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March 27, 2016

Dear Madam Mayor, City Council, City Administrator, City Attorney, City Clerk and Department Staff,

Attached please find a \$480 check (#1223 and payable to the "City of Santa Barbara") to appeal The Planning Commission's March 17 decision regarding the proposed medical marijuana dispensary (also known as The Canopy Club, Inc.) at 118 N. Milpas St.

My name is Pete Dal Bello and I am a Santa Barbara native. I've also known the Eastside for all 44 years of my life. My family owns the properties at 135 N. Milpas St. and 132 Juana Maria Ave. Both properties are within the 300-foot radius of the proposed dispensary.

I have also included 11 copies of the more than 160 pages of information relating to this proposed dispensary. As a former reporter, I also took notes at both the Jan. 20 Staff Hearing Officer Hearing and the March 17 Planning Commission Hearing.

I am also the founder and president of the International Chiari Association (ICA). We deal with a serious and difficult to diagnose neurological disorder called Chiari. I have seen, first hand, how medical marijuana can help people with chronic pain. I myself suffer from this condition. It took doctors eight years to diagnose it in me - it was a long and painful period. Without detection and medical intervention, I would now be in a wheelchair.

When my doctor and I were discussing options to manage my pain, he brought up cannabis as an alternative. Therefore, I am very sympathetic to applicant Ryan Howe's project. Sometimes people judge how I come across because of the effects of Chiari.

Despite appearances, I have weighed the facts of this case. Know that I understand it from the points of view of residents, business owners, community members and patients.

I disagree with the Planning Commission's March 17 decision. I also disagreed with Staff Hearing Officer Susan Reardon's Jan. 20 decision to approve the application for this proposed dispensary. I filed an appeal on Jan. 28 to that decision.

There are a number of reasons why I am appealing the Planning Commission's decision. They include the following:

1. Lack of Parking
2. Increase in Intensity of Use
3. High Crime Area
4. Lack of Safety for Members of the proposed dispensary (coming and leaving 118 N. Milpas and the surrounding area)
5. Lack of Proper Environmental Review
6. Negative Effects on the Neighborhood (Lowering Property Values, Hurting Businesses)

7. Failure to Provide Public Notice

8. Inaccurate and/or Questionable Statements by Mr. Ryan Howe and/or Mr. Joe Allen, who is Mr. Howe's attorney.

9. Requesting the list of owners of Merry Milpas, LLC (the property owners of 118 N. Milpas St. According to information from The Canopy, which I've included in the administrative record, Steven Bernston "is the lead partner among the investment group, Merry Milpas, LLC." Who are the other partners?)

10. Requesting the list of those involved in Canopy Club, Inc. (the nonprofit organization that wants to run the proposed dispensary. Who are the people involved and are each person that signed the Articles of Incorporation less than a year ago still with the nonprofit?)

For example, Stanlee P. Cox signed the Articles of Incorporation and is no longer with the nonprofit. Ms. Cox spoke at the March 17 Planning Commission Hearing at 1:17:43 on the video of the hearing. She says that she is in favor of my appeal. Ms. Cox said that a dispensary needs to be in areas "that are safe and convenient access for medical marijuana patients" and the Milpas location is not because of buckling sidewalks, the traffic situation, homeless people, drunks, junkies, people defecating on the sidewalk, etc.

The Articles of Incorporation is of one of the most important documents a nonprofit must have - without it, the nonprofit cannot exist. This document (which is included in the 160-plus pages that I have provided) for the Canopy Club, Inc. was signed on May 13, 2015, by Paul Semonian, Ryan S. Howe, Stanlee P. Cox and Thomas Martin.

Other than Mr. Howe, are Mr. Semonian and Mr. Martin still with Canopy Club, Inc.? We know that Ms. Cox is not.

According to information from The Canopy that I've included in the administrative record, Mr. Martin "has directed a family effort to bring their knowledge of responsible agricultural production to medical cannabis farming."

As the founder and president of a medical nonprofit organization, this is of great importance. People place nonprofits, especially those that are medical-related, in great trust. If one and possibly more than one of the signers of this document are no longer with that nonprofit, especially when that document was signed less than a year ago, than it makes one question why they are no longer with Canopy Club, Inc.

Has the Canopy Club, Inc. somewhat changed their original mission? Obviously, Ms. Cox didn't like the direction it was going in or she would still be with the nonprofit.

The same four people signed the Articles of Association, another very important document relating to nonprofits. Mr. Howe, Mr. Semonian and Mr. Martin signed on May 13, 2015. Ms. Cox signed on May 14, 2015.

Once again, does anyone of the four (other than Mr. Howe) remain? If not, why are they no longer with Canopy Club, Inc.?

If I was with the Secretary of State or Attorney General's Office in this state, or the IRS, I would review these important documents for the first two years of a nonprofit organization's existence and find out if/why people are no longer with the organization. These are important documents, and without them, Canopy Club, Inc. would no longer exist.

I'm also concerned that The Canopy calls itself "An Unincorporated Non-Profit Voluntary Association." Doesn't the "Inc." in "Canopy Club, Inc." mean that it is incorporated?

Incorporated is obviously the opposite of unincorporated.

Also before the appeal can be heard, I strongly suggest that an anonymous letter, submitted to and received by the Planning Division, regarding my March 17 appeal to the Planning Commission be thoroughly examined.

While it is unknown to me how accurate the included anonymous letter is, this anonymous letter was accepted into the public record by the City Attorney's Office. Since it came after the March 14 deadline (stamped that it was received by the Planning Division on March 16) there was not enough time for the Planning Commission to properly vet the letter for accuracy.

I first learned of the letter 10-15 minutes before the March 17 Planning Commission Hearing and received a copy of it, since it is in the public record, from Case Planner Tony Boughman after 2:30 p.m. on March 21. A Xerox copy of the receipt, as well as Mr. Boughman, can verify this claim.

The letter makes serious allegations against Mr. Howe, who is the applicant of the proposed dispensary at 118 N. Milpas St. The Canopy Club, Inc. has always presented itself to the City as a nonprofit. Its Executive Summary calls itself a "California Non-Profit Mutual Benefit Corporation."

According to the City Ordinance (Section 28.80.080.G.2), "No Medical Marijuana Storefront Collective Dispensary shall operate for profit."

The letter says that "Many people in the community have been approached by the applicant and solicited for funds to invest in the Milpas Street project and offered high rates of returns in a for profit business scheme."

It also states the following: "On top of that, some members of the Santa Barbara community have been approached by the applicant to be used as surrogate applicants for the 3rd available permit. One of the people solicited has already come forward to a member of the Santa Barbara City Council and has shared their first hand knowledge of this solicitation as they thought this behavior was unethical and felt they should come forward to prevent this from happening. They felt that the applicant had come from out of town to set up shop and if done right with the proper ethics there would be no conflict but to go after two permits in a deceptive and for profit scheme rubbed this person the wrong way.

"In addition at least one grow location that has been sighted and used in the City's application is not valid. Not only has the landowner of the address used in the application refused to work with the applicant, they were solicited for money to invest in the Milpas enterprise. They are willing to come forward as well.

"Some of the people who were solicited for money and who were approached to be the surrogates for the Milpas Street applicant's second location are willing to discuss what they know with the City Attorney's office and/or members of the Planning Commission."

It would be wise of the City Attorney's Office, and I would personally insist on it if I were the Mayor or a member of the City Council since they are above the City Attorney on the City's Organizational Chart, to call for an investigation before my appeal can be heard.

I would find it interesting to know who the "We" are, as well as about the allegations that Mr. Howe is not following the ordinance regarding the nonprofit status.

As mentioned above, I am the founder and president of the ICA, an all-volunteer nonprofit organization. I have a great understanding of nonprofit law. The State of California has if not the most strict, one of the most strict laws regarding nonprofits in the United States. Nonprofits receive their tax-exempt status from the IRS and are closely followed by both California's Attorney General and Secretary of State.

It is also worth noting that copies of this letter were not sent to the Mayor or members of the City

Council because it arrived when it was at the Planning Commission stage. That is why I am submitting this letter, which is in the public record, so it can be investigated.

It is also worth noting that Mr. Allen, the attorney for the applicant, will be operating the approved medical marijuana dispensary to open in Ontare Plaza at 3627 State St. What is Mr. Allen's full involvement in both Merry Milpas, LLC (the property owner of 118 N. Milpas St.) and The Canopy?

Who are the partners in both Merry Milpas, LLC and The Canopy?

If the allegations mentioned in the letter are true, then Mr. Howe's permit would be revoked and the appeal would not be necessary. Not having an appeal would also save the City Council from having to publicly vote for or against my appeal.

Also, since Mr. Allen is a supporter of Mayor Helene Schneider's campaign for Congress, I call on the Mayor to remove herself from being a part of the appeal hearing due to conflict of interest.

It would be wise, especially if any person files a future lawsuit regarding the proposed medical marijuana dispensary at 118 N. Milpas St., that the City Attorney's Office has compiled a thorough investigation into these serious allegations. If the allegations are true, then the investigation would have to be handed to both the state and federal government because of nonprofit law.

A local investigation could be completed within weeks, especially since there are people "willing to come forward" to discuss their knowledge with the City Attorney's Office.

I, myself, am willing to go under oath to state that I have no knowledge of who wrote this anonymous letter as I, as mentioned, did not see a copy of it until March 21.

As mentioned, I am appealing the Planning Commission's March 17 decision. Noozhawk accurately reported after the March 17 hearing that I would be appealing the decision. Keep in mind that since I did not see the letter until March 21, I would still be appealing the decision even if the City Attorney's Office does not find the anonymous letter to be accurate.

There are many reasons for my appeal, with the majority of them being land-use concerns. As the founder and president of the ICA, I have seen the benefits of medical marijuana for patients with many health problems. A dispensary would be more appropriate in the West Pueblo Medical Area (which is one of the allowable areas) where it will be near Cottage Hospital and medical offices - not near young families, schools and a public library.

In fact, Milpas should have never been included in the City Ordinance when five medical marijuana dispensaries on the Eastside have been shut down by the feds - including three on Milpas - in recent years. They include the 300, 500 and 800 blocks of Milpas, as well as dispensaries on Olive St. and Bond Ave. After these problems, the ordinance should have been amended.

The last time a revised ordinance of SBMC Chapter 28.80 was adopted by the City Council was on June 29, 2010.

My family owns the properties at 135 N. Milpas St. and 132 Juana Maria Ave. It is interesting that my mother, an owner of the mentioned properties that are both within 300 feet from the proposed dispensary, never received a notice of the public hearing on Jan. 20. I also was never updated by the Architectural Board of Review (ABR) even though I filled out the information form on Nov. 16, 2015, where I spoke in opposition to the proposed dispensary, to stay updated about this property. If I wasn't active in following city government, my mother would have no knowledge that Mr. Howe and Merry Milpas, LLC were planning to open a dispensary that would lower property values - for both her, as well as other homeowners and business owners.

The only notice that my mother ever received was for the March 17 Planning Commission Hearing. Then again, she would have never received that if I didn't file my appeal of the Staff Hearing Officer's decision that led to the March 17 Planning Commission Hearing.

I know this neighborhood and I have talked to many of those that live near 118 N. Milpas St. I found that other homeowners, in addition to my mother, didn't receive a notice of the Jan. 20 hearing. Considering that renters also live near the proposed dispensary, they should have also been informed as - like the homeowners that live in the neighborhood, also have to deal with the negative problems that already exist on the Milpas corridor. As expected, not one neighbor wanted the medical marijuana dispensary on Milpas.

This is a neighborhood that is angry that it has this issue forced on them again. In addition to being scarred, they are scared for the safety of their children and those attending nearby schools. This is a neighborhood that has known crime, homeless, and gang activity for decades so these concerns should be considered.

The Canopy Parking Plan is deeply flawed as was the City's review of it. This is why:

First, the Planning Department deems that this is a typical retail space and expects the usual amount of traffic from their operations. It is not. The Institute of Transportation Engineer's Trip Generation Manual has done some research for us on the issue of parking associated with a marijuana dispensary. It tells us that such a business is accompanied by a TENFOLD increase in traffic over a similarly sized retail pharmacy. Because it will be more intensive by orders of magnitude, the assumption of continuation of retail use does not apply.

