



**Sonoma County Planning Commission**  
**Draft Minutes**

Board of Supervisors Chambers  
575 Administration Drive, Room 102A  
Santa Rosa, CA 95403  
[PlanningAgency@sonoma-county.org](mailto:PlanningAgency@sonoma-county.org)

August 17, 2023  
Meeting No.: 23-14

**Roll Call**

Commissioner Cornwall, District 1  
Commissioner Gilardi, District 2  
Commissioner Ocaña, District 3  
Commissioner Koenigshofer, District 5  
Commissioner Deas, Chair, District 4

**Staff Members**

Scott Orr, Deputy Director  
Joshua Miranda, Project Planner  
Jacob Sedgley, Project Planner  
Tasha Levitt, Administrative Assistant  
Aldo Mercado, Deputy County Counsel III  
Jennifer Klein, Chief Deputy County Counsel

**Staff Scott Orr** announced we will start the meeting a few minutes late, once all Commissioners have arrived.

0h05m

**1:08 PM** Call to order, Roll Call and Pledge of Allegiance.

**Correspondence** None

**Planning Commission/Board of Supervisors Actions** None

**Commissioner Announcements** Commissioner Cornwall announced she will remain on the body until September and then will have a replacement coming in. 0h09m

**Public Comments on matters not on the Agenda:** None 0m0s

**Items scheduled on the agenda**

**Planning Commission Regular Calendar**

**Time:** 1:05 PM  
**File:** ZPE22-0080  
**Applicant:** Margie Cramer  
**Owner:** Navarro Ranch Homeowner Association  
**Cont. from:** N/A  
**Staff:** Joshua Miranda  
**Env. Doc:** Categorical Exemption Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) Title 14 of the California Code of Regulations (CEQA Guidelines) the general rule that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA  
**Proposal:** Zoning Permit to modify language for the Navarro Ranch Subdivision Conditions, Covenants & Restrictions (CC&Rs), limiting Sonoma County Planning Commission review to issues related to the subdivision conditions of approval and retain the County as a limited third party beneficiary, involving 47 parcels created by the Navarro Ranch Subdivision.

**Recommended**

**Action:** The Permit Resource and Management Department (Permit Sonoma) recommends that the Planning Commission conduct a Public Hearing to adopt a resolution approving changes to the Conditions, Covenants & Restrictions requested by the Navarro Ranch Subdivision Homeowners Association to a) modify language for review of future modifications to the Conditions, Covenants & Restrictions, providing review to issues related to the conditions of approval by the Planning Commission, and (b) similarly retaining the County as a limited third party beneficiary involving 47 parcels created by the Navarro Ranch Subdivision Assessors book 107, page 32, Hazels Road, Cazadero.

**Location:** 220 Hazels Road, Cazadero

**APN:** 107-320-013 (Common Area – Primary Parcel), all Navarro Ranch Subdivision APNs listed on Assessor Parcel Map Book 107, Page 32

**District:** Fifth

**Zoning:** Resources and Rural Development (RRD) 160 Acres per Dwelling Unit (B6 160), Riparian Corridor (RC50/50)

**Commissioner Disclosures:** None

**Staff Joshua Miranda** summarized the staff report, which is incorporated herein by reference. **0h11m**

**Commissioner Questions:**

**Commissioner Cornwall** asked how many active violations there have been on this subdivision in the last 3-5 years and do you have any information on this. **Staff Miranda** responded he does not have this information at this time. **0h18m**

**Commissioner Koenigshofer** asked if during the analysis there was a review of compliance with the conditions of approval? **Staff Miranda** responded and clarified the question. **0h18m**

**Commissioner Koenigshofer** stated part of the reason this model was applied in this instance was concern about compliance with building codes etc. He asked do we know if there was review to see if compliance with conditions are current. **Staff Miranda** responded that staff did not make that analysis for the entire subdivision. **0h19m**

