Kevin Collins
P.O. Box 722 Felton, CA 95018
<europa@cruzio.com>, 831-234-7306

Matt Johnston
Santa Cruz County Planning Department October 31, 2017
And to:
Santa Cruz County Board of Supervisors

701 Ocean St. Santa Cruz, CA 95060
Rooms 400 and 500
conveyance by electronic mail and hand delivery

Subject: Public Comment on the Cannabis Cultivation and Manufacturing, Draft Environmental Impact Report (DEIR)

Executive Summary and Personal Comments

This DEIR and the Ordinances considered herein are major documents of accountability for your Board of Supervisors. This case may be the defining decision the Board makes during the tenure of its individual member. Caution is advisable.

This "Project" is functionally the most sweeping set of changes to county land use code proposed since the adoption of the modern County Code. The report addresses the code legalization of agriculture and manufacturing for the commercial production of drugs.

Considering the volume of marijuana being produced now, it's clear this expanding drug production is primarily intended for export out of Santa Cruz County. One of the many side effects will be the inducement to develop sub-standard remainder land parcels created from unregulated early 20th Century sub-division patterns.

The pretense of mitigation through the enforcement of codes is least likely to be successful in the Santa Cruz Mountains. These most rural and remote parts of this county are nevertheless the most heavily populated such rural lands in the entirety of California. These mountains are our water source, are fundamental to this County's tourism industry, and to its reputation as a community that respects environmental and conservation values, if indeed that supposed respect remains the case. This DEIR itself casts doubt upon this common assumption.

This huge DEIR with its twelve Attachments is 1,325 pages long. Much of the text involves arbitrary and slyly redundant assumptions and speculations often regarding the most crucial aspects of this Report. The omissions of clear and organized information that would be necessary to make this document reasonably legitimate for public review; to make it internally consistent and accurate; are extensive. The document is confusing, redundant, misleading, and incomplete. Despite this it is excessively lengthy. There is no overall page numbering. It exceeds the length recommended in the establishing law (CA Environmental Quality Act) by several times over. While it is impossible to prove intent, I regard this document as intentionally confusing and misleading. CEQA professionals have known for

decades the various tactics to make these reports obscure and difficult to understand. No Lead Agency is eager for the obligation to reply to a multitude of well-informed comments. Only a professional reviewer such as myself, would be likely to understand the methods necessary to cross-reference this document, so as to verify the consistency of its information. I have reviewed many DEIRs. This one is exceptional. Despite my spending approximately sixty hours with this DEIR, I will only have time to respond to selected sections.

This DEIR fails to address the impacts upon rural neighborhoods and rural residents who will (if the proposed Ordinances are approved) be sacrificed to the desires of those eager to engage in this drug production export industry. The proposed Ordinance versions addressed in this DEIR exclude outdoor cultivation from those areas (primarily the urbanized and residential coastal plain) of the unincorporated County where political opposition from residents would block the adoption of the Ordinances.

Therefore this confusing document is essentially a political exercise rather than an accurate, informative Draft Environmental Impact Report. In this manner the DEIR and the Ordinances are discriminatory toward this County's rural residents. Rural residents, homeowners and landowners of specifically zoned parcels will arbitrarily be the most afflicted by the adoption of the Ordinances described, and by the planned, or at least possible, "certification" of this DEIR by the Santa Cruz County Board of Supervisors.

This DEIR must either be rejected outright or sent back for major revisions that involve the inclusion of specific but currently missing or grossly inaccurate information.

There must also be a clear and unequivocal demonstration, and assertion of intent, to enforce codes and ordinances necessary to make this DEIR legitimate and to make the Ordinances and the existing related land-use and environmental codes effective. Such a demonstration of intent is grossly lacking. The massive environmental and public safety impacts that will be caused by facilitating and legalizing a major export economy of marijuana products production requires new codes and new sanctions to promote compliance. These rules do not yet exist. The DEIR continually invokes code "policies" when it is clear that these policies are widely ignored by the relevant County departments.