In fact, this is an intensification of use. On Jan. 20, Ms. Reardon said that "This is a different business than the typical operation."

Staff has also not presented any evidence in the record to support their findings. This does not fit the description of "nonconforming uses" because the Santa Barbara Municipal Code (28.89.030.E) states that "use of a conforming or nonconforming building may be maintained and continued, provided there is ... no increase in the intensity of such nonconforming use ... For the purposes of this section, an increase in intensity of use shall include but not be limited to the following: An increase in the number of required parking spaces for the use, or increase in the amount of traffic ..." Given that Planning Department Staff completely missed traffic and parking issues, and given that the data demonstrates high intensity of use, I urge you to insist that the applicant at least complete an Environmental Impact Report (EIR). Moreover, it is surprising that staff missed this critical impact on this neighborhood.

The staff's finding (28.80.070.B.8) that all "reasonable measure have been incorporated into the Dispensary security plan or consistently taken to successfully control ... traffic control problems ... or creation of a public or private nuisance, or interference of the operation of another business," cannot be made.

Staff has not presented any evidence in the record to support their findings.

The City has no evidence to make this finding and therefore cannot approve the permit.

The Staff's finding (28.80.070.B.9) that "the Storefront Collective Dispensary is likely to have no potentially adverse affect (sic) on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance and that the Dispensary will generally not result in repeated nuisance activities including disturbances of the peace ... illegal parking." It is reasonable to expect that a use generating TEN TIMES the amount of traffic and parking to an entity that already does not have sufficient onsite parking will result in nuisance parking, congestion, and negative effect to existing businesses.

Overly burdening this neighborhood based on intensification of use contradicts staff findings. In fact, the City has presented no evidence in the record for these findings. Therefore, they cannot be made.

The Dispensary's parking and security plan relies exclusively on public streets and public right of way for patrons and staff. No other business type can rely on public parking to meet its parking demand.

Why does the City of Santa Barbara exempt this particular Dispensary and give it a special entitlement in an already impacted neighborhood that will overburden it?

Also, the typical retail space requires one parking spot for every 250 square feet of space. This location consists of 2,264 square feet necessitating nine parking spaces IF it was a regular retail space. Given the intensification of use, this location would require 90 parking spaces to conform to the City's Municipal Code.

On page 5 of the Planning Commission Staff Report, it says that "the conforming parking requirement would be nine spaces, ... "

Another concern at 118 N. Milpas is parking. This was a major concern of Ms. Reardon. Being a former reporter, I took notes throughout the hearing.

"Parking is a big issue for me," Ms. Reardon said. "This is a different business than the typical operation."

All of this will have "adverse effects on the health, peace, or safety of persons living or working in the surrounding area, overly burden (our) neighborhood, (and) contribute to a public nuisance."

On Jan. 22, I went to City Hall and visited the Business License Department. Included in this packet is a list of all the businesses that had licenses from Jan. of 1993 to Dec. 31, 2013. The businesses and their business license dates are as follows: Top Gear Motorcycles (Jan., 1993 to Dec. 31, 2003), Joyeria Latina Americana (June, 2001 to June 30, 2011), Tellez's Towing (Sept., 2011 to Sept. 30, 2013) and MJ Stereo & Smoke Palace (Oct., 2011 to Dec. 31, 2013).

Also on Jan. 22, actually right before I went to City Hall, I was at the Assessor's Office at the County Administration Building. I have included two pages regarding the property from that office.

Mr. Boughman said at the Jan. 20 hearing that there was "no on-site parking" at 118 N. Milpas.

Ms. Reardon also expressed concern regarding the "loading and unloading of product (marijuana)."

The prior tenant had three parking spaces. I've included a copy of Mr. Howe's parking for the dispensary. Joyeria Latina Americana, which rented there for 11 years, mentioned that he had three parking spaces.

The ordinance needs to be amended because there was never a requirement for Mr. Howe to provide parking. The parking of the proposed dispensary at 118 N. Milpas is reliant on street parking and alternative parking.

The photos on the front of the supplement plan of "The Canopy" shows at least 10 chairs/stools for visitors. Also, The Canopy is trying to showcase itself as a Wellness Center - which is the equivalent to putting lipstick on a pig.

At the March 17 Hearing, Mr. Howe said that they are "really putting in a Wellness Center. One of our products happens to be cannabis."

Mr. Howe said that they are going to be putting in a Japanese Garden and there will be a place for yoga.

In addition to the computers shown in the photo in The Canopy's Nov. 18, 2015, Application (included in the administrative record), the garden and yoga would keep people at the location for more than the 10 minutes that Mr. Allen mentioned at the March 17 hearing.

The yoga would also take place outside, with the busy traffic noise of Milpas interfering with any form of peace and tranquility. Also, yoga classes last much longer than 10 minutes. Yoga classes often last 75-90 minutes.

Where are these people going to park?

Also, look at how long people will be staying there. Mr. Howe added that people will also be able to buy clothing at The Canopy. I don't know about the average person, but it takes me longer than 10 minutes to buy a shirt. I have to make sure that I find the right size and that the shirt fits - concerns that I think every person has when purchasing clothing.

Mr. Howe doesn't live on the Eastside, but at the Jan. 20 hearing he said that he goes to Milpas nearly every day. He is wrong that "there's adequate parking" on the 100 block of N. Milpas during the day time hours of 8 a.m. to 6 p.m. (hours that the Planning Commission had to question him about during the March 17 hearing as it was concerned about the information Mr. Howe provided). Mr. Howe is also wrong in saying that there are "10-15 spots (open parking spaces available) at any given moment."

As someone who has known the Eastside for all 44 years of my life, I know that parking was already a problem on this block before there was any talk of a dispensary at this location. My family owns the property at 135 N. Milpas (which is the corner of N. Milpas and E. Yanonali) and our tenant is the Los Amigos Barber Shop. My mother owns the house that she grew up in at 132 Juana Maria Ave. This one-block street, which is behind the 100 block of N. Milpas and the side of Milpas of the proposed dispensary at 118 N. Milpas, is already impacted from cars parking there so they can frequent businesses on Milpas. Juana Maria, which has many small children, is a residential-only area so the only cars parking on that street should be the residents of Juana Maria and vehicles of the people visiting residents of Juana Maria.

My favorite Mexican restaurant is Taqueria El Bajio, which is located next door to the barber shop at 129 N. Milpas St. Parking is already so impacted in the area that when I go there to eat, I can't park on Milpas St. I can't park on Yanonali St. I can't park on Juana Maria Ave. I have to park on Alisos St. - two blocks away from the restaurant.

Now with parking already a problem, here comes Mr. Howe and the proposed medical marijuana dispensary at 118 N. Milpas. At the Jan. 20 hearing, Mr. Howe said that "five to 10 patients" will be served per hour and "13-14 patients max (maximum)."

Since the dispensary would be open for 10 hours, that means that there could be 140 members coming to the dispensary a day. That 140 figure also doesn't include his employees. There will be six to eight employees working at the dispensary. Where are they going to park?

Mr. Allen (see video tape of the March 17 Planning Commission Hearing) mentioned several inaccuracies to the Planning Commission - arguably the most important commission in the City.

Among the inaccuracies said by Mr. Allen at this hearing include the following:

1. There is no parking lot at Los Agaves Restaurant on Milpas.

When people in the crowd disagreed, Allen responded with the following: "Well, I've never been able to find it when I want to go there. I'll look harder for it."

I'll help Mr. Allen here, as I have included a photo of the Los Agaves Parking Lot in the administrative record. There are 13 parking spaces in the lot, including one handicapped space.

Mr. Allen owes Los Agaves Restaurant an apology.

2. Regarding 118 N. Milpas, Mr. Allen said the following: "There wasn't any parking there when it was a jewelry store."

This is also false. As mentioned above, Joyeria Latina Americana, which rented there for 11 years, mentioned that he had three parking spaces.

3. Mr. Allen said that I said "That the dispensary was going to generate 240-odd car trips a day."

I've never said that. I've used the 140 figure above (quoting Mr. Howe on Jan. 20, unless Mr. Allen is telling me that Mr. Howe is wrong). Also, 140 is much different than 240.

4. Mr. Allen said that there will be "six to eight visitors an hour for a typical eight-hour day. If you want to be generous in your estimate, 80 people per day would come to the dispensary."

Once again, Mr. Allen is wrong. His figures differ from Mr. Howe's Jan. 20 statements. Also, the dispensary will not be open for eight hours. As mentioned above and below, it will be open for 10 hours a day. As we all know, 10 hours is longer than eight hours.

5. Mr. Allen is also wrong when he said the following: "Unlike any other business on Milpas St., the dispensary will have two full-time security guards on duty at all times."

He also added that Wells Fargo does not have security guards.

While the dispensary will have two full-time security guards, Wells Fargo and McDonald's (two nearby businesses on Milpas that provide parking lots - lots that hopefully members of the dispensary won't use since it will be a shorter walk) both also provide two full-time security guards.

Since the dispensary plans to do its banking at Wells Fargo, you would think Mr. Allen would know this information.

Keep in mind that the basic information such as providing the hours of operation were a concern of the Planning Commission. Mr. Howe had to confirm the hours of 8 a.m. to 6 p.m. Monday through Saturday, though those hours and days are listed at number 10 on the City's Medical Marijuana Storefront Collective Dispensaries Permit Page (included in the administrative record).

The included map of the Canopy Parking plan says that only members of The Canopy Club (medical marijuana dispensary) can park on N. Milpas. This would cover both sides of Milpas from E. Montecito St. to Quinientos St.

The parking plan also says that members and employees can park (see blue color on map) on E. Yanonali. This would be between Milpas and Quarantina St. It also says that members and employees can park from Mason St. to Quarantina. The plan also says that members and employees can park on Nopal St., between E. Montecito and Quinientos.

The blue section of the map only factors in parking on Monday through Friday. It doesn't factor in parking on Saturday, when most residents are home as they take their cars to work during the week. Just this fact alone should concern the City.

The map is also incorrect in referring to the streets in the blue area as "Commercial, Industrial). The industrial area begins on Quarantina and they are not asking their members/employees to park on Quarantina.

Mason is commercial, but it is also residential (which was not listed on the map).

Yanonali is commercial, but it is also residential (which is also not listed on the map).

Nopal is zoned for commercial use, but it is also residential (which is also not listed on the map).

Keep in mind that the main reason why the proposed dispensary at 2609 De la Vina St. failed was because of the lack of parking.

Mr. Howe said at the hearing that "most members will be walking and biking."

Members would be walking two to three blocks to the proposed dispensary. While walking two to three blocks back with marijuana or possibly another product, they are at a higher risk of being mugged - especially on Milpas or a neighboring street as a troublemaker could be watching them leave the dispensary from a distance.

Also, remember Ms. Cox's concern that a dispensary needs to be areas "that are safe and convenient access for medical marijuana patients" and the Milpas location is not because of buckling sidewalks, traffic situation, homeless people, drunks, junkies, people defecating on the sidewalk, etc.

Page 5 of the Planning Commission Staff Report states the following: "Parking is a zoning requirement; it is not a criterion for consideration in the issuance of a dispensary permit."

Parking is of great importance of any place that wants to help people with medical problems. Some people are driven to medical places by caregivers or cannot walk far because of their medical problems.

Mr. Howe is also not factoring in that not every person coming in to the dispensary will be a member or an employee. There will also be pedestrians entering the store who aren't members, pedestrians entering the store interested in becoming members (The Canopy Parking Plan says that the "Canopy will present each member with an approved parking map during their mandatory consultation session."), as well as the mail carrier and possibly FedEx delivery, etc.

While the Environmental Analyst has "determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(a), Existing Facilities," in fact, the exemption does not apply. Article 19, Categorical Exemptions, Section 15300.2. Exceptions, paragraph (c) Significant Effect states, "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

Given the high intensity of use, the City was obligated to do an initial study to at least evaluate traffic. This is a specific and unique case where three parking spaces do not meet the demand.

There must be an initial study and the benefits of this project must outweigh the impacts to this community.

