any marijuana sold without a license was on the black market. Despite the likelihood that this grow was improperly allowed in the Penalty Relief Program under false pretenses (see Example 5), the Board of Zoning Adjustments approved a conditional use permit in November 2019. The permit includes Condition 35, which requires the owner and operator to show it has a valid access easement within 90 days. This has never been done, and may be impossible to accomplish. Nevertheless, the operator grew marijuana again in 2020. A neighbor compliant prompted the Department of Agriculture to conduct a compliance inspection on June 11, 2020. The report for that inspection notes for this property

there “were no METRC tags on any of the plants and my estimate is that there will be approximately 6000 sq. ft. of canopy at maturity. Their license is for 5000 sq. ft. The plants were directly under the drip line of the oak trees which had been severely cut back. There are no porta-potties on site.

The Department of Agriculture failed to shut down the site for non-compliance with the terms of the conditional use permit. Other violations of the county ordinance include cutting down trees without a permit and planting more marijuana than the permit allows. Failing to tag the plants violates state law, which is intended to discourage black market sales by tracking individual plants. Despite these violations, the county issued “no penalties.” The county’s failure to enforce

not only allows environmental harm, it encourages growers to do so because there are no serious consequences for violations.

**Example 8. 8105 Davis Lane, Penngrove (APC17-0011).** This vacant non-conforming 5.5-acre property is zoned diversified agriculture and is contiguous to agricultural (AR) and residential-zoned parcels. No one in the unincorporated residential neighborhood of small properties engages in commercial agriculture. An investor in Sebastopol leased the parcel in mid-2017, and without advance notice to surrounding neighbors, or any opportunity for them to object in a public hearing, the county issued a “ministerial” permit in February 2018. The permit allows the investor to grow commercial marijuana outdoors because the applicant merely satisfied a short list of perfunctory requirements. The neighbors had no opportunity to protest beforehand or appeal afterwards, and the only remedy was expensive litigation. The operators have no house on site, so an invader could easily mistake the home of an innocent neighbor as a location of large amounts of cash or marijuana. The majority of the risks and undesirable effects, such as loss of property value and noxious odors, are all borne by the neighbors. The supervisors increased the minimum lot size of commercial grows to ten acres in October 2018, but did nothing to void this permit or discontinue future use of similar ministerial permits. During 2019 the operator purchased the property and was “grandfathered” to continue operations although they were required get a conditional use permit; that process would allow for neighborhood objections to be considered. The operator applied for a use permit in 2020, and the County allowed the owner to grow while waiting for a Board of Zoning Adjustments hearing to decide whether to issue a use permit. They harvested two crops during 2020, and because they lack a state license any sales would have been on the black market. At last report, the assigned county planner indicated that the operator is waiting for ordinance revisions before choosing to continue the BZA process. Residents have no justice and must endure foul smells without due process, contrary to SCC § 26-92-070(a) (use cannot be not detrimental to the health, safety, peace, comfort or welfare of the neighborhood or the general public). There is great apprehension that the permit might be not only renewed in 2021 but extended for 5 years.

**Example 9. 3803 Matanzas Creek Lane, Santa Rosa (UPC17-065).** This Bennett Valley property was purchased by Chicago investors in February 2017 who immediately began cultivating marijuana under the county’s Penalty Relief Program. In September 2017, Permit Sonoma issued a Notice of Violation to the owner for building a greenhouse without a permit and did nothing to resolve it for a year. The county should have shut the project down on January 1, 2018 because the property was not setback 1,000 feet from a park as required by § 26-88-254(f)(3). On March 4, 2018, senior county officials, including the director of Permit Sonoma and Supervisor Susan Gorin, were asked to consult the county’s Cannabis Site Evaluation Map and confirm that this parcel was categorically ineligible for cultivation. They agreed. For the next five months the county did nothing to stop the owner from growing marijuana while the county considered the owner’s silly argument that North Sonoma Mountain Regional Park isn’t really a “park.” On July 31, 2018, Permit Sonoma sent a notice of violation to the operator. The grower continued to cultivate and harvest marijuana. On September 10, 2018 Permit Sonoma sent a “Notice & Order—Unlawful Commercial Medical Cannabis Use” to the owner and demanded the marijuana be removed within seven days. The owner appealed and the process dragged out

until the owner harvested his entire marijuana crop. Then Permit Sonoma rescinded its Notice and Order because a revised ordinance took effect in November 2018 that allows the setback from parks to be relaxed. County staff secretly decided that this project qualified for the relaxation without public participation. There was no explanation as to why a parcel that was ineligible in January 2018 could now qualify for the PRP that had a deadline of July 5, 2017 to qualify. For four years, neighbors experienced the environmental harm and threats to safety caused by excess traffic on an 11-foot-wide narrow lane that violates CalFire's SRA Fire Safe regulations. In July 2021 the owners suddenly withdrew their permit application after subjecting neighbors to an illegal grow for four years.