**Public Hearing Opened: 1:20 PM**

**Ms. Margie Kramer, Applicant**, gave an overview of the project. **0h22m**

**Dennis O’Leary**  
**John Beaver**  
**Michael**

**Public Hearing Closed, and Commission discussion Opened: 1:37 PM**

**Commissioner Ocana** stated thanks to the public. She asked staff to reiterate in lamens terms why the County is recommending the removal of the mandatory oversight over the changes? Her understanding is this is kind of cleaning up the file and we’re doing this across the County? **Staff Cecily Condon** responded this isn’t guided by any specific General Plan policies. However, it is the County’s process not to enforce private CCNRs. There are a few exceptions countywide that have very specific legislative agreements associated with those which we do enforce, but wherever possible the county’s practice is to not enforce CCNRs. So, having language that would counter that by requiring our approval for certain activities or changes to CCNRs essentially muddies those waters and has us involved in something we do not participate in. **0h37m**

**Commissioner Ocana** asked if these are also highly environmentally sensitive areas? What is the reasoning behind these exceptions. **Staff Condon** responded these specific examples are because of their relationship to the development foundation of the Coastal Act in California. **County Counsel Jennifer Klein** responded it came out of litigation. **0h38m**

**Commissioner Ocana** asked about the history of the project and does the county still intend to have any exceptions outside of legislative or is the intent going forward to remove this stipulation from all CCNRs? **Staff Orr** responded it is our intent to remove our interest from all the cases like this and that has also been discussed in open session at the board of supervisors. The county focuses on enforcing county code, land use regulations, state law things like that. We do not get involved with private agreements between landowners and HOAs and things like that wherever possible. **County Counsel Klein** responded this is a scalpel approach, it’s not saying the County wouldn’t have approval authority over certain CCNRs where they intersect with the conditions of approval. It creates an administrative burden and it’s not our current practice to require approval of those kinds of changes. We don’t know where they all are but as they come up, staff’s proposal is to take out that language. If you approve it and the HOA doesn’t agree, you’re at a stalemate there. If the HOA had taken action first there may not have been critical mass to bring it forward to you. It’s hard to say who should go first when both approvals are needed. **0h40m**

**Commissioner Cornwall** stated the county is trying to extricate itself as much as possible from enforcing CCRNS, except around issues in the County’s authority. The proposal would keep the County as a third party beneficiary, is the idea that they are only a third party beneficiary with respect to those issues that are land use, or is that different? **Deputy County Counsel, Aldo Mercado**, responded the language regarding the County as a third party beneficiary is standard language and gave examples. If there are sensitive or important reasons for the County to step in, it has the authority to do so, which is different than the mandatory approval of the original language, which is what we are stepping away from generally in most of our projects. **0h42m**

**Commissioner Koenigshofer** asked Mr. Mercado to describe where the County is not stepping away. **Counsel Mercado** responded for mitigation measures on the project and gave an example. If mitigation measures relate to CEQA and are not being met, the County can step into those shoes. **0h46m**

**Commissioner Koenigshofer** asked under the language proposed will the county have the authority to do what you just described? **Counsel Mercado** responded yes. [0h47m](#)

**Commissioner Koenigshofer** asked are we sure the after effect of making the changes proposed would not disturb the general public's interest that is included in the categories of health, safety and welfare of the residents. **Counsel Mercado** responded his understanding is this provision is structured so there would be other mechanisms for the county through general powers to enforce or at least maintain that. He's not aware of what exactly the county would be enforcing here in this provision. If we want to carve out language for how the county would want to be involved, we could. The way it's structured now, county has the right but not the obligation. If one of those provisions is deemed to be not enforced, then the county has the right under the CCNR to enforce it. [0h47m](#)

**Counsel Klein** drew a distinction between enforcing a CCNR versus obtaining county approval to amend the CCNR and stated the proposal here is to remove the requirement for county approval to changes to the CCNR, is that correct? **Counsel Mercado** responded exactly. [0h49m](#)

**Counsel Klein** asked for clarification. **Counsel Mercado** responded and clarified the way it currently stands, changes to the CCNR require Planning Commission approval. We're trying to mitigate the extent of when that would be required but that wouldn't change the County's ability to step in and enforce provisions of the CCNRs with that third party beneficiary language. [0h50m](#)

**Commissioner Koenigshofer** stated the County has broad provisions but our mechanism for doing that is driven by complaints, so the actual enforcement sounds very hypothetical if some dispute came up, unless there was a complaint. Even then, he's not sure how effective this is. That's why he asked in the beginning if there were any unsatisfied conditions or ones that have slipped over the decades. If we're doing is diminishing the County's authority. How certain are we in our effort to apply his general trend that in this instance the reasons have diminished or completely evaporated? **Counsel Klein** responded you heard from staff there wasn't an analysis done. If CCNRs remain the same and county has the third party beneficiary, and complaints are made they get investigated, that would simply give the county kind of an extra tool of enforcement through maybe a cause of action for violation of a CCNR or something like that. Without that, we still would have all of our toolkit we do in normal enforcement. This is an extra tool right now but removal of that tool doesn't give her any personal pause because we have a variety of others. [0h51m](#)