Let's look at crime. My evidence is in the administrative record.

It is unfortunate that crime at 118 N. Milpas was not thoroughly examined at the Jan. 20 hearing. On Jan. 21, I went to the police department and they printed out the included two pages of 911 calls (from 2008-2015 for a total of 50 calls for just this address) at 118 N. Milpas. This includes

an armed robbery in 2011 and a fire - most likely arson - in 2013. Keep in mind that all of these things happened before there was any talk of a dispensary at this location.

The City Ordinance requires this business to "assist in reducing potential crime-related problems ... (including) the perimeter, and surrounding properties."

The day after the Planning Commission Hearing, graffiti (which is frequently seen on the Eastside) appeared on the wall of the proposed dispensary.

These problems make many people, myself included, in the neighborhood wonder about what is next?

What concerns does our own Santa Barbara Police Department, which is already understaffed, have about the proposed medical marijuana dispensary at 118 N. Milpas?

While Mr. Howe and Mr. Allen can point out that the 911 calls regarding 118 N. Milpas took place before Mr. Howe's proposed dispensary, they can not argue that crime exists on the Eastside - especially in the Milpas area.

The Santa Barbara Police Department, as mentioned by Commissioner Schwartz at the Planning Commission Hearing on March 17, was not present to answer how they classify a "high crime area."

Also in the administrative record are the 911 calls for 114 N. Milpas next door. As I informed the City, that is where a sober living facility is located where a dozen men are trying to get their lives together. Is the City collecting tax revenue on this business?

Before the March 15 City Council Meeting, I asked Officer McGrew to make sure that Chief Crombach be made aware of my concern for police presence at the Planning Commission Hearing because of my concern of possible problems since medicinal marijuana is considered by many to be a controversial issue. Officer McGrew thanked me for my concern and for bringing it to his attention two times, but no police were present at the March 17 hearing, as pointed out by Commissioner Schwartz.

During the public comment section of the March 22 City Council Meeting, Eastside Resident Britta Bartels told the Mayor and City Council the following: "Deborah Schwartz was bringing up the fact that she was missing a police officer to confirm the actual crime rate of the area. I immediately called Officer Adrian Gutierrez and received a call back from Sgt. Riley Harwood that the police was not invited to attend."

It is unfortunate that Sgt. Harwood did not know of the hearing, especially when I specifically asked for police presence.

There is also, as mentioned, the concern of crime. Let's look at other cities and their experiences.

Since 2012, there have been at least 45 robberies related to the sale, purchase or possession of marijuana in the city of Oceanside. Of those robberies, 24 were committed using firearms and 11 involved weapons (knives, stun guns, etc.).

Oceanside adopted an ordinance outlawing dispensaries this month. It is looking at regulations that would permit delivery services.

What are the Santa Barbara Police Department's regulations regarding delivery services? More than 20 delivery services exist in this area.

Camarillo already prohibits medical marijuana dispensaries from operating in the city. It also

prohibits the delivery of medical marijuana, except by a primary caregiver to a qualified patient.

Camarillo Police Commander Monica McGrath said medical marijuana dispensaries are cash-only businesses, which raises the level of theft and robberies where they are located.

Here are the security risks for medical marijuana dispensaries:

*** Counter theft

*** Smash-and-grab attacks

*** Internal theft

*** Gang-driven robbery and violence (Keep in mind that dispensaries in California will be a target of drug cartels because they will want to defend their drug trade turf.)

As a young boy, I often walked past gang members on my way to the Eastside Library. Because of these problems, the Santa Barbara Police Department put a substation next door at the Franklin Neighborhood Center.

In 2009, 16.9% of dispensaries in Colorado were robbed according to a Denver Police Department survey.

Thieves focus on dispensaries because there is a high resale value on the black market for marijuana. Dispensaries are also targeted because they operate almost always on a cash basis.

Why?

Federal law makes it such that most banks are unwilling to establish relationships with marijuana business owners.

Commander McGrath mentions that 26 out of 52 dispensaries in San Bernardino have been closed because of numerous violations. She is quoted in the Ventura County Star (Jan. 15, 2016 - article included) that crime rates in areas surrounding dispensaries have "skyrocketed."

"It creates a situation where we need to ensure public safety, and there's no stringent safeguards without the ban," Commander McGrath said, adding that medical marijuana cultivation is hard to regulate. Police often will investigate complaints and find other elements of crime.

Why are we putting the Milpas community at risk for more crime? Even one crime is one too many. Remember, our own Santa Barbara Police Department is already understaffed. They don't need to worry about the possibility of more crime.

Remember, Milpas has already seen its share of dispensary-related problems, which the City is either unaware or completely unconcerned since federal agents shut so many down already - including three of Milpas.

Eastside residents, including Abbey Fragosa (a member of the City's Neighborhood Advisory Council) have recently commented on what it is like to live near dispensaries. Ms. Fragosa's comments are written on a survey and can be found in the administrative record.

Ms. Fragosa, who lives on Bond Ave., wrote that she "lived next door to a marijuana dispensary for five years and it was not a positive experience." She mentioned that parking "was severely impacted" and that "Strangers knocked on my door at all hours, thinking my home was the

dispensary.”

Litter was “a HUGE problem in my neighborhood with the increase in visitors,” Ms. Fragosa wrote. “The dispensary brought so many people to our street, and with it, their trash and messes.”

Ms. Fragosa also wrote the following: “After clients picked up their marijuana, they would smoke it in their cars - in full view of kids and families nearby. Very little concern was given to our neighborhood needs.”

This brings us to real estate values, which naturally concerns the entire neighborhood.

Edgar Lopez, a Santa Barbara native and home owner on Juana Maria Ave. (who never received a public notice regarding the Jan. 20 hearing), wrote the following in a Jan. 18 letter that has been included in the administrative record: “The real estate in my neighborhood will suffer a negative impact, making home sales harder and prompting an inevitable decline in home values if this proposed project goes through.”

Linda Vallejo, who does private investigation work (with investigating medical marijuana dispensaries being an area of interest) in the Los Angeles area, told me that property values could decline as much as 25 percent.

Kevin Lisota, a real-estate broker in Seattle told MarketWatch.com (Nov. 25, 2014 article included in the administrative record) that even having a dispensary nearby can be a negative.

“I don’t think it improves your home value to be located near recreational or medical dispensaries,” Mr. Lisota said. “You don’t need people coming three doors down to get their weed.”

Santos Guzman, the owner of Taqueria El Bajio Restaurant at 129 N. Milpas St., located across the street from the proposed dispensary, wrote on the included survey that the dispensary “will bring a negative impact for all business in the area.”

Mr. Guzman is also concerned about the lack of parking, as well as the proposed dispensary being too close to two elementary schools (Franklin and Adelante).

At the Jan. 20 hearing, I learned that there would be two security guards at the proposed dispensary - one inside the building and one outside the building. The guards, though, are not permitted to carry a gun so they are really more like bouncers than security guards.

Also, how are two security guards going to make sure 10 members per hour are going to make it safely back to their cars two to three blocks away while maintaining security at the proposed dispensary at the same time?

Before the hearing, I learned that the property will have bullet-proof glass. How many businesses have this concern? I don’t know of any business on the Eastside that has bullet-proof glass, not even the bank across the street has bullet-proof glass.

At the Jan. 20 hearing, I learned that the Architecture Board of Review (ABR) said that Mr. Howe’s plan was “perfectly OK” and that the ABR had “no suggestions or changes.” The ABR had a meeting on Nov. 16, 2015, which I attended and also spoke in opposition to the dispensary. The ABR said that they would keep me informed on the proposed 118 N. Milpas project, and I filled out the required form to keep me informed, but they never contacted me. As mentioned, I learned about the ABR’s decision at the Jan. 20 hearing - more than two months after their decision.

On Saturday, Jan. 23, I saw Sebastian Aldana, Jr. at Eller’s Donut House at 22 N. Milpas St., #B, as I quickly stopped in to buy a cup of coffee before heading off to a morning meeting in Hope Ranch.

I remembered that during the Jan. 20 hearing, it was mentioned that there were only nine surveys turned in. I asked Mr. Aldana about that because during the public comment section of the hearing he said that there were 19 surveys turned in. I remember meeting him a week before at Taqueria El Bajio on Milpas when he asked if I would like to fill out one of the surveys. I mentioned that I know my mother, who owns property on both Milpas and Juana Maria, would be interested and so he naturally gave me two surveys. My mother and I each filled them out and returned them to Mr. Aldana so I asked him at Eller's about the surveys and about the Jan. 14 town hall meeting that was canceled.

I met Mr. Aldana the week before because when he told me about the Jan. 14 town hall meeting I told him that I would mention it during the public comment segment of the Jan. 12 City Council Meeting.

At Eller's Donut House, Mr. Aldana told me that there were 19 surveys and he turned in 14 on Tuesday morning and five on Tuesday afternoon. He said that 18 surveys were against the dispensary and one was neutral and requesting more information. By 4 p.m. that Tuesday afternoon, the day before the hearing, Mr. Boughman had not even looked over the surveys and just attempted to scan them to Ms. Reardon.

Mr. Aldana said that the town hall meeting was canceled because Mr. Howe didn't supply the PDF flyer. Mr. Aldana said that Mr. Howe sent him an e-mail that "the city asked Ryan not to hand out any flyers or promotional material until he received the final permit."

When I asked Mr. Aldana if he knew which City employee told Mr. Howe that, he said that Mr. Howe told him it was Mr. Boughman who gave Mr. Howe that information.

Mr. Aldana told me that he met with Mr. Boughman on Friday, Jan. 22, and he asked Mr. Boughman about what Mr. Howe said. Mr. Boughman said that Mr. Howe was incorrect and that Mr. Boughman only mentioned not to do any improvements until Mr. Howe received the final permit.

It appears to me that Mr. Howe misled Mr. Aldana.

Mr. Aldana also mentioned to me that he asked Mr. Boughman about his crime report. Mr. Boughman replied that he e-mailed Captain Altavilla of the Santa Barbara Police Department and asked a simple question.

"Is the 100 block of North Milpas a high-crime area?" Mr. Boughman asked and Captain Altavilla replied, "No."

That was the report, according to Mr. Boughman.

During the Planning Commission Hearing on March 17, Commissioner Schwartz wanted to know how the police classifies what is or isn't a high crime area. Since no members of the police were in attendance at the hearing, that concern could not be addressed.

Since my family owns two properties within a 300-foot radius of the proposed dispensary, I asked Mr. Aldana if he had Xerox copies of the surveys and he said that he did. We agreed to meet at 8 p.m. on Jan. 25 at Carl's Jr. at 7 S. Milpas St. so he could show me the surveys. Copies of these surveys are in the administrative record.

Seeing that there really were 19 surveys - not the nine surveys that the City mentioned at the Jan. 20 hearing - it leads me to believe that Ms. Reardon and her staff did not read all 19 surveys.

Most people that work for the City, including two employees at the Jan. 20 hearing, have no idea

about what this neighborhood goes through on a daily basis. One mispronounced "Nopal" and both mistakenly said that Milpas was in the "industrial area." As someone who has known the Eastside for 44 years, I think I'm qualified to tell you that Milpas is a residential/business area. The industrial area begins - two long blocks away - on Quarantina St.

They also wouldn't want to deal with the daily problems caused by the homeless, who walk up and down Milpas from Path, formerly known as Casa Esperanza, add the Rescue Mission and all the other halfway houses in the neighborhood where individuals are trying to get their lives together. While we are a compassionate city, we can all agree that the homeless loiter and solicit for money - thus hurting local business. In fact, I took a picture of a homeless man sleeping on the front porch of 118 N. Milpas the day before I spoke about this property at the Nov. 16 ABR meeting.

That speaks to the environmental review.

Given there are no archeological digs, no wildlife habitats, no creeks or wetlands, no hillside or shoreline issues, the City didn't think there was much of a problem here. It appears no environmental review was done.

However, there will be processing of drugs here. Is that not worthy of consideration?

The dispensary is incompatible with this neighborhood. My evidence is in the administrative record.