The assertions of insignificant cumulative impacts extend over nearly every environmental impact to the physical environment of this county and to the welfare of its people. CEQA impact levels "significant and unavoidable" assigned to impacts addressed in the DEIR are limited to traffic, green house gasses, historical resources, conversion of forest and high quality Ag. land to marijuana cultivation, *and astonishingly*, to the already massive unregulated pot (cannabis, marijuana, ear wax, shatter, hash oil etc.) growing and manufacturing currently taking place.

If the County and the Sheriff's department are, as the DEIR asserts, unable to effectively regulate, or to even account for, the majority unregistered growers illegally operating, then this DEIR is misdirected away from the principle "Project" or impact that needs illumination through compliance with CEQA. It is speculative in the extreme for the County to assume that

"the more permissive option" recommended by Planning will achieve plausible civil regulatory control of pot production. The Board must insist upon an estimate of the length of time needed for this dangerous experiment to unfold. If this "industry" cannot be regulated effectively, then this DEIR has no meaningful purpose and is legally deficient in the extreme.

Attached to this confusing document are twelve attachments, one of which (C) is the actual Ordinances language, the subject of this DEIR. It's peculiar that the Ordinance text is not included in the 636 pages of the DEIR.

Program Overview

> *"Consistent with state law, the proposed Program would regulate commercial cannabis cultivation and cannabis product manufacturing within unincorporated areas of the County to balance the diverse demands for cannabis products with the health, safety, and welfare of the community, and address the range of demands on County services and adverse effects on the environment and local community. The Program would regulate how, where, and how much cannabis and cannabis products may be commercially cultivated and manufactured to provide a reliable and high quality supply, while also protecting the environment and neighborhood quality."*

The authors of this DEIR are puzzled by the word "balance". There is nothing balanced about inducements for drug grow sites involving the clearing of forest, chaparral and other habitat types and the attendant stream water diversions that are causing endangered species fish kills through the dewatering of mountain streams.

As far as the safety and welfare of the community is concerned, the authors display a thorough indifference to the safety of this County's rural residents. In the "Summary of Program Objectives" one finds this sentence "4. Prevent impacts of cannabis cultivation and manufacturing sites on children and sensitive populations."

Well, children walk through my RA zoned and entirely residential neighborhood, just as children walk down any street in Live Oak or Soquel. I am a "senior" but apparently my "sensitivity" is not worthy of consideration. RA and SU zonings in the San Lorenzo Valley are primarily residential zonings. The inclusion of the term "Agricultural" is frequently a misnomer. Aside from a few chicken coops and generally small-scale kitchen gardens, there is, on average, only small-scale activity that a reasonable person would regard as "agriculture". In Santa Cruz Mountain, locations such as the San Lorenzo, Soquel, Aptos and Corralitos creek watersheds there exist a few vineyards, some small orchards and fewer Christmas tree farms, regardless of the zoning. My RA zoned subdivision has no gardens of more than one or two hundred square feet in area. Here we allow the forest to grow and do our best to allow wildlife to prosper.

The proposed Ordinance would completely upend the peace and tranquility of RA and SU zoned neighborhoods as properties progressively changed ownership and drug cultivators moved in, cut down the forest to get the sunlight to grow marijuana, housed employees in

tents or shacks and distributed the rat poisons that are already today killing off wildlife predators, especially bobcats, raptors (owls and hawks) foxes and coyotes, but also mountain lions and raccoons.

No provisions in Chapter (Title) 16 of the County Code *are currently being used effectively* to control the damage caused by commercial drug production. It is speculative at best to assert that somehow these widely ignored codes will suddenly or even progressively mitigate or render to "cumulatively insignificant after mitigation", the environmental and public safety damage that will occur progressively as more forested mountain and canyon areas are converted into a drug production slums.

The Acknowledged and Anticipated Failure to Meet the Program Objectives

Quoting: "Given the nature of unregulated cannabis activities that (sic.) current existing and may occur within the County, secondary impacts, with the exception of aesthetics and visual resources, are considered to result in significant and unavoidable effects on the human and natural environment due to the inability to effectively enforce and regulate such unlicensed operations. Due to the potential for operators to continue to engage in such activities within the County, either due to costs of licensing, associated costs of development, or other reasons, significant and unavoidable secondary impacts are considered to continue to occur, regardless of the Program scenario (see Table 4-6)."