**Commissioner Cornwall** asked to clarify her understanding of the proposal and if land use issues, conditions of approval remain county issues, but issues like whether or not HOA members are qualified or regarding votes, those are proposed not to be resolved by the county and she assumes through a court? **Staff Condon** responded that is correct and we would consider those to be private disputes. [0h54m](#)

**Commissioner Cornwall** stated her concern regarding the county's enforcement system. [0h55m](#)

**Commissioner Deas** asked if this has to go back to HOA anyways and they have to approve it, it seems out of order. Us making a decision before they've voted on it feels like we have leveraged which makes him a little uncomfortable. This should have been a vote from the HOA in entirety to have this brought back to us. [0h56m](#)

**Commissioner Koenigshofer** stated he understands this has been going on for some time and asked who the lead on this has been. **Staff Miranda** responded staff, himself and counsel. [0h56m](#)

**Commissioner Koenigshofer** asked how was it decided who would represent the association side? **Staff Orr** responded to clarify, we did not seek this out. The HOA approached the county wanting to change the rules

and we proceeding through the permitting process to get to this point, but we weren't actively seeking this out. **0h57m**

**Commissioner Koenigshofer** asked for additional clarification on how this came about and clarified that this item was not driven by the County's desire, it was brought forth by the association. **Staff Condon** responded correct . **0h58m**

**Commissioner Koenigshofer** asked what if the HOA general membership decided not to agree with this? **Staff Orr** responded that would be something for the commission to consider but it doesn't change how the county feels about its relationship to enforcing CCNRs. He agrees with Commissioner Deas that it does make sense to have some consensus before approaching a vote, but it doesn't change the overall desire for the county to not be involved in CCNR discussions. **0h58m**

**Commissioner Koenigshofer** asked about the scope of changes discussed by the association and county. Pushing the questions through the filter of the association would clarify for him whether or not the county's interest is being served simultaneously without disrupting the longstanding arrangement that exists amongst the members. **Commissioner Koenigshofer** asked Counsel about requesting inaction and for this to go to the association would help him understand more clearly the preferences of the people are most involved and effected by this. **County Mercado** responded and explained his understanding of the amendment history. His understanding was there was an amendment proposed we didn't agree to because it maintained the County's involvement. Today the Sterling Act has a lot of updates that need to be implemented immediately and they're getting close to the deadline with the state of when this needs to be met. Proceeding with Planning Commission first was because of these time constraints, as he understands. If inaction is taken or if we seek to condition this, he doesn't know how this will effect their requirements by the state. **0h59m**

**Commissioner Koenigshofer** stated he is not familiar with the state section being referred to. What would be the implication if an association fell out of the timeline with these requirements to comply? **Counsel Meracdo** responded he does not know and would have to refer to the applicant or their Counsel on that. **Applicant Kramer** responded it would put them at risk of litigation if they knowingly choose not to comply. Sterling takes precedence over our CCNRs. If you approve it, it won't pass unless 60% of the association approves it. She doesn't see the risk there. Aldo is referring to a previous vote where we got over 50%. Some people objected because of article 11, so we went to see if we could get that amendment approved first and then bring it back to the people. This process has involved many members, committees, public announcements, and a large number of members weigh in. This is what became a hang up at the end of our process, because we weren't sure we had to go through the Commission. She explained the process of handing their current CCNRs to owners. **1h05m**

**Commissioner Koenigshofer** asked what specifically does Davis Sterling Act require? **Applicant Kramer** responded it gives us a proper procedure for assessments, notifications of homeowners, regulations on fair hearing and notice for violations, etc. **1h07m**

**Commissioner Koenigshofer** asked all of that will still take effect whether or not you amend the CCNRs, right? **Applicant Kramer** responded yes. **1h08m**

**Commissioner Koenigshofer** asked if Sterling supersedes the CCNRs currently written and if they'll take effect some point in time irrespective of what we're talking about here. **Applicant** responded they are now. The problem is the CCNRs is attached to the deed when owners buy a property. We did this because we wanted to clarify for future homeowners and to try and be in compliance. **1h08m**