When I show visitors the 100 block of North Milpas, they often say that the properties look like homes. I usually respond with "that's because they were all homes." City Zoning Ordinances changed that and began unraveling our community. Growing up, the only businesses that were on the block were the barber shop across the street from 135 N. Milpas, a beauty parlor a couple of doors down, and the bank down the block on the corner. This block of Milpas was never intended to be as commercial as it is today, which is why parking is a BIG problem.

In addition to the sober living facility next door, there are 1,000 kids who go to school in the area.

By the way, the 15301 exemption was inappropriate for CEQA compliance. There is a reasonable possibility that this project will have a significant effect on the environment because of traffic and parking impacts due to the unusual circumstances that was proposed on a site that cannot provide adequate onsite parking. It will also increase parking demand by a factor of TEN TIMES the existing use.

Therefore, the exception 15300.2(c) precludes the use of the exemption.

Milpas should have never even been considered as one of the five allowable areas for a medical marijuana dispensary. If the City is so intent on adding another medical marijuana dispensary (as one exists, to be operated by Mr. Allen, at 3617 State St.) then it should look at the West Pueblo Medical area (which is one of the allowable locations) and near medical offices. The West Pueblo Medical area, unlike Milpas, is also not near any schools.

When you make your decision, please realize that this is more than about building codes. Put yourself in the shoes of the people that live there and already face such concerns as crime and the homeless on a daily basis.

Now add the negative elements associated with a medical marijuana dispensary, if approved, would bring to this community.

Let's let common sense prevail by putting the concerns of the Milpas neighborhood first.

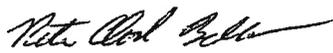
Remember that the Eastside will remember how you vote on this issue at the next election.

As mentioned, the West Pueblo Medical area, which is already an allowable area according to the City Ordinance, is a much better fit. It would already be near medical offices, our hospital and there are no schools nearby.

I trust that you will consider and agree with me, the neighborhood businesses and residents that would be affected negatively, that a medical marijuana dispensary does not, does not, belong at 118 N. Miipas St.

Please deny this permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Dal Bello", with a long horizontal flourish extending to the right.

Pete Dal Bello

RECEIVED
MAR 16 2016
CITY OF SANTA BARBARA
PLANNING DIVISION



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City of Santa Barbara
Have a Nice Day!

IN REGARDS TO MARCH 17TH PLANNING COMISSION APPEA
APPLICATION OF RYAN HOWE, 118 NORTH MILPAS STREET
GENERAL PLAN DESIGNATION: COMMERCIAL/MED HIGH E

Date: 3/21/2016 2:43:01PM
 Receipt: 2720160000000001834
 Case No.
 Description Amount
 BLD - Merchandise non
 taxable - 2000 @ \$1.0000 0.20
 Total: Cash \$0.20
 Amount Tendered: \$0.20

To: Planning Commission, Planning Department Personn

Re: 118 North Milpas March 17th, Planning Commission A
Marijuana Dispensary Permit

As Santa Barbara is a small community many people are
has not being forthright with information provided in the
be acting and operating in conflict with California State l
of the Santa Barbara Medical Marijuana Ordinance.

2 pages

Many people in the community have been approached by
for funds to invest in the Milpas Street project and offere
for profit business scheme. The applicant states in the ap
nonprofit organization, yet this is not the case and there
know unless this information was brought to light.

\$0.20

On top of that, some members of Santa Barbara communi
by the applicant to be used as surrogate applicants for the s available permits. One
of the people solicited has already come forward to a member of the Santa Barbara
City Council and has shared their first hand knowledge of this solicitation as they
thought this behavior was unethical and felt they should come forward to prevent
this from happening. They felt that the applicant had come from out of town to set
up shop and if done right with the proper ethics there would be no conflict but to go
after two permits in a deceptive and for profit scheme rubbed this person the wrong
way.

In addition at least one grow location that has been sighted and used in the City's
application is not valid. Not only has the landowner of the address used in the
application refused to work with the applicant, they to were solicited for money to
invest in the Milpas enterprise. They are willing to come forward as well.

Some of the people who were solicited for money and who were approached to be
the surrogates for the Milpas Street applicant's second location are willing to discuss
what they know with the City Attorney's office and/or members of the Planning
Commission.

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MAR 16 2016
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AS A FORMAL SUBMITAL DOCUMENT**

**IN REGARDS TO MARCH 17TH PLANNING COMMISSION APPEAL HEARING OF THE
APPLICATION OF RYAN HOWE, 118 NORTH MILPAS STREET, COMMERCIAL ZONE,
GENERAL PLAN DESIGNATION: COMMERCIAL/MED HIGH RESIDENTIAL**

To: Planning Commission, Planning Department Personnel and City Attorney's office

Re: 118 North Milpas March 17th, Planning Commission Appeal Notice for Medical
Marijuana Dispensary Permit

As Santa Barbara is a small community many people are aware that the applicant has not being forthright with information provided in the City's application and will be acting and operating in conflict with California State law and the spirit and intent of the Santa Barbara Medical Marijuana Ordinance.

Many people in the community have been approached by the applicant and solicited for funds to invest in the Milpas Street project and offered high rates of returns in a for profit business scheme. The applicant states in the application that it will be a nonprofit organization, yet this is not the case and there was no way for the City to know unless this information was brought to light.

On top of that, some members of Santa Barbara community have been approached by the applicant to be used as surrogate applicants for the 3rd available permit. One of the people solicited has already come forward to a member of the Santa Barbara City Council and has shared their first hand knowledge of this solicitation as they thought this behavior was unethical and felt they should come forward to prevent this from happening. They felt that the applicant had come from out of town to set up shop and if done right with the proper ethics there would be no conflict but to go after two permits in a deceptive and for profit scheme rubbed this person the wrong way.

In addition at least one grow location that has been sighted and used in the City's application is not valid. Not only has the landowner of the address used in the application refused to work with the applicant, they to were solicited for money to invest in the Milpas enterprise. They are willing to come forward as well.

Some of the people who were solicited for money and who were approached to be the surrogates for the Milpas Street applicant's second location are willing to discuss what they know with the City Attorney's office and/or members of the Planning Commission.

This is not a question of supporting medical cannabis in the community or not, it is a question of ethics and misrepresentation to the Planning Department of the true intent of the applicant.

We recommend a temporary suspension of the permit so that the City Attorney's office can hear from those people willing to come forward with their first hand knowledge of the facts. We recommend a review of the facts as laid out so that the City Attorney's office can properly advise the Planning Department and Commission on how to proceed. As stated earlier at least one member of the Santa Barbara City Council has knowledge of the above information and more. They have also met with the people who are willing to testify to the above information.

If the City is to give a permit to operate a medical marijuana dispensary at very least it should be conducted ethically and in the spirit of the ordinance as well as abiding by California State law.

cc: Ariel Calonne
cc: Scott Vincent
cc: June Belletto de Pujo
cc: John Campanella
cc: Jay Higgins
cc: Michael Jordan
cc: Sheila Lodge
cc: Deborah L. Schwartz
cc: Addison Thompson
cc: Susan Reardon
cc: Tony Baughman

Pete Dal Bello

16 Alameda Padre Serra Rd.

Santa Barbara, CA 93103-2804

(805) 966 – 5400

petedalbello@cox.net

March 14, 2016

Dear Planning Commission Secretary,

This letter is in regards to the proposed Medical Marijuana Storefront Collective Dispensary at 118 North Milpas Street (017-091-016). The Planning Commission failed to look at the real data in this case and failed to properly conduct an environmental review because it was deemed that it “did not apply”. This is incorrect for several reasons.

First, the Planning Commission deems that this is a typical retail space. It is not. Studies of such businesses show that dispensaries generate TEN TIMES the traffic and parking impacts of a similarly sized retail pharmacy. Because it will be more intensive by orders of magnitude, the assumption of continuation of retail use does not apply. In fact, this is an intensification of use. Staff Hearing Officer Susan Reardon, at the January 20th Planning Department hearing on this proposed Dispensary, recognized this. She made the following statement, “This is a different business than the typical operation.”

Second, this does not fit the description of “nonconforming uses” because the Santa Barbara Municipal Code (28.89.030.E) states that “use of a conforming or nonconforming building may be maintained and continued, provided there is ... no increase in the intensity of such nonconforming use ... For the purposes of this section, an increase in intensity of use shall include but not be limited to the following: An increase in the number of required parking spaces for the use, or increase in the amount of traffic ...” Given that planning department staff completely missed traffic and parking issues, and given that the data demonstrates high intensity use, we urge you to insist that the applicant at least complete an Environmental Impact Report (EIR). Moreover, it is surprising that staff missed this critical impact on this neighborhood.

Third, the staff’s finding (28.80.070.B.8) that all “reasonable measure have been incorporated into the Dispensary security plan or consistently taken to successfully control ... traffic control problems ...or creation of a public or private nuisance, or interference of the operation of another business”, cannot be made. The city has no evidence to make this finding and therefore cannot approve the permit.

New Trip Generation Data – Marijuana Dispensaries Drive 10 Times More Traffic Than Specialty Retail Stores

Per square foot (KSF), Marijuana Dispensaries are proving to be one of the biggest retail traffic generators in the United States. The tables below show the traffic rates at marijuana dispensaries as compared to pharmacies and other small size retail operations as reported in the Institute of Transportation Engineers' (ITE) *Trip Generation Manual, 9th Edition* (<http://www.ite.org/tripgeneration/triprpts.asp>).

Weekday	Rate - Trips Per KSF			
	Marijuana Dispensary	ITE 880: Pharmacy w/o Drive Thru ¹	ITE 881: Pharmacy w/ Drive Thru ¹	ITE 826: Specialty Retail ¹
Daily	402.27	90.06	96.91	44.32
AM Generator	37.51	7.71	8.36	6.84
AM Adjacent Street (7-9am)	16.86	2.94	3.45	n/a
PM Generator	65.61	11.07	9.72	5.02
PM Adjacent Street (4-6pm)	54.64	8.40	9.91	2.71

From the Institute of Transportation Engineers' *Trip Generation Manual, 9th Edition*.

Saturday	Rate - Trips Per KSF			
	Marijuana Dispensary	ITE 880: Pharmacy w/o Drive Thru ¹	ITE 881: Pharmacy w/ Drive Thru ¹	ITE 826: Specialty Retail ¹
Daily	418.25	n/a	n/a	42.04
Peak Generator	58.28	10.68	8.20	n/a
AM Adjacent Street (7-9am)	9.02	n/a	n/a	n/a
PM Adjacent Street (4-6pm)	55.92	n/a	n/a	n/a

From the Institute of Transportation Engineers' *Trip Generation Manual, 9th Edition*.

<http://www.mikeontraffic.com/wp-content/uploads/2015/11/Marijuana-Dispensary-Trips.jpg> How do we know marijuana dispensaries are generating about 10x more traffic than a typical retail store and 5x more than a pharmacy?

The Spack Consulting team partnered with [Melanie Banfield](mailto:melanie@ridgeview-engineering.com), owner and president of [Ridgeview Engineering Consultants, LLC](http://www.ridgeview-engineering.com) in Morrison, Colorado to record traffic videos using [CountingCars.com](http://bit.ly/CountingCars.com)'s (<http://bit.ly/CountingCars.com>) [COUNTcam](http://bit.ly/COUNTcam) (<http://bit.ly/COUNTcam>) products at the driveways of four dispensaries in the Denver, Colorado area. Traffic video was collected for three days at each of the sites and then we reviewed the video and counted the traffic at these dispensaries using our [COUNTcloud](http://bit.ly/COUNTcloud) (<http://bit.ly/COUNTcloud>) service. You can get the full data set at www.TripGeneration.org (<http://bit.ly/TripGen>).

[Get Trip Generation Data](http://www.mikeontraffic.com)

<http://bit.ly/TripGen>

Being able to accurately calculate the number of trips travelers make to specific destinations is the lifeblood of a transportation engineer. While the ITE Trip Generation Manual is the "go to" source for traffic engineers, the data collected and distributed in the manual has some limitations – including the age of data and limited or no data available on some land uses such as marijuana dispensaries.