**Example 10. 5730 Bodega Avenue, Petaluma Dairy Belt.** In 2020 the Department of Agriculture issued sixteen ministerial permits to seven different applicants for up to 10,000 square feet of outdoor cultivation on each of four contiguous parcels. The maximum that is allowed is 40,000 square feet. An aerial photograph of the site taken on October 11, 2020 shows 93,954 square feet of outdoor cultivation and 127,489 square feet of mixed light cultivation, for a total area under cultivation of 221,443 square feet. While the county has issued notices of violation for some of this, it ignored, even after a site visit, 93,954 square feet of unpermitted outdoor cannabis. The county facilitated the grower receiving a state license, and the piecemeal process fails to comply with environmental review under CEQA. The county and CalCannabis were notified of these violations by letter dated January 8, 2021, and officials have neither responded to the letter nor done anything to alleviate the environmental harm.

**Example 11. 4235 Spring Hill Rd, Petaluma Dairy Belt (APN 022-240-007/008/009, 022-260-003).**

In June 2020 the county issued 4 ministerial permits to growers working in concert, using a piecemealing approach to avoid environmental review under CEQA. The Department of Agriculture encourages this approach. The permits and licenses issued for this property allow a maximum of 160,000 square feet of outdoor grow, yet a photograph shows the total area under cultivation to be 249,541 square feet, of which 181,503 is mixed light cultivation for which there are no permits or licenses. In October 2020, the county issued notices of violation for 17 unpermitted hoop houses on three of these parcels and cited the owners for failing to obtain building or fire department permits for the hoop houses. Yet the county ignored the fact that mixed light cultivation was not authorized on this property. It also ignored violations on an adjacent parcel where 66,480 square feet of outdoor cannabis was being cultivated in plain sight on a parcel permitted for a maximum of 40,000 square feet. The county and CalCannabis were notified of these violations by letter dated January 8, 2021, and officials have neither responded to the letter nor done anything to alleviate the environmental harm. The cultivation continues today.

**Example 12. 3215 Middle Two Rock Road, Petaluma Dairy Belt (APN 021-160-011).** This grower is operating under the PRP, which entitles him to grow, without a permit, until the county acts on the permit application on the condition that the grower not cultivate more cannabis than would be allowed under the permit for which it has applied. The grower has applied for a cannabis use permit authorizing 10,000 square feet of mixed light cultivation, and currently holds a provisional state license for medium outdoor cultivation. The grower lacks a state license

for indoor or mixed light cultivation. A photograph shows 18,356 square feet of mixed light cultivation, a state law violation because he lacks a license for it and a violation of the PRP because he is growing almost double the amount allowed by the permit for which he has applied. The county and CalCannabis were notified of these violations by letter dated January 8, 2021, and officials have neither responded to the letter nor done anything to alleviate the environmental harm. The cultivation continues today.

**Example 13. 334 Purvine Road, Petaluma Dairy Belt.** San Francisco investors purchased this 37-acre property in a peaceful stretch of the Petaluma Dairy Belt in June 2017. The grower holds a state medium outdoor license, which authorizes up to one acre of outdoor cultivation, and a county permit for 28,560 square feet of outdoor grow. The county permit provides for maximum total cultivation of 39,536 square feet. A photograph shows outdoor cultivation consisting of 45,374 square feet and total cultivation of 48,824 square feet, including 3,451 square feet of unlicensed indoor and mixed light cultivation. This grower has previously ignored applicable law. In 2019, the Sonoma County Superior Court issued a preliminary injunction prohibiting the grower from cultivating cannabis without a permit and license, which was upheld on appeal. The county and CalCannabis were notified of these violations by letter dated January 8, 2021, and officials have neither responded to the letter nor done anything to alleviate the environmental harm. The cultivation continues today.