**Commissioner Koenigshofer** stated it's not clear what's before us today has any bearing on what the Davis Sterling Act requires. It sounds like the David Sterling aspect of this works de facto and can be set aside. Absent that discussion, other changes outside the bounds of the Davis Sterling Act, if we ask it be put to the membership for a vote, it doesn't have any impact on the David Sterling Act. It would only have an effect if the changes proposed effect other aspects. **Applicant** responded article 11, our natural resources, it now says if we want to change out natural resources section 9, we have to go to the planning commission. If you looked at the original CCNRs that was one example with a timber harvest plan, which is part of why the County doesn't want to weigh in on that. We have state and forestry to deal with our timber harvest plan. **1h10m**

**Staff Orr** stated what the Commission should consider is if they want to be consulted on every 1970 CCNRs change is allowing 1 dog instead of 2, does the Planning Commission want to decide that? At the end of the day code enforcement will not be enforcing CCNRs, which is an important thing to consider. To look it more holistically across the entire county and if the commission is not interested in removing our interest to allow these changes, we are going to do that on every single one. This is not a stand alone special circumstance, so thinking overall bigger picture. **1h12m**

**Commissioner Ocana** stated she fails to see the benefit of this going to the association and then coming back to the commission to have the same discussion. She would not be inclined to send them back. It would not be a productive use of time and we've already been notified there could be potential consequences for the HOAs if they violate timelines. **1h14m**

**Commissioner Cornwall** stated we could vote on this as its presented now and we could also include in the motion a decision of ours that would take effect if the HOA vote disapproves these changes. We've heard the board thinks the board will go through, then our approval stands, but if for some reason it fails then the County still has some position and it might be the same one. **1h15m**

**Commissioner Ocana** responded and clarified her understanding. **Counsel Klein** responded for the change to occur requires Planning commission approval and the vote of the HOA for the changes to be achieved. The two scenarios are the same and the effectiveness of your decision is dependent on the HOA passing these conditions. **1h16m**

**Commissioner Cornwall** asked if it's just the changes to this section? **Staff Condon** responded the only section we recommend amending is this article 11 that removes the county's participation. Any other amendment that comes forward to us would require us to take action one way or another on some other component, if they were to come back with a more comprehensive list of changes, for example. Even if that were supported by their membership, we wouldn't want to make a recommendation on any of their other private changes. The only section we would make a recommendation on is related to this action of limiting our authority to enforcement of conditions of approval and matter related to environmental impact. **1h17m**

**Commissioner Koenigshofer** stated he understands the current county policy and doesn't disagree with it as generally applied. He summarized his understanding of the projects' history. He asked has the analysis determined that the reasons that drove this action are no longer of general public interest, even though there's spillover with what appears to be solely private interest? He discussed his involved in this initial project that came through many years ago. Do the issues brought up initially still remain a concern relative to that density and area? **1h19m**

**Staff Condon** responded staff does feel that our current codes and ability to enforce do satisfy the concerns at the time that the subdivision was developed. **Commissioner Koenigshofer** responded he appreciates that and it gives him comfort, and asks if we would actually act on vis-à-vis enforcement? **1h21m**

**Staff Condon** stated during this hearing she quickly reviewed for parcels violation history and found that we have continued to use our typical complaint-based enforcement regardless of these current provisions of the CCNRS. Nothing has been treated differently. [1h22m](#)

**Commissioner Koenigshofer** asked if any of the homes were developed under class K. **Counsel Klein** responded staff would not have gone through this depth of research. She suggested possible options of moving forward. [1h23m](#)

**Commissioner Ocana** asked how would coming back with additional amendments that could retain some county oversight, how would that pass based on the County's position? **Staff Condon** responded there is a possibility if there's a specific area of concern to give more detail on something specifically we'd want to address, rather than this relatively standard language used in this case. [1h24m](#)

**Commissioner Ocana** asked if staff is telling us the county is only willing to recommend on less involvement, how would coming back with additional amendments that could retain mandatory oversight, how would that pass? **Staff Condon** responded there is a possibility if there was a specific area of concern to give us more detail on anything specifically to bring back potentially with specific language. [1h24m](#)

