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July 7, 2021

Via U.S. Mail

Permit Sonoma
2550 Ventura Ave
Santa Rosa, CA 95405

Via Email

Derik Michaelson, Don MacNair, Henry Wix
Design Review Committee
2550 Ventura Avenue,
Santa Rosa, CA 95403
Email: DesignReview@sonoma-county.org

**Re: Comment on Agenda Item #1 of the July 7th, 2021 Design
Review Committee Meeting - Project DRH21-0004 (PLP21-0002).**

Dear Mr. Michaelson, Mr. MacNair, and Mr. Wix:

On behalf of Sonoma County Residents for Responsible Development (“SCR RD”), we submit these comments on Seefried Industrial Properties’ (“Applicant”) request for preliminary design review for a 181,500 sq. ft. delivery warehouse (DRH21-0004) (PLP21-0002) (“Project”).

SCR RD is an unincorporated association of individuals and labor unions that may be adversely affected by the project’s potential public and worker health and safety hazards and environmental and public service impacts. The coalition includes SCR RD and SCR RD’s affiliates, their members and their families who live, work and recreate in areas affected by the Project in Sonoma County.

The Project currently appears as Agenda Item 1 on the agenda for the July 7, 2021 Design Review Committee meeting.

5282-003acp

The Project proposes to develop a 181,500 sq. ft. delivery warehouse, consisting of 161,300 sq. ft. storage space, 20,000 sq. ft. office space, 17 truck terminal docking stations, landscaping, parking, and related improvements. The Project tenant will be Amazon, who will use the warehouse for “last mile” delivery.¹ The Project Site is a 41± acre property located at 5015 Aviation Blvd. in Santa Rosa (APNs 059-271-073 & -090; 059-340-031 & -032; 059-430-001, -002, -003, -004, -005 & -006).

SCRRD urges the Design Review Committee to recommend that the Applicant apply for rezoning and a conditional use permit (“CUP”), due to the Project’s inconsistency with the Sonoma County Zoning Code. Specifically, the Project should be considered a “Truck/Bus/Freight Terminal” to reflect the Project’s significant truck traffic impacts. The current zoning for the Project site does not allow this use. Therefore, the Project site must be rezoned to support the proposed Project use, and the Applicant must secure a CUP.

SCRRD also urges the Design Review Committee to recommend that staff prepare an environmental impact report (“EIR”) for the Project pursuant to the California Environmental Quality Act² (“CEQA”). As discussed below, the Project requires discretionary permits and is therefore subject to CEQA. Additionally, the County’s description of the scope of the Project may be improperly limited. When the full scope of the Project – which includes any zoning changes or roadway improvements related to the Project – is considered, CEQA review is clearly required.

SCRRD asks the Design Review Committee to take these considerations into account when reviewing the Project, and to continue this hearing until the above steps have been completed.

I. The Project is Inconsistent with the Sonoma County Zoning Code

The Project entails construction of an Amazon “last mile” delivery warehouse/station. According to the County’s May 19th Memorandum regarding the Project’s conceptual design review:

¹ Memorandum from Eduardo Hernández, Project Planner, to Design Review Committee, re: DRH21-0004(part of PLP21-0002): First “Conceptual” Design Review, May 19, 2021.

² Pub. Res. Code §§ 21000 et seq.; 14 Cal. Code Regs. §§ 15000 et seq. 5282-003acp

Delivery stations are package handling facilities that support the “last mile” of Tenants fulfillment logistics network. Generally, the last stop before orders reach the customer, Delivery Stations provide a location from which we receive shipments in bulk from the Fulfillment Centers or Sort Centers, sort them by route and dispatch a fleet of delivery vehicles to get the orders to our customers. Packages arrive at the site from line haul trucks and are sorted based on zip codes, and then transferred over to a local courier or delivery service provide or to Flex drivers. The site operates 24/7 with most of the sortation activity being done in the middle of the night when the line haul trucks arrive at the site.