ITE recommends in their Trip Generation Handbook that engineers collect current, localized trip generation data to use in their analysis. At Spack Consulting we feel strongly that not only should engineers collect localized data for use in their specific project, but also openly, and freely share that data to benefit everyone. This is why we created [TripGeneration.org](http://www.TripGeneration.org) (<http://bit.ly/TripGen>) – a free website with more than 4,080+ hours of professionally collected traffic data for popular land uses.

http://www.mikeontraffic.com/wp-content/uploads/2015/11/vehicle_graph_r3.jpg

Currently four states – Alaska, Colorado, Oregon, and Washington – as well as in the District of Columbia have legalized the

Average Vehicles Per Day

By The Land Counts For It People

201.1



recreational use of marijuana. But 23 states have legalized marijuana for medicinal purposes which opens the door to expanding its use for recreational purposes, creating a potential boom in the development of dispensaries. Thus the need to data on specialty land uses like marijuana dispensaries.



One outstanding question is what is driving the high trip generation numbers. The high trip generation rates for marijuana dispensaries may be due to their newness. Krispy Kreme stores generated tremendous amounts of traffic when they first opened in Minnesota. Traffic died down after the newness wore off to the point where the Krispy Kreme stores are all out of business in Minnesota fifteen years later. We'll monitor the traffic generated by marijuana dispensaries to see if their trip generation rates decrease. We'll also work to add data from dispensaries outside of Colorado to make sure there isn't a location bias in the data.

If you'd like to partner with us to collect trip generation in your area, we have a limited pool of COUNTcams video collection products that we're lending for free to collect trip generation data around the country. Leave your contact information in the comments section if you'd be interested in the lending program or contact [Nate Hood](mailto:nhood@countingcars.com) at CountingCars.com.

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5 ways marijuana legalization affects real estate

By Amy Hoak

Published: Nov 25, 2014 9:20 a.m. ET



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As marijuana becomes legal in more parts of the country, those in the real-estate industry are finding the new laws have implications for properties of every variety, from residential to industrial to retail.

Some of the issues pertain to the growing and processing of the plants; others pertain to the use of it in a rental property or one governed by a homeowner's association. There are also some things that home buyers need to be aware of, to ensure they know what they're purchasing.

At the same time, some real-estate professionals are using this as a business opportunity. For example, the 420MLS is a website where people can find and post marijuana business opportunities, commercial space for future "cannabusinesses," and marijuana-friendly living spaces. Another listing site for Colorado is PotProp.com.

Twenty-three states and the District of Columbia have passed laws that permit the use of prescribed medical marijuana and three states permit recreational use, according to the National Conference of State Legislatures. But federal law prohibits use, possession or sale of all marijuana. The contradiction can make it a challenge for people to run a legal pot business.

The following are five ways real estate is affected by the legalization of marijuana.

Increased industrial property explosions

One of the more popular marijuana products is hash oil, a more concentrated form of THC that you can ingest by putting it under your tongue or sprinkling it on food. Problem is, the process to make this oil involves butane (also required to make meth), and that is a big reason why explosions can happen during production, said Megan Booth, senior policy representative for the National Association of Realtors. In states including Colorado, Washington and California, property explosions have gone up dramatically, she said.

For that reason, if you're an owner of an industrial property, you'd likely be extra careful before leasing to someone who intends to manufacture hash oil on the premises, Booth said.

Danger of civil asset forfeiture

Whether you're the owner of a shopping center where a dispensary wants to open, you own an industrial property where marijuana could be grown or you're a landlord renting an apartment to someone who uses or grows marijuana, you likely have at least some fear of civil asset forfeiture. That's where the federal government can seize your property if it was used to conduct illegal activity (that was known or should have been known to the owner), or was purchased with the proceeds of an illegal activity, Booth said.

Since marijuana is illegal under federal law, property owners may forbid the growing or use of marijuana, just to steer clear of the possibility they'd lose their property because of it.

"Essentially, from the perspective of property managers, the challenge we have is trying to come up with the best practices for operating properties in an environment where we don't have clarity about the enforcement or the interpretation of the laws," said Fred Prassas, past president of the Institute of Real Estate Management and an assistant professor at the University of Wisconsin-Stout.

Harder for marijuana-related businesses to get mortgages

Banks are federally chartered, and because marijuana is illegal on a federal level, many lenders have no interest in approving a mortgage for someone interested in starting up some sort of marijuana-related business.

"It's hard for these businesses to get loans," Booth said. That's why financing for these businesses is often done through private investors, she added.

Avoid these Thanksgiving dangers for your dog

(3:25)

The Thanksgiving holiday has several hidden dangers for the family dog. Veterinary dentist Dr. Jan Bellows discusses what to avoid to keep your pet safe.

Keeping smells and mold out

For landlords who have a non-smoking policy on their property, it's likely not difficult to keep people from smoking pot (enforcing the rules is another story). But if people are vaporizing their marijuana, it often comes in sweet flavors like strawberry—and can soak through the drywall, and be hard to remove, Booth said.

Growing marijuana requires lots of water, which can contribute to mold issues—becoming a worry for landlords, homeowners associations and individual home buyers deciding whether to make a purchase.

Home buyers should search for mold problems in a home suspected to be a grow house; sometimes, odd wiring systems used for lighting the plants and strange ventilation systems could be tip-offs, Booth said. While growing marijuana is permitted in some places, there are often limits and restrictions.

Grow houses, dispensaries have stigmas

Even when it's legal by state law, there's often a stigma associated with houses where pot was grown.

"I showed a house that was in a beautiful location on the Puget Sound...that had been used for a grow operation," said Kevin Lisota, a real-estate broker in Seattle. "The plant just permeated everything in the house and it sat on the market for a very long time, despite its sweet location," he said.

There's certainly growing acceptance of marijuana use: Fifty-two percent of Americans said the use of marijuana should be legal in 2014, compared with 12% who said the same in 1969, according to the Pew Research Center. But that doesn't necessarily mean that people want it in their neighborhood, Lisota said.

Even having a dispensary nearby can be a negative, Lisota said. "I don't think it improves your home value to be located near recreational or medical dispensaries, in the same way you wouldn't want to be close to a liquor store," he said. "You don't need people coming three doors down to get their weed," he said.

More from MarketWatch

Watch

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Pete Dal Bello

16 Alameda Padre Serra Rd.

Santa Barbara, CA 93103-2804

(805) 966 – 5400

petedalbello@cox.net

March 14, 2016

Dear Planning Commission Secretary,

Please accept the following evidence into the public record regarding the proposed Medical Marijuana Storefront Collective Dispensary at 118 North Milpas Street (017-091-016). This dispensary is likely to have a “potentially adverse effect on the health, peace, and safety of persons living or working in the surrounding area, overly burden[ing] [this] specific neighborhood, and contributing to a public nuisance.” The applicant’s proposed plan will have a deleterious effect on the youth of this community. Furthermore, it is incompatible with our neighborhood. Research shows that we have close to 1000 children walking to school in this area. Normalizing drug use early in life, as this dispensary is apt to do, causes an increase of drug usage at earlier ages. Furthermore, 95% of the residents in a 300 square foot radius of the proposed dispensary are against it. Please refer to the attached exhibit that further details the schools and library that would be impacted by this “business”.

Thank you for your consideration,



Pete Dal Bello

INCOMPATIBILITY

Franklin Elementary

- 570 Students
- 1500 feet
- K-6

- Close to 1000 children walking to school in the area

Adelante Charter School

- 270 Students
- 1500 feet
- K-6

- “Normalizing” drug use early in life
- 20% more young people using drugs when socially sanctioned

Franklin Children’s Center

- 152 Students
- 1056 feet
- Preschool

- 95% of residents opposed

Eastside Library

- 2000 students served in 2015
- 2100 feet
- Juveniles & Youth

- 5% want “more information”

Pete Dal Bello

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March 14, 2016

Dear Planning Commission Secretary,

Please accept the following crime related issues into the public record regarding the proposed Medical Marijuana Storefront Collective Dispensary at 118 North Milpas Street (017-091-016). This dispensary is likely to have a “potentially adverse effect on the health, peace, and safety of persons living or working in the surrounding area, overly burden[ing] [this] specific neighborhood, and contributing to a public nuisance.” The applicant’s proposed plan does not “reduce potential crime related problems”, in fact, neighbors are legitimately concerned that it will exacerbate the existing problems. Please accept the 911 call records for 118 North Milpas and 114 North Milpas into the public record illustrating the high risk or crime in this particular area.

Thank you for your consideration,



Pete Dal Bello

SANTA BARBARA PD CAD Call Print Synopsis

Search Criteria: which_cad='p' and address matches '118 N MILPAS*'

Number of Records Returned: 50

Call Date	Time	Call Number	Call Type Original/Final	Location	Founded	Report #	Cleared By
Jan-25-2008	05:10:37	5645	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2008-5645	UNFOUNDED
Jun-23-2008	19:34:48	44070	CHECK THE WELFARE	118 N MILPAS ST SANTA BARBARA	YES	2008-44070	REPORT
Aug-07-2008	13:06:37	57163	VANDALISM INVESTIGATION	118 N MILPAS ST SANTA BARBARA	YES	2008-57163	AC returned to owner UNFOUNDED
Sep-11-2008	03:51:14	66351	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	YES	2008-66351	UNFOUNDED
Sep-11-2008	06:15:39	66358	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2008-66358	UNFOUNDED
Oct-24-2008	19:16:34	77440	PEDESTRIAN CONTACT	118 N MILPAS ST SANTA BARBARA	YES	2008-77440	CITATION
Jan-11-2009	00:48:36	2510	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	YES	2009-2510	UNFOUNDED
Mar-04-2009	02:50:43	15496	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2009-15496	UNFOUNDED
Jul-06-2009	22:20:56	48402	CHECK THE WELFARE	118 N MILPAS ST SANTA BARBARA	YES	2009-48402	GOA
Aug-16-2009	18:19:42	60615	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	YES	2009-60615	UNFOUNDED
Nov-30-2009	11:23:03	88927	CHECK THE WELFARE	118 N MILPAS ST SANTA BARBARA	YES	2009-88927	WARNING
Dec-12-2009	22:42:32	91932	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	YES	2009-91932	NO ACTION/PUBLIC
Apr-07-2010	13:43:20	24444	ROBBERY JUST OCCURRED	118 N MILPAS ST SANTA BARBARA	YES	2010-24444	ASSIST REPORT
Apr-07-2010	13:51:42	24447	CRIME SCENE INVESTIGATION FOLLOW UP	118 N MILPAS ST SANTA BARBARA	YES	2010-24447	REPORT
Apr-08-2010	18:59:46	24770	FOLLOW UP	118 N MILPAS ST SANTA BARBARA	YES	2010-24770	NO ACTION/PUBLIC
May-10-2010	09:28:37	32652	SUSPICIOUS SUBJECT	118 N MILPAS ST SANTA BARBARA	YES	2010-32652	ASSIST NO ACTION/PUBLIC
May-20-2010	22:17:28	35277	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2010-35277	UNFOUNDED
Nov-09-2010	12:48:35	81800	SUSPICIOUS VEHICLE	118 N MILPAS ST SANTA BARBARA	YES	2010-81800	UNFOUNDED
Nov-19-2010	19:46:03	84624	SUSPICIOUS VEHICLE	118 N MILPAS ST SANTA BARBARA	YES	2010-84624	UNFOUNDED
Nov-30-2010	17:28:09	87292	FOLLOW UP CASE	118 N MILPAS ST SANTA BARBARA	YES	2010-87292	CANCELLED
Nov-30-2010	17:54:31	87303	FOLLOW UP CASE	118 N MILPAS ST SANTA BARBARA	YES	2010-87303	FOLLOW UP
Jan-15-2011	16:09:08	3503	TRAFFIC STOP	118 N MILPAS ST SANTA BARBARA	YES	2011-3503	CITATION
Feb-04-2011	11:15:50	8863	TRANSPORTATION	118 N MILPAS ST SANTA BARBARA	YES	2011-8863	REPORT
Feb-11-2011	08:11:18	10587	ALARM-AUDIBLE ALARM	118 N MILPAS ST SANTA BARBARA	NO	2011-10587	UNFOUNDED
Feb-12-2011	08:13:18	10972	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2011-10972	CANCELLED
May-31-2012	12:13:04	37950	PARKING VIOLATION	118 N MILPAS ST SANTA BARBARA	YES	2012-37950	GOA
Jul-13-2012	10:58:34	50257	DISTURBANCE-JUST OCCURRED	118 N MILPAS ST SANTA BARBARA	YES	2012-50257	NO ACTION/PUBLIC
Aug-20-2012	12:47:55	61463	911 CELL OR LANDLINE HANG UP	118 N MILPAS ST SANTA BARBARA	NO	2012-61463	ASSIST CANCELLED