**Commissioner Ocana** asked do the Commissioners have any specific items they would like to see in additional proposed language? [1h25m](#)

**Commissioner Koenigshofer** stated he thinks he outlooked his question. This seems to go to the question of what scope, if any, does the Planning Commission to do something other than the staff recommendation? He asked whether or not there's anything unique to this and if it hasn't been analyzed, could it be? He asked how long ago we got materials to review. **Staff Condon** responded 10 and clarified the request. [1h26m](#)

**Commissioner Koenigshofer** stated and perhaps the issue of whether or not there's compliance, generally speaking, with building codes. There might be the impression to some people that some of the structures aren't to code, but if they fell within the class k category when they were build, that isn't the same as current building codes standard then or now, but that doesn't mean they're not legal because class k was a thing there. **Staff Condon** responded that's a pretty big ask and doesn't know under what timeline staff would be able to conduct that work. She asked counsel to weigh in. [1h27m](#)

**Counsel Klein** responded that's dozens of hours per parcel charged to the applicant. **Commissioner Koenigshofer** responded, disagreed and asked for clarification. **Staff Orr** responded and clarified that it would be a significant lift for staff requiring sending out Code Enforcement Staff and requiring extensive research. [1h28m](#)

**Commissioner Koenigshofer** read a letter from August 1978 from Robert Holtzer public MD and asked if we still don't share this concern. [1h29m](#)

**Commissioner Cornwall** suggested to approve an amendment to section 11 with more specificity including things like code violations, health and environment issues, etc. There's a ton of stuff that isn't right in the county and that doesn't get enforced and that seems like a separate issue than the county stating it's involvement with CCRNS. [1h30m](#)

**Counsel Klein** asked would it help to retain county third-party beneficiary status for all of the CCNRs? When you may be seeking our approval for certain changes to CCNRs, instead of taking that question forward to the planning commission, we're simply going to take forward removal of that need for approval, then you don't have to get it on a case by case basis. That doesn't mean no changes to any of the conditions of approval

would ever come to you. They would still come to you if those conditions of approval intersect with and are relevant to the conditions of approval of the subdivision. So, that would be all of those things the county originally deemed important enough to condition as part of the approval. 1h31m

**Commissioner Koenigshofer** stated he thinks that's very close to his first question and clarified. **Counsel Klein** responded and clarified her understand of the question. 1h33m

**Commissioner Koenigshofer** asked when conditions of approval are applied to an action, we do expect they're going to be complied with, right? How is asking to confirm that a burden? **Staff Orr** responded he understands the ask of making sure each parcel doesn't have unpermitted structures. This would essentially be a complaint on each parcel that there are unpermitted structures. Then code enforcement would go to every parcel and look at every structure. The decision today is simple it's to deny what is in front of you. On something like that this staff will not be changing its recommendation because this is barely a land use decision, it's a procedural matter. 1h33m

**Commissioner Koenigshofer** stated he doesn't find the 1 or 2 dog example very helpful. **Staff Orr** responded if the Planning Commission would like to weigh in on all CCNRs for all subdivisions, then the decision today is very simple, it's to deny what's in front of you. On something like this staff will not be changing it's recommendation because our direction is very clear. He understands we are being more stern than we usually are with land use decisions, but this is barely a land use decision and we're here on a procedural matter. 1h34m

**Commissioner Koenigshofer** asked if rejecting the countywide thing is before us today? **Staff Condon** responded you would be taking action on this particular amendment and could deny this amendment to these CCNRs. 1h35m

**Commissioner Koenigshofer** asked so it's not a review of the entire underlying policy? **Staff Orr** responded if we have this same ask for a different HOA, it would go through the same process and he would predict the commission would be interested in the past decision to inform the next decision. 1h35m

**Commissioner Koenigshofer** stated in the same way that he's interested in whether of not past decisions were looked at to see if there were unique characteristics to argue against the broad county policy. Otherwise, if it's not a discretionary action we're being asked to take, why is it on our agenda? **Staff Orr** responded because it's in the CCNRs and they want to change them. The HOA doesn't have a choice and since we're in them, we have an obligation to participate. 1h36m

**Commissioner Cornwall** asked if there's support to approve a motion with some modification so there's understanding of what the third-party beneficiary actually means. She proposed to approve the amendment of section 11 and it's generated a lot of questions as to what role does it leave with the county. 1h37m