**Example 14. 7900 Petaluma Hill Road, Penngrove (UPC18-0025).** The growers at this site cultivated and harvested marijuana in 2018. On March 11, 2019, Permit Sonoma notified the operator that the site is located within designated critical habitat for the endangered California tiger salamander, and the applicants could not get incidental take permits from the federal and



state agencies. The applicants withdrew their permit proposal in mid-2019. An unsightly wooden fence that surrounds the 1-acre grow setback 200 feet from Petaluma Hill Road continues to blight the otherwise scenic landscape almost three years later. This failure of county officials to enforce the law is allowing environmental and aesthetic harm to occur.

**Example 15. 6583 St. Helena Road, Santa Rosa (UPC17-0043).** For over eighteen months, neighbors of this grow were fearful for their safety due to the growers' possession of firearms and threats of home invasions. The county issued notices of violation for three illegally-

constructed greenhouses and unpermitted electrical installations in September 2017, but did little to resolve them. The electrical violations could have caused wildfires in an area designated by CalFire to be a very high fire hazard zone. The growers installed unpermitted high-intensity electric lights without coverings. On foggy nights the illumination appears to be a wildfire. On one occasion, three fire departments deployed for a false alarm. In August, three men were arrested for kidnapping and attempted murder there.<sup>4</sup> They had a rifle on the premises, contrary to the ordinance. The county issued a notice to the operator to stop growing in August 2018, and the operator appealed. A hearing was held in September 2018, and an agreement was reached to shut down the grow. It took over eighteen months to resolve an intolerable situation during which the environment and residents were damaged.

**Example 16. 7777 Cougar Lane, Santa Rosa** (no cannabis application). Since at least 2008 the owner has been reported multiple times for illegal construction and electrical violations. The Fire Marshall, Sheriff, and Permit Sonoma could see the illegal activity but refused to act without a warrant. In 2011, at the urging of Supervisor Brown, Permit Sonoma ordered the unpermitted construction to be removed, but the county never enforced the order. Similar complaints were filed in 2013 but the county failed again to act. The county issued citations for illegal construction in February 2018 and for illegal cannabis in May 2018 and the marijuana was then removed. The owner failed to appear for a hearing on his illegal construction in September 2018 but there was still no abatement. Finally, in 2019 the county required him to remove the unpermitted structures, and although he dismantled them, he left the trash on the site. The county's countenance of unlawful behavior for a decade has been an invitation to illegal marijuana grows.

**Example 17. 5364 Palmer Creek, Healdsburg (UPC17-0067)**. Since the purchase of the property in June 2016, the operator has never had a legal source of water yet is now completing his second harvest season. Contrary to § 26-88-250(g)(10) and the PRP, the operator exclusively used trucked water. The operator has been hauling recycled waste water day and night and a commercial potable water supplier has been delivering water daily to the grow. Residents have been reporting violations to code enforcement since November 2017. The county allowed the operation to continue unabated until recent complaints resulted in an agreement to shut down. The county allowed the 2017 harvest to be sold despite the fact that the grower has no state license so any sales were on the black market in violation of California and federal law. While the environmental harm may have stopped, the county allowed it to occur for years.

**Example 18. 6699 Palmer Creek Road, Healdsburg (UPC18-0046)**. The BZA on June 24, 2021 voted 3-2 to approve a large-scale cannabis cultivation facility requiring extensive construction and grading in the Class 4, Mill Creek designated watershed. Although the County acknowledges the 2-mile dead-end private access road narrows to just 9 feet wide and was shown to fail to meet almost all of the stated and required SRA Fire Safe § 1273 Regulations, the project was still approved. The BZA approval has been appealed based on failure to show an

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<sup>4</sup> Susan Minichiello, [Three men arrested for kidnapping, attempted murder at Santa Rosa marijuana farm](#) (Aug. 13 2018).



adequate water supply in a Class 4 watershed and the access road's clear substandard safety access requirement to "provide for safe access for emergency wildfire equipment and civilian evacuation concurrently" per SRA Fire Safe Regulation § 1273.00, Intent.