SANTA BARBARA PD CAD Call Print Synopsis

Call Date	Time	Call Number	Call Type Original/Final	Location	Founded	Report #	Cleared By
Sep-07-2012	14:55:18	66280	SUSPICIOUS SUBJECT	118 N MILPAS ST SANTA BARBARA	YES	2012-66280	MISDEMEANOR CITE
Sep-09-2012	22:00:32	66845	SUSPICIOUS CIRCUMSTANCES	118 N MILPAS ST SANTA BARBARA	YES	2012-66845	REPORT
Sep-09-2012	22:12:52	66847	CRIME SCENE INVESTIGATION	118 N MILPAS ST SANTA BARBARA	YES	2012-66847	CSI
Sep-09-2012	23:23:19	66870	CRIME SCENE INVESTIGATION	118 N MILPAS ST SANTA BARBARA	YES	2012-66870	CSI
Oct-27-2012	22:44:29	79747	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2012-79747	UNFOUNDED
Oct-30-2012	23:37:17	80532	PREMISE CHECK	118 N MILPAS ST SANTA BARBARA	YES	2012-80532	PREM CHECK
Nov-09-2012	08:56:33	83048	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	YES	2012-83048	UNFOUNDED
Jan-02-2013	19:30:12	427	VEHICLE CONTACT	118 N MILPAS ST SANTA BARBARA	YES	2013-427	PARKING CITE
Jan-11-2013	18:03:06	2619	SUSPICIOUS CIRCS INVESTIGATION	118 N MILPAS ST SANTA BARBARA	YES	2013-2619	REPORT
Mar-24-2013	19:14:34	21673	TRAFFIC STOP	118 N MILPAS ST[DRIVEWAY MJ STEREO] SANTA BARBARA	YES	2013-21673	CITATION
Apr-09-2013	04:04:18	25582	ALARM-AUDIBLE BURGLARY ALARM	118 N MILPAS ST SANTA BARBARA	NO	2013-25582	UNFOUNDED
Jun-08-2013	19:02:48	41489	DISTURBANCE-IN PROGRESS	118 N MILPAS ST SANTA BARBARA	YES	2013-41489	GOA
Jun-24-2013	11:44:01	45347	ASSIST FIRE DEPARTMENT	118 N MILPAS ST SANTA BARBARA	YES	2013-45347	OTHER AGENCY
Jun-30-2013	08:52:29	46802	ALARM-AUDIBLE ALARM	118 N MILPAS ST SANTA BARBARA	YES	2013-46802	REFERRAL F/STREET CHECK
Jul-22-2013	11:32:02	52547	ALARM-AUDIBLE ALARM	118 N MILPAS ST SANTA BARBARA	NO	2013-52547	NO ACTION/PUBLIC ASSIST
Aug-10-2013	16:38:52	58941	ASSAULT JUST OCCURRED	118 N MILPAS ST SANTA BARBARA	YES	2013-58941	CITATION
Aug-26-2013	21:07:37	63149	PARKING VIOLATION	118 N MILPAS ST SANTA BARBARA	YES	2013-63149	PARKING CITE
Sep-12-2013	14:58:59	67701	PEDESTRIAN CONTACT	118 N MILPAS ST SANTA BARBARA	YES	2013-67701	ARREST
Nov-25-2013	13:35:48	86599	FOLLOW UP	118 N MILPAS ST SANTA BARBARA	YES	2013-86599	FOLLOW UP
Jan-06-2014	12:05:56	1253	TA-UNKNOWN INJURY	118 N MILPAS ST SANTA BARBARA	YES	2014-1253	REPORT
Jan-06-2014	12:16:17	1256	CRIME SCENE INVESTIGATION	118 N MILPAS ST SANTA BARBARA	YES	2014-1256	CSI
Jan-21-2015	12:59:25	4832	BURGLARY- INVESTIGATION	118 N MILPAS ST SANTA BARBARA	YES	2015-4832	REPORT



SANTA BARBARA PD CAD Call Print Synopsis

Search Criteria: which_cad='P' and address='114 N MILPAS ST'

Number of Records Returned: 64

Call Date	Time	Call Number	Call Type Original/Final	Location	Founded	Report #	Cleared By
Dec-21-2007	01:51:44	44284	WEAPON BRANDISHING JUST OCCURR	114 N MILPAS ST SANTA BARBARA	YES	2007-44284	UNFOUNDED
Dec-23-2007	03:24:07	44717	ASSAULT JUST OCCURRED	114 N MILPAS ST SANTA BARBARA	NO	2007-44717	UNABLE TO LOCATE
Dec-26-2007	04:01:38	45178	DISTURBANCE-LOUD MUSIC	114 N MILPAS ST SANTA BARBARA	YES	2007-45178	UNFOUNDED
Feb-17-2008	01:50:42	11404	BURGLARY- INVESTIGATION	114 N MILPAS ST SANTA BARBARA	YES	2008-11404	UNABLE TO LOCATE
Mar-29-2008	01:45:28	21820	DISTURBANCE-IN PROGRESS	114 N MILPAS ST SANTA BARBARA	YES	2008-21820	REPORT
Mar-29-2008	01:49:36	21822	SUICIDAL SUBJECT	114 N MILPAS ST SANTA BARBARA	YES	2008-21822	ARREST
Mar-29-2008	07:43:01	21840	DISTURBANCE-IN PROGRESS	114 N MILPAS ST SANTA BARBARA	YES	2008-21840	NO
Apr-27-2008	21:19:00	29327	AMBULANCE FOLLOW UP	114 N MILPAS ST SANTA BARBARA	NO	2008-29327	ACTION/PUBLIC
Jul-16-2008	17:46:02	50149	DRINKING IN PUBLIC	114 N MILPAS ST SANTA BARBARA	YES	2008-50149	ASSIST
Sep-06-2009	08:50:17	66475	ASSIST OUTSIDE DEPARTMENT	114 N MILPAS ST SANTA BARBARA	YES	2009-66475	CANCELLED
Nov-21-2009	21:46:47	88378	DISTURBANCE-JUST OCCURRED	114 N MILPAS ST SANTA BARBARA	YES	2009-88378	NO
May-19-2010	16:45:02	34900	ATTEMPT TO LOCATE	114 N MILPAS ST SANTA BARBARA	YES	2010-34900	ACTION/PUBLIC
Oct-15-2010	19:16:57	75177	SEARCH WARRANT	114 N MILPAS ST SANTA BARBARA	YES	2010-75177	ASSIST
Oct-30-2010	14:53:54	79074	DISTURBANCE-DOMESTIC IN PROGRE	114 N MILPAS ST SANTA BARBARA	YES	2010-79074	ARREST
Oct-30-2010	20:19:23	79142	FOLLOW UP	114 N MILPAS ST SANTA BARBARA	YES	2010-79142	UNABLE TO LOCATE
Dec-06-2010	18:40:39	88919	AGGRESSIVE ANIMAL	114 N MILPAS ST SANTA BARBARA	YES	2010-88919	FOLLOW UP
Apr-02-2011	20:08:00	23447	911 CELL OR LANDLINE HANG UP	114 N MILPAS ST SANTA BARBARA	YES	2011-23447	AC impound
Oct-14-2011	18:35:09	73179	TA- NON INJURY	114 N MILPAS ST SANTA BARBARA	YES	2011-73179	F/STREET
Aug-26-2012	11:33:11	62997	BURGLARY- INVESTIGATION	114 N MILPAS ST SANTA BARBARA	YES	2011-62997	CHECK
Aug-26-2012	13:16:59	63015	CRIME SCENE INVESTIGATION	114 N MILPAS ST SANTA BARBARA	YES	2012-62997	REPORT
Aug-30-2012	10:13:31	64006	PREMISE CHECK	114 N MILPAS ST SANTA BARBARA	YES	2012-63015	CS!
Sep-05-2012	13:02:41	65708	PREMISE CHECK	114 N MILPAS ST SANTA BARBARA	YES	2012-64006	PREM CHECK
Oct-01-2012	22:21:01	73020	CHECK THE WELFARE	2 - 114 N MILPAS ST SANTA BARBARA	NO	2012-65708	PREM CHECK
Oct-01-2012	22:21:01	73021	CHECK THE WELFARE	2 - 114 N MILPAS ST SANTA BARBARA	YES	2012-73020	CANCELLED
Oct-24-2012	20:46:59	78927	VEHICLE BLOCKING A DRIVEWAY	114 N MILPAS ST SANTA BARBARA	YES	2012-73021	REPORT
Oct-25-2012	08:23:28	78992	TRNSPORATION	114 N MILPAS ST SANTA BARBARA	YES	2012-78927	CITATION
Oct-30-2012	19:38:38	80491	MEDICAL EMERGENCY WIPD RESPON	114 N MILPAS ST SANTA BARBARA	YES	2012-78992	ADMIN TIME
Dec-09-2012	14:53:42	90214	DISTURBANCE-IN PROGRESS	114 N MILPAS ST SANTA BARBARA	YES	2012-80491	OTHER
Jan-08-2013	18:55:56	1832	PREMISE CHECK	114 N MILPAS ST SANTA BARBARA	YES	2012-90214	AGENCY
					YES	2013-1832	REFERRAL
							GOA
							PREM CHECK



SANTA BARBARA PD CAD Call Print Synopsis

Call Date	Time	Call Number	Call Type Original/Final	Location	Founded	Report #	Cleared By
Jun-10-2014	14:20:59	40837	DISTURBANCE-IN PROGRESS	114 N MILPAS ST SANTA BARBARA	NO	2014-40837	CANCELLED
Aug-28-2014	10:01:01	62701	PEDESTRIAN CONTACT	114 N MILPAS ST SANTA BARBARA	YES	2014-62701	MISDEMEANOR CITE
May-17-2015	08:30:31	34558	DISTURBANCE-UNKNOWN TYPE IP	114 N MILPAS ST SANTA BARBARA	NO	2015-34558	CANCELLED
Jul-01-2015	12:47:38	45673	PETTY THEFT INVESTIGATION	114 N MILPAS ST SANTA BARBARA	YES	2015-45673	REPORT
Jul-06-2015	14:21:31	47139	SUSPICIOUS CIRCS INVESTIGATION	114 N MILPAS ST SANTA BARBARA	YES	2015-47139	REPORT
Jul-07-2015	20:59:08	47425	FOLLOW UP CASE	114 N MILPAS ST SANTA BARBARA	YES	2015-47425	REPORT
Jul-08-2015	15:13:34	47593	PREMISE CHECK	114 N MILPAS ST SANTA BARBARA	YES	2015-47593	REPORT
Jul-21-2015	11:08:52	50816	ATTEMPT TO LOCATE	114 N MILPAS ST SANTA BARBARA	YES	2015-50816	REPORT

Irene B. Dal Bello
16 Alameda Padre Serra Rd.
Santa Barbara, CA 93103-2804
(805) 966-5400

March 14, 2016

Dear Planning Commission Secretary,

My name is Irene Dal Bello. I am a Santa Barbara native and I am in partnerships as a property owner at both 135 N. Milpas St. and 132 Juana Maria Ave. Both of these properties are located within 300 feet of the proposed medical marijuana dispensary at 118 N. Milpas St.

In fact, I grew up in the Juana Maria Ave. home and like my son, Pete Dal Bello, I've known the Eastside for my entire life.

While I am a property owner, it angers me that the City never notified me about the proposed dispensary which could lower the values of each of these properties by as much as 25%. Then again, when a neighbor (who works for the Planning Department) and whose property is next to mine on Overlook Lane, decided to add a second story to her home, I was (convenient for her) never notified. It is interesting that I was notified of her second project - as Pete complained.