This use matches the “Truck/Bus/Freight Terminals” use defined in Sonoma County Zoning Code Section 26-30-130 as:

Transportation facilities furnishing services incidental to air, motor freight, and rail transportation with parking or storage of two (2) or more trucks, vehicles, or equipment other than private automobiles or farm equipment. Includes: Freight, forwarding services, freight terminal facilities, joint terminal and service facilities, packing, crating, inspection and weighing services, postal service bulk mailing distribution centers, transportation arrangement services, trucking facilities including transfer and storage, repair services for trucks using the facility.

The Sonoma County Board of Zoning Adjustments previously approved classifying delivery warehouses as truck terminals. When reviewing another Amazon “last mile” delivery warehouse in February 2021, the County’s staff report for that project stated that although the warehouse in that case should be considered a Limited Rural Industrial use,³ an Amazon “last mile” delivery warehouse could be considered a truck terminal.⁴ The staff report reasoned that the

³ Sonoma County Board of Zoning Adjustments, Staff Report re ORD20-0010 (February 11, 2021), available at <https://sonomacounty.ca.gov/WorkArea/DownloadAsset.aspx?id=2147590124>, pg. 6 (“Permit Sonoma staff determined that Amazon’s proposed “last mile” warehouse and distribution facility is similar to other permitted heavy commercial uses because it includes warehouse storage and commercial transportation facilities necessary for the operation”).

⁴ *Id.* (“While staff has not traditionally applied this broad definition of truck terminal for uses that fit under other permitted use categories, staff recognizes that the proposed Amazon facility is not a typical heavy commercial warehouse and distribution use and could be categorized as a truck terminal under the Zoning Code due to frequency and extent of large truck deliveries, delivery van storage and frequency of deliveries”).

“frequency and extent of large truck deliveries, delivery van storage and frequency of deliveries” supported classifying such a warehouse as a truck terminal. Because this Project also involves a high frequency of truck traffic, it should also be considered a truck terminal.

Truck terminals are not a permitted or conditional use under the Project site’s current zoning. The project site is designated as Limited Industrial (“LI”) by the Sonoma County General Plan, and zoned as Industrial Park (“MP”) according to the Sonoma County Airport Industrial Area Specific Plan. The Industrial Park zoning designation allows for a range of light industrial uses, including limited manufacturing and processing, fabrication, research and development, utility equipment and service yards, wholesaling, and warehousing. However, truck terminals are not included in that list.⁵ Therefore, the Project requires a zoning change. Since truck terminals are conditional uses for all the industrial zoning designations, the Applicant must also apply for a use permit.⁶

II. The County Must Consider the Entire Scope of the Project When Determining Whether the Project is Subject to CEQA Review

SCR RD has been informed that the County is preparing a CEQA document for the Project,⁷ and urges the County to consider the entirety of the Project when determining whether CEQA review is required.

Public Resources Code Section 21080(a) provides that CEQA applies to “discretionary projects proposed to be carried out or approved by public agencies.” Design review can qualify as a discretionary permit subject to CEQA review.⁸ And here, the Project requires a zoning change and a CUP to facilitate the Project’s proposed use as a truck and freight terminal. Zoning changes and CUPs are discretionary permits which require CEQA review.⁹ Therefore, the Project

⁵ Sonoma County Zoning Code, Sec. 26-12-030, Table 12-1 (“Allowed Land Uses in Industrial Zones”).

⁶ *Id.*

⁷ Email from Eduardo Hernandez to Janet Laurain, re: Seefried Wholesale Distribution Center Project File No. DRH21-0004 (PLP21-0002), (6/30/21) (stating that a CEQA determination “should be proposed prior to DRC’s final hearing”); Design Review Committee - Agenda Request Slip, 5/3/21 (stating “CEQA Review: Pending initial study,” “Authority: DRC”).

⁸ *Sierra Club v. Napa County Bd. of Supervisors* (2012) 205 Cal.App.4th 162, 179; *Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 270.

⁹ Pub. Res. Code § 21080(a); *Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224.

currently before the Commission requires comprehensive environmental review pursuant to CEQA.