**Example 19. 2274 Wellspring Road, Santa Rosa (various zoning permits).**

Since about 2019 the Commissioner of Agriculture has issued at least 4-5 ministerial permits for a total of 1 acre of marijuana cultivation here. In spring 2021, the grower constructed hoop houses without a building or electrical permit that caused light pollution at neighboring properties. This violated the cannabis ordinance and the Bennett Valley Area Plan's requirements for design review (p. 22) that apply to any agricultural appurtenance greater than 200 square feet.

The large, ugly, industrial cannabis facility is clearly visible from the Sonoma Mountain trail in North Sonoma Mountain Regional Park at an area designated as "Bennett Valley Overlook," a violation of § 26-88-254(f)(6) ("Outdoor cultivation areas shall not be visible from a public right of way") and § 26-88-254(f)(21) ("No outdoor or mixed light cultivation sites located on parcels adjacent to public parks shall be visible from trails or public access points") of the Cannabis Ordinance. See imbedded image.



The access road appears to violate the SRA Fire Safe Regulations, which require the access road to be at least 20 feet wide and "provide for two-way traffic flow to support emergency vehicle and civilian egress," which is required for access to any commercial development. § 1273.01(a). The access to the site is by definition a road and not a driveway pursuant to the definitions in § 1271.00.

The use of multiple ministerial permits that total an acre instead of the conditional use permit process is also piecemealing to avoid environmental review, which violates the California Environmental Quality Act.

**Example 20. 2108 Schaeffer Road, Sebastopol (ZPC17-0009).** This 2.4-acre property that is zoned DA had been used to cultivate marijuana long before the 2016 Cannabis Ordinance was adopted. It has had innumerable building code violations for years. The county allowed the growers to continue to cultivate under the protections of the PRP when they applied for a commercial cannabis permit. The property has only a 21-foot setback when the zoning code requires 50 feet, and this defect cannot be cured. The county failed to act responsibly to shut



down the grow immediately. In late 2018, the county stated it would tell the operator that the permit will be denied. While this is now shut down, the neighbors were subjected to an illegal marijuana grow for two years since the Cannabis Ordinance was adopted while the environment suffered. Much of the property remains a mess, and the county has failed to make the owner clean it up or to do so itself.

**Example 21. 5000 Lakeville Highway, Petaluma (UPC17-0023).** For about two years, residents on a small lane were subjected to noxious marijuana odors. The grower was operating within the 300-foot setback to a home, contrary to law. Code enforcement officers failed, neglected, and refused to shut down the grow because it was in the “penalty relief program” which allows growers to operate without a permit or complying with regulations. The neighbors were also exposed to vicious dogs that got loose when a security gate was left open. Contrary to the ordinance, they illuminated bright lights on many nights when no one at Permit Sonoma was on duty. Permit Sonoma does not investigate complaints on weekends, holidays, or between 5 PM in the evening and 8 AM in the morning, while growers operate constantly. It took almost two years for Permit Sonoma to shut down the grow, during which time neighbors and the environment suffered the consequences.

**Example 22. 2000 Los Alamos Road (UPC17-0041).** This remote property was also in the Penalty Relief Program since July 2017, operating an indoor cannabis grow in a barn that was illegally converted without electrical permits to an indoor grow facility. Indoor grows use a very large amount of electricity. This location is in a very high fire hazard zone, almost burned in the 2017 Nuns Fire, and did burn in the 2020 Glass Fire. The County chose to bypass the Board of Zoning Adjustments and scheduled its public hearing directly with the Board of Supervisors on May 25, 2021. At that public hearing, the Fire Marshall stated - incorrectly - that the access roads, Los Alamos Road and McCormick Road, both met the state SRA Fire safe Regulations. The Fire Marshall, Permit Sonoma, and the County Supervisors were aware that Los Alamos Road was 5.6 miles dead-end to where the private road entered, far in excess of the ½ mile limit under the state regulations, and that it was only 12 feet wide for the upper mile, far less than the 20-foot requirement, yet the Fire Marshall presented the case as it meeting the regulations. McCormick Road is only 10-12 feet wide yet the Fire Marshall granted the entire 0.4-mile-long road an “exception” to the required 20-foot width, saying that by adding a turnout in the middle and one turnaround at the dead-end provided the “same practical effect” as a 20-foot-wide road in ensuring “safe concurrent fire apparatus ingress and civilian evacuation.” Such use of the exception process for an entire road completely circumvents the intent of the state fire safe regulations, which is consistent with the county’s history of refusing to follow these state regulations. This site is in water scarce zone 4 at the headwaters of Santa Rosa Creek, home to endangered Coho salmon and steelhead trout. This permit was approved 5-0 by the County Supervisors with a 12-fold increase over what was in the original application, and allows a new greenhouse to border the regional park. Such an indoor grow will use electricity equivalent to 160 new homes (based on numbers provided by the county). Approving this very high energy use in a remote, fire prone area is outrageous both for its impact on increasing wildfire risk as well as it being in full violation of state law in the SRA fire safe regulations.