**Commissioner Gilardi** stated she's inclined to approve and doesn't want to see the county in a position of enforcing CCNRs. The homeowners might love it but that's something the county really doesn't want to do. It would be interesting to know how many code enforcement violations are out there to see if there's a big problem out there. Maybe those violations are structures in violation of density, we don't know. Overall, she supports the Planning Commission not having to approve CCNRs and the county not being in a position to enforce CCNRs. 1h38m

**Commissioner Deas** responded in agreement. He wishes we had an understanding of which parcels had structures that weren't permitted. It's worrying there's not a lot of consensus and right now we do have the authority. There's two scenarios being shown and he doesn't know which ones real. He can't tell if this is an



HOA without broad support that's trying to use the County. He's unsure which of these two scenarios is happening and doesn't want to create one where the community is ripping itself apart. [1h39m](#)

**Commissioner Koenigshofer** stated he agrees with the characterization Commissioner Gilardi presented as a general premise. [1h41m](#)

**County Counsel Mercado** clarified the idea of conceding the power or some sort of oversight. The item today is on approving amendments to the CCNRS. The scope of enforcing the CCNRS has always been available for county to enforce. Contractually, the county still could enforce it. We're limiting the scope of the amendment and not the enforcement. It's the amendment and the ability for the HOA to comply with things we're not interested in. Enforcement of the CCNRS is still a retained enforcement in the planning commission. We're trying to streamline the contractual amendment process that we may not have an interest in. It's merely the ability of the HOA to comply with its other requirements that we might not have an interest in. Currently, it's very broad as to what amendments would require Planning Commission approval. Enforcement of the CCNRS is still a retained authority in the Planning Commission. It can still go out and enforce provisions and compliance as it has always been able to. We're trying to streamline the contractual amendment process that we may not have an interest in. If we want to narrow down some of those amendments, we can do that, but he wants to make it clear that's going to limit the ability of the amendments of CCNRS, not the enforcement. [1h42m](#)

**Commissioner Deas** stated after that he's reluctantly okay to vote yes on this. [1h45m](#)

**Commissioner Cornwall** stated a suggestion change to the resolution language and asked if more issues should be included. **Counsel Klein** responded that was suggested earlier to retain the third-party beneficiary status as to the entire CCNRS, then you wouldn't have to go through them all to maintain your ability contractually to enforce through litigation through the CCNRS. [1h45m](#)

**Commissioner Cornwall** stated she wouldn't know that third-party beneficiary covers all that, but if that's something that's normally known. **County Counsel Klein** responded that's not how it's drafted now, but there would have to be a change to the resolution to make it fit that. She asked Counsel Mercado to weigh in. [1h45m](#)

**Commissioner Deas** announced a 5 minute break. [1h47m](#)

**Counsel Mercado** stated for context, this is similar to the broader third-party beneficiary language that we look into with a lot of the CCNR projects, and the intent is that it's removed the enforcement ability from previously which was conditions of approval to now a broader enforcement ability of the entire CCNRS. The remaining amendment of the CCNRS as provided by the applicant and part of the materials, discusses the sections to be amended, so that would still be the approval of those sections that are amended. However, the enforcement section we are revising with the strikeout language that would be much broader for the Planning Commission or County to retain the right to enforce the entirety of the CCNRS, not limed by anything relating to the conditions of approval. [1h57m](#)

**Commissioner Cornwall** asked how this paragraph would relate to the resolution and if it's already in there? **Staff Condon** responded this change would be making the proposed draft CCNRS, which are an exhibit to the resolution and asked for confirmation from Aldo. **County Counsel Mercado** responded and stated he he was going through the resolution to make sure there's no revisions needed to be made in alignment with this revision to the CCNR. [1h59m](#)

**Staff Orr** stated his recommendation would be if this change in the kind the Commission would like to see, the motion could also include direction to staff to carry through any supporting documents for consistency, rather than pulling up every document and fixing language right now. **1h59m**

**County Counsel Klein** stated to retain county third-party beneficiary, so as to facilitate the enforcement of conditions of project approval. **2h00m**

**Commissioner Koenigshofer** asked should we be striking relating to conditions of approval or saying not limited to conditions of approval? **Counsel Klein** since the current CCNRs give us third party beneficiary or all, we can just take it out unless you want to keep it. They have the same effect. **2h01m**