Again quoting:

"3.10.6.3 Secondary Impacts
Impact LU-3. Commercial cannabis cultivation and manufacturing under the Program would potentially conflict with an applicable land use plan, policy, or regulation, an adopted habitat conservation plan in the County, or cause adverse effects on existing communities. Impacts would be significant and unavoidable. Impact LU-3.1 - Secondary Cultivation/Manufacturing. Secondary impacts to land use and planning policy consistency would result from project-induced new or expanded land use conflicts related to unregulated illegal cannabis cultivation and manufacturing activities. After adoption of the Program, unregulated cultivators would either begin or continue operating illegally, or would not seek a license under the Program, causing significant policy consistency impacts. Secondary impacts to neighborhood compatibility and plan inconsistency would result from land use conflicts related to unregulated cannabis cultivation and manufacturing activities within existing communities. With the implementation of MM AG-1.3a, Enforcement, the County would enact a program to address enforcement of illegal cannabis cultivators and manufacturers. With the implementation of MM AG-1.3b, Annual Survey and Monitoring Report, the County would monitor and conduct annual surveys of illegal cultivation and manufacturing locations throughout the County, and ensure feasible levels of staffing and resources are dedicated to enforcement. However, even with the implementation of MM AG-1.3a and MM AG-1.3b, secondary impacts related to land use policy consistency conflicts under both the Project and the More Permissive Project would be significant and unavoidable."

Again quoting:

"Mitigation Measures
Implement MM AT-1.3a. Enforcement. To reduce secondary land use and planning impacts associated with cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact LU-3.
Implement MM AT-1.3b. Annual Survey and Monitoring Report. To reduce secondary land use and planning impacts associated with cannabis cultivation/manufacturing and related development activities, MM AT-1.3b, addressing County criteria for an Annual Survey and Monitoring Report of licensed activities as well as illegal activities, including recommendations regarding enforcement staffing and resources, shall apply to Impact LU-3.
Post-Mitigation Level of Impacts With implementation of MMs AT-1.3a and AT-1.3b, unregulated cannabis cultivation and/or manufacturing would be reduced over time either through enforcement/closure of the grow sites or the permitting and licensing of new grow sites. However, it is not possible to ensure that all land use impacts would be avoided or minimized; therefore, this impact is significant and unavoidable."

--The DEIR incorrectly makes distinctions between "primary" and "secondary impacts". The entire purposes of the Ordinances are to regulate the production of marijuana products (both cultivation and manufacturing). Nevertheless the Lead Agency states that it is unable "to effectively enforce and regulate such unlicensed operations". Unlicensed and illegal operations are not "secondary" when they clearly constitute the majority of the actual marijuana production in this County. The DEIR estimates 1,800 (Sheriff's Dept. 2-22) unregistered operations and the Lead Agency claims that 567 sites are operating in some form of registration. [1] This demonstrates a fatal flaw of deficiency in the DEIR and renders both the DEIR and the entire Program (both the Project and the "more Permissive Project) to be misdirected at the outset. Also there is no discussion of the volume of pot produced in either category. The obligation in CEQA to describe existing conditions has not been met per 14 CCR § 15125 Environmental Setting.

(a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

---

[1] For this EIR, a range of locations of commercial cannabis activities is described based on likely existing baseline levels and available data sources and field observations. At a minimum, existing commercial cannabis activities include the 567 sites, out of 760 registered, that are identified by registration data as currently cultivating as of 2016, as described further below. At a maximum that is difficult to substantiate, anecdotal descriptions of the County's existing cannabis industry from the cultivation community indicate that there could be up to 10,000 cultivators or manufacturers located throughout the County, including approximately 300 to 350 established commercial cultivators. It is estimated that there are currently about 100 larger/higher-yield cannabis product manufacturers and from 200-300 smaller/lower-yield manufacturers. It is reasonable to consider that the "anecdotal" possible existence of many thousands more existing "micro" cannabis operations are most likely very small. Beginning in 2015, the County Sheriff's Office investigates cannabis cultivation and manufacturing operations only in response to complaints logged or as a result of criminal investigations.
Available Cannabis Activities Data Sources
•760 pre-applications received
•259 known site locations