### **Example 23. Refusal to Destroy or Seize Illegal Marijuana Plants.**

The following letter was published in the [Press Democrat on July 24, 2021](#):

#### **Aiding the black market**

EDITOR: Sonoma County supervisors made a good decision two months ago to conduct a full environmental impact report to understand where and how much cannabis can be grown without impacts to the environment (e.g., water), residents and fire danger.

Meanwhile, the county rightly works to eliminate illegal cannabis grows. However, I was shocked to learn that the county does not have a program to destroy illegal plants. Rather, the grower is allowed to remove the illegal plants before the county reinspects a few days later. As most of these plants are grown in pots or bags of soil, the grower can merely put them in a truck and transport them to another illegal grow site. I applaud the efforts to shut down illegal cannabis grows, but the illegal plants must be destroyed.

This practice by the county supports the continuance of the black market and, in reality, makes the county's efforts to eradicate illegal grows like a game of whack-a mole.

DEBORAH EPPSTEIN  
Santa Rosa

Initially the editorial page editor refused to print the letter because he could not believe this is true. He agreed to publish the letter after fact checking information from supervisors and PRMD. Once again, the county is aiding and abetting the black market, contrary to its own stated goals of using the cannabis ordinance as a vehicle to eliminate illegal cultivation. The county's cannabis policies are incoherent.

### **Example 24. Nonpayment of Cannabis Taxes.**

The county has had a policy since 2018 of allowing cannabis permit applicants and permit holders to be behind in the payment of various cannabis taxes, often for months or even years. This violates the cannabis ordinance and Penalty Relief Program requirements, yet the county essentially extended interest-free loans to cultivators. No such relief is provided to ordinary citizens if they get behind on, e.g., property taxes.

### **Example 25. Illegal Water Hauling in the Dairy Belt During Worst Drought in a Millennium.**

Insight Group, a private investigator, filed a report dated September 4, 2021 containing 16 photographs showing water being pumped from city hydrants into a truck marked "Petaluma Creamery" and delivered to Sonoma Hills Farm at 334 Purvine, a cannabis operation. Another report dated October 2021 shows the same truck hauling water to cannabis grows at Valley Ford Farms LLC, 1400 Valley Ford Freestone Road, Bodega and Diggitt Gardens LLC, Potter Family Farms LLC, Rain Gardens LLC, Wild Heart Farms LLC at 4835 and 3803 Springhill Road, Petaluma. Hauling water to these grows violates the current cannabis ordinance. The reports were provided to supervisors and PRMD, and no action was ever taken. PRMD rarely undertakes

its own investigations (its investigators operate more or less Monday-Friday, 8:30- 4 PM, excluding holidays), and it discredits investigations undertaken by private citizens.

**Example 26. Illegal Water Hauling in Santa Rosa During Worst Drought in a Millennium.**

Beginning in June 2021, numerous eye witnesses on Scotland Court, Santa Rosa, saw a white pick-up truck with a water tank on a trailer and an additional tank in the bed draw water using a “construction meter” from a hydrant at the corner of Scotland Drive and Scotland Court. Water was taken daily, often multiple times a day and transported to 2260 Los Alamos Road. This is a cannabis cultivation operation owned by Patrick Bransford that is called Castle Rock Ridge, Inc. One nearby resident followed the pickup truck on Los Alamos Road and watched the driver open the gate and turn onto Weeks Ranch Road (a private road so he could not follow). This is the entrance to the cannabis operation at 2260 Los Alamos Road.