**Counsel Mercado** read additional language and stated he believes that's the kind of language you're looking for. **2h01m**

**Action:** **Commissioner Cornwall** motioned to approve the item as modified by staff. Seconded by **Commissioner Koenigshofer** and approved with a 5-0-0 vote. **2h02m**

Appeal Deadline: 10 days  
Resolution No.: 23-38

**Vote:**

|                           |     |
|---------------------------|-----|
| Commissioner Cornwall     | Aye |
| Commissioner Gilardi      | Aye |
| Commissioner Ocaña        | Aye |
| Commissioner Koenigshofer | Aye |
| Commissioner Deas         | Aye |

Ayes: 5  
Noes: 0  
Absent: 0  
Abstain: 0

**Item No.:** 2  
**Time:** 1:20 PM  
**File:** LLA22-0041  
**Applicant:** Eugene, John, & David Calvi  
**Appellants:** William K. Vogeler for John A. Calvi and Darlyn M.  
**Owner:** Eugene E. Calvi and Patricia Joyce Wong-Calvi, John A. Calvi and Darlyn M. Calvi, & David L. Calvi  
**Cont. from:** N/A  
**Staff:** Jacob Sedgley  
**Env. Doc:** Class 5 Categorical Exemption (14 CCR § 15305).  
**Proposal:** Appeal of Administrative Determination (9/21/2022) approving a Lot Line Adjustment between two parcels.

**Recommended**

**Action:** The Permit Resource and Management Department (Permit Sonoma) recommends that the Planning Commission deny the appeal and uphold Permit Sonoma's administrative approval of a Lot Line Adjustment between two parcels located at 17071 and 17171 Fitzpatrick Lane, Occidental ("the Property"), with Conditions of Approval as outlined in the September 21, 2022, approval letter (Attachment 2).

**Location:** 17071 Fitzpatrick Lane, Occidental  
**APN:** 073-280-064 and 073-290-056  
**District:** Fifth  
**Zoning:** Resources and Rural Development (RRD), B6 160 (one dwelling unit per 160 acres), Riparian Corridor (50-foot structural setbacks, 25-foot agricultural setbacks)

**Commissioner Disclosures:**

**Commissioner Koenigshofer** stated he had a brief discussions with one of the attorneys representing the applicant. **2h04m**

**Staff Jacob Sedgley** summarized the staff report, which is incorporated herein by reference. **2h05m**

**Commissioner Questions:**

**Commissioner Cornwall** asked about which parcel is the easement. **Staff Sedgley** responded and clarified. **2h14m**

**Public Hearing Opened: 3:14 PM**

**Mr. William Vogeler, Applicant,** gave an overview of the project. **2h15m**  
**Ron Derring**

**Commissioner Koenigshofer** stated he questions whether we have discretion to reject a condition that is so focused. It doesn't look like a condition that includes discretion. **County Counsel Klein** responded and asked staff to bring up the language being proposed. **2h28m**

**Staff Condon** stated the intent of this condition is that we are not creating any lots through a lot line adjustment that doesn't have adequate water supply. The proposed language still ensures there is a demonstrated water supply for both parcels as written similar to the other condition. **2h30m**

**Commissioner Koenigshofer** asked if a well performance test would be required to prove this. **Staff Condon** responded yes, or a new well or easement to establish water supply for the parcel. **2h31m**

**Commissioner Koenigshofer** asked the way the condition currently reads it would require a new well on the new parcel? This alternative language would allow an easement to the existing water source but would have to be capable of supporting two houses. The language appears to provide an alternative. The water performance test would have to prove capacity for the new and existing house? **Staff Condon** responded this condition would enforce the provisions of 2016 26-88-190, and she pulled up the code language. **2h32m**

**Commissioner Koenigshofer** asked that's locked down for water severity category 4, right? **Staff Sedgley** responded yes, that's correct. **2h32m**

**Commissioner Cornwall** asked why do we ask for evidence of water supply when there's no housing being proposed? **Staff Condon** responded part of the reason is this code but also we are not allowed to create a lot without adequate water supply. **2h33m**

**Staff Condon** stated the original condition is the standard condition. In most cases with lot line adjustments there are already lots, this is kind of unusual. **2h34m**