Additionally, under the CEQA Guidelines, the term “project” is defined as the “whole of an action” that has “a potential for resulting” in a direct or reasonably foreseeable indirect physical change to the environment.¹⁰ The project is the activity that is approved by a public agency, not the approval itself.¹¹ When examining an activity to determine whether it could affect the physical environment, an agency must consider the entire activity that is the subject of its approval.¹²

Accordingly, CEQA requires that environmental considerations not be concealed by separately focusing on isolated parts, overlooking the effect of the whole action in its entirety.¹³ A public agency may not divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole.¹⁴ In other words, CEQA “cannot be avoided by chopping up proposed projects into bite-sized pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.”¹⁵ Violation of these principles is considered “piecemealing.”

Courts have considered distinct activities as one CEQA project and required them to be reviewed together in two situations: (1) when the purpose of the project under review is to provide the necessary first step toward a larger development, and (2) when development of the project under review requires or presumes completion of another activity.¹⁶ Further, a public agency must review “the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.”¹⁷

¹⁰ 14 Cal Code Regs §15378(a).

¹¹ 14 Cal Code Regs §15378(c); *Save Tara v. City of West Hollywood* (2008) 45 Ca4th 116, 129 n8.

¹² 14 Cal Code Regs §15378(a); *Bozung v. LAFCO* (1975) 13 CA3rd 263, 283.

¹³ *See Bozung v. LAFCO* (1975) 13 CA3rd 263, 283; *City of Sacramento v. State Water Resources Control Board* (1992) 2 CA4th 960; *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 CA3rd 229, 241.

¹⁴ *Orinda Association v. Board of Supervisors* (1986) 182 CA3rd 1145, 1171.

¹⁵ *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonoma* (2007) 155 CA4th 1214.

¹⁶ *See Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 CA4th 1209, 1223.

¹⁷ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396. 5282-003acp

Here, there are facts currently available suggesting the Project may be piecemealed:

The Project intends to dedicate the approximate areas below to Sonoma County for public right of way: Jet Way: 22,254 square feet abandonment of Right of Way, Jet Way: 9,306 square feet new right of way dedication, Airport Blvd: 2,108 square feet. Permit Sonoma's May 19th Memorandum states that "[t]hese modifications will be completed as part of the ABC Phase VI plan revisions."¹⁸ These ABC Phase VI actions and related approvals must be considered as part of the Project because construction of the delivery warehouse (project number DRH21-0004) seems to presume completion of the ABC Phase VI plan revisions.

The County Memorandum also states that the parcels that make up the property were created by a Major subdivision called the Airport Business Center ("ABC") Phase VI Subdivision (application #MJS00-0007).¹⁹ This subdivision may also be required by CEQA to be reviewed as part of the Project.

The County Memorandum states that roadway improvements are currently being conducted next to the Project. Along Aviation Blvd, roadway improvements are underway and are currently being completed by the property owner pursuant to a separate agreement with the County of Sonoma (ABC Phase VII Improvement Plans, County project number SUR20-0108).²⁰ Along Brickway Blvd., anticipated roadway improvements are currently being pursued by the property owner (with construction permit application pending). Once the County issues the necessary ministerial construction permits, the property owner would complete the contemplated roadway improvements along Brickway Blvd. pursuant to separate agreement with the County of Sonoma (ABC Phase VII Improvement Plans, County project number SUR20-0108). These roadway improvements, which seem to be servicing the Project, must be considered as part of the Project unless the County can show they have independent utility or serve an independent purpose, and are not dependent on completion of the related activity.²¹

¹⁸ *Id.* at 11.

¹⁹ Memorandum from Eduardo Hernández, Project Planner, to Design Review Committee, re: DRH21-0004(part of PLP21-0002): First "Conceptual" Design Review, May 19, 2021, pg. 1.

²⁰ *Id.* at 1.

²¹ *Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 CA4th 712, 736. 5282-003acp

July 7, 2021
Page 7

The County Memorandum refers to the Project as “DRH21-0004 (part of PLP21-0002).”²² This phrasing suggests that there might be undisclosed Project components that must be considered in the County’s review.

CEQA requires that all of these Project-related actions be considered in a single CEQA document. The Committee should recommend that Staff prepare a single EIR to analyze these and any other activities similarly related to the Project. The impacts of the entire Project must be disclosed and considered by the County when considering whether the Project is subject to CEQA.

Thank you for your attention to this important matter.

Sincerely,



Aidan P. Marshall

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²² Memorandum from Eduardo Hernández, pg. 1.
5282-003acp