The neighbor contacted Permit Sonoma and the Agriculture Department, who administer the cannabis program. The Agriculture Department was assigned to investigate. The Deputy Agricultural Commissioner, told two neighbors that unless they catch the grower red-handed, the county will not pursue this. Given the agency’s estimated response time of at least an hour after any report, enforcement is impossible. County officials said that eye witness accounts and photographic evidence at hydrants and on public roads leading to cannabis grows is insufficient evidence to instigate an investigation despite the immense amounts of unauthorized water that were delivered. The Agriculture Department inspected the site on September 29, 2021 and observed that there was still water in the pond during the severe drought (very unlikely without water deliveries). They refused to test the water to confirm whether it was surface water or city water. Inspections are scheduled to alert growers to prepare for them, so growers can easily avoid engaging in illegal activities when the inspectors are present. The Agriculture Department invented excuses for the water deliveries, suggesting that it was for firefighting. This statement is not only ridiculous, it reveals a credulous attitude that is inappropriate for a regulatory agency whose primary duty is to protect the public. At one point the Agriculture Department suggested that the interested public might trespass on the property to obtain photographs of the trucked water being offloaded.

The County Board of Supervisors ignored this documented information on illegal water hauling, ignoring public letters and statements from eye witnesses, and instead taking the grower’s word that nothing illegal had been done. The Supervisors approved a five-year permit for the cultivation site at 2260 Los Alamos Road. This is NOT enforcement.

**Conclusion.** Sonoma County has a dismal record of protecting the environment and its residents when they implement the cannabis ordinance. The county is in the process of amending the cannabis ordinance, which may occur in 2024. Amending the ordinance is irrelevant to how county officials have implemented it for four years and will continue to implement it. Sonoma County officials cannot be trusted to protect the environment or its residents and any mitigations in the DEIR are likely to be illusory because they will not be enforced.

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

**Subject:**Comment on Notice of Preparation of EIR re Cannabis / Scoping Meeting of March 8, 2023

**Date:**2023-03-05 13:43

**From:**"Richard R. Rudnansky" <[rrudnansky@sonic.net](mailto:rrudnansky@sonic.net)>

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Crystal

Although it is inconceivable to me that the Board, with or without an EIR, would allow **any type** of commercial cannabis cultivation in the Bennett Ridge neighborhood (which is in a Rural Residential Zoning District and included in the Bennett Valley Area Plan), in an abundance of caution I am providing these comments.

As you are undoubtedly aware, the current Cannabis Ordinance restricts any type of commercial cultivation in the Rural Residential Zoning District (RR District) I urge that this prohibition continue and that it be made clear from the beginning of this process that the RR districts are off limits to **any** type of commercial cannabis cultivation.

Short of that, I ask that the following residential neighborhood be designated as an Exclusion Zone: **Bennett Ridge Neighborhood consisting of properties located on Old Bennett Ridge Road, Bardy Road, Rollo Road, and Bennett Ridge Road.**

Also, analyze neighborhood areas and designate all neighborhood areas as exclusion zones where any residential neighborhood meets any one of the following criteria:

- (1) residential neighborhoods that relies on a mutual water system
- (2) residential neighborhoods and areas in the Rural Residential Zoning District where any parcel is less than 10 acres
- (3) neighborhoods and areas whose CC&Rs are inconsistent with or do not allow cannabis cultivation
- (4) areas where the roads are inadequate, including shared access private roads and roads so narrow that vehicles cannot safely pass each other at the same time and areas where there is only one way in and one way out.
- (5) areas where water supply is inadequate, including mutual water systems, water zones 3 and 4, and portions of water zone 2 that have experienced water shortage in drought.
- (6) areas that are in a high fire or very high severity zone designated by any competent authority such as the Board of Forestry, Sonoma County Community Wildfire Protection Plan, or the Public Utilities Commission.

(7) areas where commercial cannabis activity is detrimental to the residential character of a neighborhood.

(8) areas where the primary residential nature is to be preserved, especially where four or more contiguous parcels under 10 acres in size are grouped together.

(9) areas in traditional agriculture-zoned areas that are now primarily residential in nature. • Areas where the scenic vistas or character are to be preserved.

(10) areas where law enforcement is inadequate because average response times are more than 20 minutes.

(11) areas where there is strong local resistance to commercial cannabis activity.

(12) areas where the Board determines that it is in the public interest to prohibit commercial cannabis activity.

For your information I have attached a petition from the Board of Directors of the Bennett Ridge Community Association that has previously been provided.

Thank you for your attention.

Richard R. Rudnansky

Bennett Ridge Resident