The environmental setting for this DEIR must include an adequate description of the extent of unregistered and/or illegal marijuana cultivation underway as of the date of publication if there is any hope of legitimately describing the impact of the Project. There are no relevant maps of this illegal cultivation and there is no reasonable discussion of the locations and local scale where marijuana is currently being commercially cultivated or manufactured. For these reasons the obligation (specified in CEQA) to provide a baseline physical condition from a local and regional perspective has not been met. This is hardly an insurmountable task. The use of Google Earth, Sheriff's Department flyovers and other aerial surveys could have provided adequate information and data to accomplish this obligatory task. In fact the DEIR mentions 97 potential cases based on aerial photography making it clear that aerial photography has been used! Instead the DEIR relies upon written and verbal surveys of applicants for cultivation licenses to speculate on the scale of existing activity. This information is not only speculative and subject for false reporting; it is legally inadequate. For these reasons the DEIR is deficient because it fails to define and illuminate the baseline physical conditions necessary for determinations of "significance", "insignificant after mitigation" or "insignificant".

The described mitigation measures such as "conducting an annual survey and monitoring and reporting of licensed activities as well as illegal activities, including recommendations regarding enforcement staffing and resources…" is speculative, not addressed in the Ordinances (attachment C), and implausible in the extreme when viewed in the face of decades of thoroughly ineffective general code enforcement by the Lead Agency, the County Planning Department (and its new partner the Cannabis Licensing Officer).

It is bleakly amusing to read that this primary objective: to "Regulate commercial cannabis cultivation and manufacturing of cannabis products within Santa Cruz County". ES 3#1 is unobtainable and/or so difficult to undertake and to be unworthy of a sufficient expenditure of effort.

If indeed this is the case, then the goal of effective regulation as the principle and virtually only Mitigation under CEQA is absurd, unobtainable and thoroughly misleading at the outset.

Apparently through an act of "magical thinking" the Lead Agency imagines that the massive underground, black market, mountain terrain obscured pot growing currently existing, will become legal without the use of vigorously applied and stern sanctions (automatic fines and peace officer investigations etc.) upon illegal activity.

In rural areas, code enforcement by the County is even more stupendously ineffective and personally dangerous for residents, than in the urbanized parts of Santa Cruz County. Until recently it was a written county policy for code enforcement officers to *only* respond to complaints and *to ignore code violations that an inspector witnessed in the normal course of their job.*

Most code enforcement actions that have occurred resulted in the obvious question, "Which one of my neighbors filed this complaint. I want to know!" A common response from a code officer seems to be, "Its not my fault, one of your neighbors complained". (source, the long

experience of both myself and of my neighbors and friends.) Of course no County official would ever admit to this. As a result, it is impossible to prove empirically. This dangerous "permissive" approach to code enforcement was recently changed on paper. However anyone with experience in this matter knows that the reality of this situation remains unchanged. This is a major issue of Public Safety that the County completely ignores because it exposes their complicity in creating this immediate danger to County residents.

In the year 2014 to 2015 the DEIR states that code enforcement actions occurred in 31 instances of illegal marijuana grows. These actions are not described in any way, either as resolved or otherwise. These 31 actions may refer simply to a county employee stapling a violation notice to a tree, taking a few photographs and then sprinting away, never to return. This is in fact, is the most likely accurate description. **Considering that the DEIR estimates 10,000 grow sites of any type in the County, this tiny number of "actions" is ludicrously inadequate and completely undermines the legitimacy of virtually all of the mitigations enumerated in this DEIR.**

What follows is one specific example of how the County's Planning and Public Health Departments deal with code enforcement:

Within less than a mile south of my home is a "house", more specifically a shack, with no septic system whatsoever. What existed, which was merely an old pit, was destroyed when a badly built retaining wall collapsed onto the public road a mere 48 hours after its completion. Eventually a permitted steel pier and concrete caisson retaining wall was built correctly (the third wall built at this site). Though it was built both within the public right of way of a publicly maintained and sub-standard width County road, and on top of a slow moving landslide.

Recently I reviewed the administrative record for this parcel held by Environmental Health. Planning apparently noticed that this site has no septic system and may have notified Environmental Health. The last correspondence in the septic record held by Environmental Health is dated 2015. There still is no septic system. This house is less than 50 survey feet (lateral distance) from the bank full channel of a perennial stream. It is upstream of both private and public drinking water stream diversions. There is nothing exceptional about this one example.