**Commissioner Koenigshofer** asked staff to clarify his reading of the map. **2h34m**

**Commissioner Koenigshofer** asked if the lower parcel came in for a building permit would it be required to show a water source? **Staff Condon** responded new buildings are required to show water source. 2h35m

**Commissioner Koenigshofer** clarified his understanding of the appeal and asked if he's correctly characterizing it. **Staff Orr** responded yes. 2h35m

**Staff Orr** stated in response to Commissioner Cornwall, our goal with demonstrating a water supply is available is that we're not inadvertently creating parcels with water supplies that aren't feasible. That's the underlying philosophy behind wanting to see that water exists and is available. 2h36m

**Commissioner Koenigshofer** stated we're protecting water in the area and it's also a consumer protection role. 2h37m

**Commissioner Cornwall** asked about the conversation regarding an easement. **Staff Sedgley** responded this would be allowed with the revised conditions. 2h37m

**Commissioner Koenigshofer** asked if the proposed alternative language clears up these issues. The alternative language would not be departing from strict interpretations of the code enforcement. **County Counsel Klein** responded she would say reasonable rather than strict. 2h38m

**Commissioner Koenigshofer** asked in order to have an easement, the water source would still have to be proven? **County Counsel Klein** responded that's correct. 2h39m

**Applicant, Vogeler** responded to the revised conditions. 2h40m

**Ron Derring** responded to the revised conditions. 2h42m

**Commissioner Koenigshofer** asked staff or counsel for a response regarding the variance. 2h44m

**County Counsel Klein** stated questions of variance would require some research but maybe Nate can shed some light. 2h44m

**Scott Orr** repeated the question for Nathan. **Staff Nathan Quarles** responded and clarified his understanding. There is no building permit before us. 2h45m

**Staff Nathan Quarles** weighed in on what's needed in the code for the lot to be habitable. He stated it does not address existing structures or existing conditions. **Commissioner Koenigshofer** asked what does it say about new building permits in zone 3 or 4. **Staff Quarles** responded it requires testing and when a water easement can be utilized for the approval of a new building permit for a dwelling either primary or secondary in zone 3 or 4. 2h46m

**Commissioner Koenigshofer** asked when is an easement allowed. **Staff Quarles** responded an easement is allowed in zones 1 and 2 and not 3 and 4. Provision 2 a and b is clear about being related to building permits. The next section is less clear and deals with when we do or do not issue building permits. 2h48m

**Staff Orr** stated he doesn't think we should try and do this on the fly hashing out complicated code. He recommends the item is continued, refined and brought back, or if the planning commission feels it's appropriate that both parcels demonstrate water supply independently then he recommends the appeal is

denied. If the planning commission wants to get more into the details of the planning code, building code etc, then that will require more analysis and we should continue to a date uncertain. 2h49m

**Commissioner Koenigshofer** stated he proposes we continue this. Whether or not there's prohibition of using an easement in area 4, if there's not, what are the requirements to prove water capable of supporting the proposed new residence? By default he would think you'd also have to prove water would remain sufficient to support the existing residence. Additionally, of the existing habitable dwelling, which parcel is it on and in the proposed lot line adjustment is the existing habitable and uninhabitable structures on the same parcel? If they're not, relative to the uninhabitable structure, would the scope of redevelopment for that structure and building permits in area 4 water scarcity trigger the need for proving up water in a lot line adjustment circumstance? Those are the questions he'd want answered. 2h50m

**Commissioner Deas** asked how the commission feels about continuing. 2h52m

**Commissioner Koenigshofer** stated for reasons that have been stated development in a water 4 scarcity area has countywide issues in terms of how we treat that. He knows that area of the county has a lot of development and lot of people in the area haul water every year. 2h53m

**Staff Orr** requested a motion and any direction from staff. 2h54m

**Action:** **Commissioner Koenigshofer** motioned to continue the item to a date uncertain. Seconded by **Commissioner Cornwall** and approved with a 5-0-0 vote. 2h55m

Appeal Deadline: Not applicable

Resolution No.: Not applicable

**Vote:**

|                           |     |
|---------------------------|-----|
| Commissioner Cornwall     | Aye |
| Commissioner Gilardi      | Aye |
| Commissioner Ocaña        | Aye |
| Commissioner Koenigshofer | Aye |
| Commissioner Deas         | Aye |

Ayes: 5

Noes: 0

Absent: 0

Abstain: 0

**Hearing Closed: 3:55 PM**