If it wasn't for Pete, who is running for city council in 2017, I would have no knowledge of the proposed dispensary at 118 N. Milpas St.

I only knew about the Nov. 16, 2015, Architectural Board of Review (ABR) hearing and the Jan. 20 Staff Hearing Officer hearing regarding 118 N. Milpas St. because Pete spoke against the proposed dispensary at both hearings.

I did receive the notice regarding the March 17 Planning Commission hearing, but 118 N. Milpas St. is only coming before the commission because Pete filed an appeal of the Staff Hearing Officer's approval.

As a former City employee, I'm very disappointed and angry that the City has a history of failing to inform me about developments of neighboring properties. When I worked in the City Treasurer's and Tax Collector's Office (now located in the County Administration Building), we took pride in our work and remembered that we worked for the taxpayer.

I'm sure that you would also be angry if you were in my shoes.

The Eastside means a great deal to me and I've seen it go downhill over the years - gangs, homeless, the five medical marijuana dispensaries that the feds shut down (three were on Milpas and the City wants to allow another one?), etc.

Property owners, like myself, as well as tenants in the area are tired of the Eastside being a dumping ground for so much negative behavior. My sons are adults, but I feel for the young parents with small children. My late husband, who grew up at 135 N. Milpas St., and I never had to worry about our sons being exposed to medical marijuana dispensaries.

How much more can this neighborhood take?

I'm insulted that at the Jan. 20 Staff Hearing Officer hearing, two City employees mispronounced

the word "Nopal" and they said that Milpas is in the industrial area. Check the maps in the Planning/Zoning Department and you will see that Milpas is not in the industrial area.

It is also disgusting that the name of the property owner of 118 N. Milpas St. is Merry Milpas, LLC. According to Cambridge Dictionaries Online, "merry" is an adjective meaning happy or showing enjoyment.

Believe me, nobody on Milpas is happy about the possibility of having another marijuana dispensary in the neighborhood.

Where are the people purchasing medical marijuana going to park?

Juana Maria Ave., which is residential only and one-block long, is constantly crowded. It is crowded because there is no timed parking on Juana Maria like there is on Milpas.

My partners with the 135 N. Milpas St. property lease to a barbershop (Los Amigos Barbers). Parking is already a problem and there is enough traffic and congestion. A medical marijuana dispensary on this block would hurt their business.

This dispensary would also be near our public schools and the Eastside Library. We don't need our young people exposed to drugs and/or an increased risk of crime.

As a former employee in the City's Treasurer and Tax Collector's Office, it concerns me that these dispensaries are almost always cash-only businesses. How will we know if their books are accurate and the correct amount of taxes are paid?

I urgently request that the Planning Commission deny the permit for this proposed medical marijuana dispensary at 118 N. Milpas St.

Sincerely,



Irene Dal Bello

March 28, 2016

Page 1 of 5

Mayor Helene Schneider & City Council Members
c/o City Clerk's Office
735 Anacapa Street
Santa Barbara, CA 93101-2203

Hand Delivered

RE: Appeal of Planning Commission's March 17th Action to Deny January 28, 2016 Appeal of Staff Hearing Officer Approval for Medical Marijuana Storefront Collective Dispensary 118 North Milpas Street (Case No. MST2015-00319)

Madame Mayor and Councilmembers:

Vanguard Planning Inc. represents Natasha Todorovic and Santos Guzman (hereinafter "Appellants"). Ms. Todorovic is a resident at 920 East Gutierrez Street, approximately two blocks northeast of the above referenced property (the "Subject Property"). Mr. Guzman owns and operates Taqueria El Bajio located at 129 North Milpas Street, across the street from the Subject Property.

This is an Appeal to the City Council (the "Appeal") of the Planning Commission (the "PC") action on March 17, 2016 (the "March 17th Hearing") to deny the January 28, 2016 appeal (the "Original Appeal") of a Medical Marijuana Storefront Collective Dispensary (the "Project") filed by Peter Dal Bello. This Appeal is made pursuant to Santa Barbara Municipal Code (the "SBMC") Sections 28.80.110.A and 1.30.050.

1.0 SUMMARY OF BASIS FOR APPEAL

1.1 City Cannot Make Required Findings for Approval

The City cannot approve the Project unless it can make all of the required findings set forth in SBMC Section 28.80.070.B. The City's findings must be supported by evidence presented in the administrative record. Evidence was presented at the March 17th Hearing which supports Appellant's argument that at least two of the required findings cannot be made. The adopted findings do not address this evidence, and no *other* discussion is provided as a rationale or basis to indicate how the PC was able to determine that the Project addresses and satisfies all of the criteria identified in SBMC Section 28.80.070.B. This is discussed in Section 2.0 below.

1.2 Environmental Review is Inadequate

Appellants assert that the City did not correctly comply with the California Environmental Quality Act (hereinafter "CEQA") in its review of the Project. Specifically, the City's use of a Categorical Exemption in this case is precluded by the Exception established per CEQA Guidelines Section 15300.2.(c). This is discussed in Section 3.0 below.

2.0 City Cannot Make Required Findings for Approval

2.1 Evidence in the Administrative Record

The City's entire analysis of the Project, including the findings adopted by both the Staff Hearing Officer and the PC, relies upon a presumption that the Project is identical to any other retail use. Traffic data gathered from dispensaries in Colorado (where dispensaries have been in operation for some time) indicates this presumption is likely false.

ATTACHMENT A is a November 11, 2015 article from MikeOnTraffic, a blog published by Mike Spack, PE, PTOE, a professional Traffic Engineer. The article discusses results of traffic counts collected in partnership with Ridgeview Engineering Consultants, LLC to study traffic generated by four (4) operating dispensaries in the Denver area (the "Spack Study Data"). The Spack Study Data confirms that "*Marijuana Dispensaries are proving to be one of the biggest retail traffic generators in the United States.*" The attached data show that dispensaries generate roughly ten (10) times as many average daily trips as typical retail uses, and about twenty (20) times as many evening peak hour trips (between the hours of 4:00 pm and 6:00 pm) as typical retail uses. Increased trip generation correlates to an increased parking demand.

The Spack Study Data was presented to the PC at its March 17th Hearing. The PC's response was categorically dismissive. One Commissioner appeared to suggest that because this data is from Colorado, it doesn't apply in California. This is a specious argument given that Institute of Transportation Engineers (hereinafter "ITE") traffic data, the industry standard used by Transportation Engineers to evaluate traffic impacts in CEQA documents for projects in California, is developed by collecting and aggregating data from similar land uses across *all* of the United States. When more dispensaries are in operation across the country, and have been in operation for a longer time period, there will almost certainly be an ITE land use category for "Marijuana Dispensaries." City Transportation Division Staff also attempted to dismiss the Spack Study Data simply by stating that Colorado has legalized recreational dispensaries, and the Project is a medicinal dispensary. No explanation, discussion, or data was provided by City Transportation Staff to indicate how this distinction allows Staff to conclude the Project will not generate any more traffic than a typical retail use, or any *less* traffic than would be generated by a recreational dispensary.

The fact that existing data for Marijuana Dispensaries comes from counting trips generated by dispensaries in Colorado rather than in California is *irrelevant*. The fact that this data shows Marijuana Dispensaries are substantially higher traffic generators per square foot than typical retail uses is *highly relevant*. Appellants stipulate it is possible that there are potential minor "differences in driving behavior" between the inhabitants of Colorado and those of California, and that medicinal dispensaries may potentially generate traffic at different rates than recreational dispensaries. However, Appellants assert there is no way these differences are meaningful enough that the Spack Study Data can be dismissed. The Spack Study Data confirms, unequivocally, that dispensaries generate traffic, and therefore a demand for parking, at a much higher rate than typical retail uses such as the speaker repair shop that the Project is replacing on the Subject Property.

2.2 Required Findings

The City must make *all* of the required findings set forth in SBMC Section 28.80.070.B to approve the Project. Furthermore, City Boards and decision-makers do not have the option to look at one part of a required finding, and to ignore other parts of the adopted finding language.

2.2.1 SBMC Sec. 28.80.070.B.8 Finding Cannot Be Made

Appellants assert that the finding in SBMC Sec. 28.80.070.B.8 cannot be made for this Project. The SBMC states that to approve the Project the City must find:

"8. That all reasonable measures have been incorporated into the Dispensary security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business." (emphasis added)

Appellants have presented a reasonable argument, supported by current and applicable data, that the Project will likely generate traffic, and associated parking demand, at a higher rate than the speaker repair shop that it is replacing on the Subject Property. The Subject Property is legal non-conforming and has no onsite parking spaces. To-date, all of the City's analysis of this issue has relied upon a comparison of the required parking ratio for a typical retail use (i.e. the speaker shop) and the proposed Project, which the City defines as a retail use. However, the language of Finding #8 above speaks to the physical impacts that may be generated by a dispensary project, not parking ratio compliance.

The Project will result in “*traffic control problems*” because it will draw substantially larger numbers of customers to the Subject Property than the former speaker repair shop, and there is no onsite parking available to serve this additional traffic. The fact that the Project is able to satisfy City parking ratios through a methodology used by staff does not address this.

The November 18, 2015 “*Executive Summary and Operating Plan*” (the “Operating Plan”), incorporated in its entirety herein by reference, does not discuss traffic or parking other than to state that the Project is “*considered a commercial use relative to parking requirements.*” The Operations Plan fails to address the “*all reasonable measures*” standard established in the finding language. This standard is intended to address *physical impacts*, not parking ratio compliance. No measures to address traffic control problems or parking impacts are discussed in the Operating Plan.

2.2.2 SBMC Sec. 28.80.070.B.9 Finding Cannot Be Made

Appellants assert that the finding in SBMC Sec. 28.80.070.B.9 cannot be made for this Project. The SBMC states that to approve the Project the City must find:

“9. That the Storefront Collective Dispensary is likely to have no potentially adverse affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and that the Dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.” (emphasis added)

Appellants have presented a reasonable argument, supported by current and applicable data, that the Project will likely generate traffic, and associated parking demand, at a higher rate than the speaker repair shop that it is replacing on the Subject Property. The Subject Property cannot accommodate any on-site parking for patrons. A substantial increase in the demand for on-street parking, in a neighborhood that is already heavily congested, and characterized by multiple properties that are legal non-conforming and do not meet their current parking demand onsite, will have an “*adverse affect*” on the “*peace, or safety of persons living or working in the surrounding area.*” These impacts will “*overly burden a specific neighborhood*” because users of the Project will park in the neighborhood surrounding the Project, not other distant neighborhoods.

2.3 No Basis Provided for Adopted Findings

Evidence was presented before the PC at the March 17th Hearing indicating the required findings in SBMC Sections 28.80.070.B.8 and 28.80.070.B.9 could not be made for the Project. The PC proceeded to adopt the findings as presented in the March 10, 2016 Staff Report (the “Adopted Findings”) without including any changes to the finding language in their motion to deny the Original Appeal. The Adopted Findings are included as **ATTACHMENT B**.

With respect to the finding required per 28.80.070.B.8, no basis is provided to establish how the PC determined that “*all reasonable measures have been incorporated into the Dispensary security plan or consistently taken to successfully control ... traffic control problems.*” No discussion of traffic control problems, including parking, is present. Evidence was presented at the March 17th hearing indicating that the Project is likely to generate such problems. If the PC believed that it had a compelling reason to disregard this evidence, or that it had considered *other* evidence that it could use as a basis to make this required finding, the PC should have incorporated its reasoning into this finding. The current adopted finding is inadequate and does not meet the criteria established in the SBMC.

With respect to the finding required per 28.80.070.B.9, no basis is provided to establish how the PC determined that “*That the Storefront Collective Dispensary is likely to have no potentially adverse affect on the ... peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, ... and that the Dispensary will generally not result in repeated nuisance activities including ... illegal parking.*” There is no mention of parking issues, including illegal parking, or what basis the PC believes it had to determine that this is “*likely*” not going to occur or “*likely*” not to have an “*adverse affect*” on the neighborhood that immediately

surrounds the Project. In light of the evidence presented at the March 17th Hearing, and the degree to which residents and business owners have expressed concern about this issue, it is critical that this be addressed in the basis for the PC's findings for approval of the Project. The PC did not add to or modify the language of the original SHO finding, which makes no mention of traffic, parking, or associated potential adverse impacts to the immediate neighborhood.

3.0 Environmental Review is Inadequate

The City relies upon a Categorical Exemption, CEQA Guidelines Sec. 15301(a) (the "Existing Facilities Exemption"), as CEQA Compliance for the Project. The complete text of the Existing Facilities Exemption is included as **ATTACHMENT C**. The preamble paragraph of the Existing Facilities Exemption states:

"Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use." (emphasis added)

The Existing Facilities Exemption, and all Categorical Exemptions in the CEQA Guidelines, are preceded by CEQA Guidelines Section 15300.2 which identifies six (6) exceptions in which a Lead Agency, in this case the City, may not use a Categorical Exemption.

CEQA Guidelines Section 15300.2.(c) states the following:

"Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (emphasis added)

In this case, a speaker repair shop which is already non-conforming to parking requirements, is proposed to be replaced with the Project, a new use that is likely to generate substantially higher traffic and associated parking demand. The Subject Property is an unusual circumstance in that it has no onsite parking and its current configuration does not allow for the potential to provide any onsite parking. The Subject Property is also located on a heavily travelled street (by both vehicles and pedestrians), and within a neighborhood that has a current high demand for on-street parking and includes a large number of other properties that are also non-conforming to current parking requirements and cannot meet their current parking demand. Appellants have presented evidence, including the Spack Study Data, which demonstrates there is a reasonable possibility the Project will have a significant effect on the environment due to these unusual circumstances. At a minimum, an Initial Study per CEQA Guidelines Section 15063 must be prepared to adequately evaluate the traffic and parking impacts of the Project.

4.0 CONCLUSION AND REQUEST

As set forth above, the City cannot make the required findings for the Project as set forth in SBMC Section 28.80.070.B. It is not adequate for the PC to merely enumerate its basis for a portion of a required finding: each component of a required finding must be addressed. This is particularly important in the instant case, where the portion of the finding that the PC did not address (i.e. traffic and parking) is *specifically related* to the physical impact that the Project before the PC is likely to generate and which will ultimately have an adverse effect on the surrounding neighborhood.

It is also critical that the City adequately analyze the environmental impacts of any proposal and disclose the likely environmental impacts to both City Decision-Makers and the public. The current analysis, which is limited to how the Project complies with zoning ordinance parking ratio requirements, does not serve as an adequate environmental impact evaluation as required by CEQA, nor does it provide a valid basis for the City to conclude potential traffic and parking impacts are de-minimus. CEQA requires Lead Agencies to evaluate and disclose the potential physical environmental impacts of a proposal to the public, not just to determine whether or not a given proposal complies with ordinance requirements.

In this case, Appellants have presented a reasonable argument that the Project will have a significant effect on the environment due to the unusual circumstances including: 1) the site on which the Project is proposed; and, 2) the neighborhood within which that site is located. Appellants assert that the City has an obligation to require the applicant of this Project to provide adequate data in the form of a traffic and parking study prepared by a licensed Transportation Engineer. City Staff could then use this study to complete a CEQA Initial Study. The follow up CEQA document would allow City Decision-Makers and the public to adequately understand the true impact that this Project will have on the surrounding neighborhood.

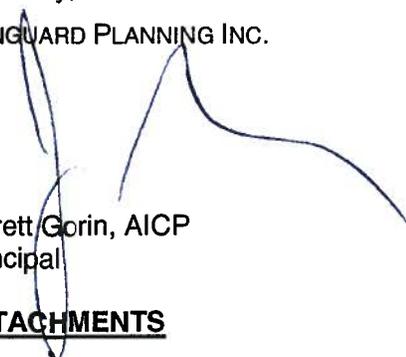
Given the facts presented herein, Appellants respectfully request that you uphold the Appeal and deny the Project.

If you have any questions about this Appeal, you can reach me via E-mail at jarrett.gorin@vanguardplanning.com or via phone at (805) 966-3966.

Thank you for taking the time to review this.

Sincerely,

VANGUARD PLANNING INC.



Jarrett Gorin, AICP
Principal

ATTACHMENTS

- A. Spack Study Data
- B. Adopted Findings
- C. Existing Facilities Exemption

cc: **Natasha Todorovic**
Santos Guzman

ATTACHMENT A

Spack Study Data

New Trip Generation Data – Marijuana Dispensaries Drive 10 Times More Traffic Than Specialty Retail Stores

Per square foot (KSF), Marijuana Dispensaries are proving to be one of the biggest retail traffic generators in the United States. The tables below show the traffic rates at marijuana dispensaries as compared to pharmacies and other small size retail operations as reported in the Institute of Transportation Engineers’ (ITE) *Trip Generation Manual, 9th Edition* (<http://www.ite.org/tripgeneration/trippubs.asp>).

Weekday	Rate - Trips Per KSF			
	Marijuana Dispensary	ITE 880: Pharmacy w/o Drive Thru ¹	ITE 881: Pharmacy w/ Drive Thru ¹	ITE 826: Specialty Retail ¹
Daily	402.27	90.06	96.91	44.32
AM Generator	37.31	7.71	8.36	6.84
AM Adjacent Street (7-9am)	16.86	2.94	3.45	n/a
PM Generator	63.61	11.07	9.72	5.02
PM Adjacent Street (4-6pm)	54.64	8.40	9.91	2.71

¹ From the Institute of Transportation Engineers’ *Trip Generation Manual, 9th Edition*.

Saturday	Rate - Trips Per KSF			
	Marijuana Dispensary	ITE 880: Pharmacy w/o Drive Thru ¹	ITE 881: Pharmacy w/ Drive Thru ¹	ITE 826: Specialty Retail ¹
Daily	418.25	n/a	n/a	42.04
Peak Generator	58.28	10.68	8.20	n/a
AM Adjacent Street (7-9am)	9.02	n/a	n/a	n/a
PM Adjacent Street (4-6pm)	55.92	n/a	n/a	n/a

¹ From the Institute of Transportation Engineers’ *Trip Generation Manual, 9th Edition*.

(<http://www.mikeontraffic.com/wp-content/uploads/2015/11/Marijuana-Dispensary-Trips.jpg>) How do we know marijuana dispensaries are generating about 10x more traffic than a typical retail store and 5x more than a pharmacy?

The Spack Consulting team partnered with Melanie Banfield, owner and president of Ridgeview Engineering Consultants, LLC (<mailto:melanie@ridgeview-engineering.com>) in Morrison, Colorado to record traffic videos using CountingCars.com’s (<http://bit.ly/CountingCarscom>) COUNTcam

<http://bit.ly/COUNTcamcom>) products at the driveways of four dispensaries in the Denver, Colorado area. Traffic video was collected for three days at each of the sites and then we reviewed the video and counted the traffic at these dispensaries using our [COUNTcloud](http://bit.ly/COUNTcloud) (<http://bit.ly/COUNTcloud>) service. You can get the full data set at www.TripGeneration.org (<http://bit.ly/TripGen>).

Get Trip Generation Data

<http://bit.ly/TripGen>

Being able to accurately calculate the number of trips travelers make to specific destinations is the lifeblood of a transportation engineer. While the ITE Trip Generation Manual is the “go to” source for traffic engineers, the data collected and distributed in the manual has some limitations – including the age of data and limited or no data available on some land uses such as marijuana dispensaries.

ITE recommends in their Trip Generation Handbook that engineers collect current, localized trip generation data to use in their analysis. At Spack Consulting we feel strongly that not only should engineers collect localized data for use in their specific project, but also openly, and freely share that data to benefit everyone. This is why we created [TripGeneration.org](http://www.TripGeneration.org) (<http://bit.ly/TripGen>) – a **free** website with more than 4,080+ hours of professionally collected traffic data for popular land uses.

http://www.mikeontraffic.com/wp-content/uploads/2015/11/vehicle_graph_r3.jpg

Currently four states — Alaska, Colorado, Oregon, and Washington — as well as in the District of Columbia have legalized the recreational use of marijuana. But 23 states have legalized marijuana for medicinal purposes which opens the door to expanding its use for recreational purposes, creating a potential boom in the development of dispensaries. Thus the need to data on specialty land uses like marijuana dispensaries.

Average Vehicles Per Day

Per Thousand Square Feet of Retail Space

201.1



Marijuana Dispensary

48.5



Pharmacy w/ Drive Thru

22.2



Specialty Retail

One outstanding question is what is driving the high trip generation numbers. The high trip generation rates for marijuana dispensaries may be due to their newness. Krispy Kreme stores generated tremendous amounts of traffic when they first opened in Minnesota. Traffic died down after the newness wore off to the point where the Krispy Kreme stores are all out of business in

Minnesota fifteen years later. We'll monitor the traffic generated by marijuana dispensaries to see if their trip generation rates decrease. We'll also work to add data from dispensaries outside of Colorado to make sure there isn't a location bias in the data.

If you'd like to partner with us to collect trip generation in your area, we have a limited pool of COUNTcams video collection products that we're lending for free to collect trip generation data around the country. Leave your contact information in the comments section if you'd be interested in the lending program or contact [Nate Hood \(mailto:nhood@countingcars.com\)](mailto:nhood@countingcars.com) at CountingCars.com.

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ATTACHMENT B

Adopted Findings

8. That all reasonable measures have been incorporated into the Dispensary security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business.

Two security guards are proposed to be on site during business hours. Security guards' responsibilities will include screening new and prospective members, monitoring and controlling the conduct of members and removal of graffiti. The application proposes a "zero tolerance" clause in the membership agreement regarding members and employees loitering and/or using cannabis within 200 feet of the dispensary. This form includes items regarding courteous behavior, being respectful to neighboring businesses and residences, not littering or loitering, and not medicating in or around the premises. Staff expects to review an updated membership agreement form including the zero tolerance clause, and the proposed onsite signage addressing member behavior (Exhibit B, pages 10, 31 & 47).

9. That the Storefront Collective Dispensary is likely to have no potentially adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and that the Dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

The proposed security plan and operations plan should avoid nuisance behavior and adverse effects on health, peace, and safety of persons in the surrounding area. Adequate lighting exists, and security cameras would be inside and outside the building. One of the two security guards would patrol the exterior of the premises at least once per hour, and ensure the street and sidewalk are free of loitering, and that other businesses are not negatively affected. The patrolling guard would watch for alcohol or cannabis use, address nuisance issues, pick up litter, and report graffiti. Hours of operation are limited to 8 AM to 6 PM, Monday through Saturday. Therefore, the dispensary operation is not likely to have adverse effects on the health, peace, or safety of persons living or working in the surrounding area; overly burden a specific neighborhood; or contribute to a public nuisance (Exhibit B, pages 11 & 31).

10. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.

No violations of municipal code provisions, conditions of any City-issued permits, or any other local or state law, regulation or order, or any condition imposed by permits issued in compliance with any local or state law have been identified. The Staff Hearing Officer has the authority to suspend or revoke the Storefront Collective Dispensary Permit pursuant to SBMC Section 28.80.120 if it appears to that Officer that the Dispensary permittee has violated any of the requirements of Chapter 28.80, or the dispensary is being operated in a manner which violates

ATTACHMENT C

Existing Facilities Exemption

Protection of Oakland's Architectural and Historic Resources v. City of Oakland (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

15300.3. REVISIONS TO LIST OF CATEGORICAL EXEMPTIONS

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.4. APPLICATION BY PUBLIC AGENCIES

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15301. EXISTING FACILITIES

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
 - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
 - (2) 10,000 square feet if:
 - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

- (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
 - (g) New copy on existing on and off-premise signs;
 - (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);
 - (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;
 - (j) Fish stocking by the California Department of Fish and Game;
 - (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
 - (l) Demolition and removal of individual small structures listed in this subdivision:
 - (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.
 - (2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.
 - (3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.
 - (4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
 - (m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.
 - (n) Conversion of a single family residence to office use.
 - (o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.
 - (p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084, Public Resources Code; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

15302. REPLACEMENT OR RECONSTRUCTION

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- (a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.
- (b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.