Confusion Between a DEIR and Administrative Law

This DEIR is packed with theoretical mitigations measures such as requiring surveys for rare plants and animals before land clearing is permitted. However the proposed Ordinances are silent in connection with all of these supposed mitigations. Also code section 16.22.080 "Land clearing approval" is silent (does not mention) the issue of "surveys for rare plants and animals". An EIR, even if accepted or "certified", is not regulatory code**. Because Chapter 16 is both a separate code chapter and is infrequently enforced, it is entirely insufficient to claim that Chapter 16 will effectively regulate the activity of a new and poorly understood industry that has impacts never anticipated when Chapter 16 was adopted.**

Unless these theoretical mitigations are directly specified and obligatory <u>in the form of</u>

<u>new and specific code within the draft Ordinances themselves</u>, then they are entirely speculative, based only of vague policies and expressions of intent, and legally irrelevant to the adequacy of the Draft EIR.

This merging of the meaning and the purpose of entirely different documents as well as abundant and empty assertions is both bizarre and dishonest. It is also highly misleading to the public at large, who do not understand these legal distinctions. A policy statement is not a regulatory code.

The Santa Cruz County Departments (Planning and Public Health) with the obligation to conduct code enforcement have long demonstrated a clear and consistent pattern and practice of minimizing the effectiveness of their exercise of civil authority to seek compliance with this County's land use, development, environmental and water pollution codes. **The text of this DEIR fully supports my contention regarding this pattern and practice of diminishing code enforcement through its promotion of the "more permissive option" and its assertions that it is unable to regulate the unregistered segment of the presently existing marijuana production industry. The County Sheriff Department's role in this policy may be secondary, but obviously it cannot be dismissed.**

An Export Economy of Drug Production

The consistent tone throughout the DEIR document displays the intent to support and expand this drug production industry as though it were beneficial for virtually everyone, when it fact, and for obvious reasons, it primarily benefits those with a financial self-interest in the sale of marijuana and marijuana extracts. This is especially true considering the fact that the residents of this county could not hope to smoke all of the pot being grown here!

In a letter to the Board of Supervisors dated October 24, 2017 "Report Back on Cannabis Business Taxes" signed by the County CAO, there is the statement: "Cannabis cultivators in the County's registry currently produce an estimated 244,620 pounds of cannabis per year….". And furthermore, "County registrants identified the desire to cultivate in excess of 1,743,000 pounds in the future, which would be almost 13% of the currently estimated cannabis production for the entire State. Industry experts believe that current production within the State is five to eight times higher than the 2.5 million pounds the State's population consumes."

With a little arithmetic it is simple to demonstrate that the planned volume of drug production exceeds the consumption demand in Santa Cruz County by many times over. And these numbers do not include the estimated 1,800 unregistered commercial grow sites county wide as stated in the DEIR. There is no evading the fact that the County is in the process of licensing a massive export flow of marijuana products to other states or indeed it is possible for this production to be smuggled across national borders.

The scope of the both the "Project" and the "more permissive alternative" would, with, the designation of law, officially make Santa Cruz County a drug export county because of the volume of marijuana production it would legalize and/or facilitate. This would in no

conceivable manner *"balance the diverse demands for cannabis products with the health, safety, and welfare of the community*." Where exactly is this huge demand for cannabis products capable of supporting an estimated (in the DEIR) 10,000 marijuana grow sites? Apparently supplying the drug demands of Santa Clara County (were cultivation remains illegal), Idaho or Connecticut is somehow in the incoherent view of the Planning Department synonymous with the general public interest of the citizens of Santa Cruz County.

In Section 3-12 of the DEIR (no continuous page numbering system exists) one finds this statement: "New employees from future growth of the industry, which are projected at a total of 7116 employees for cultivation and manufacturing, would contribute to increased demand for housing."[2] This is quite obviously an export economy. **The DEIR is silent on this major issue of a large-scale export production of drugs and how this will impact the health welfare and the environment of the citizens of this County.**

Water Demand of Marijuana Cultivation, False Claims and Assumptions

Apparently the authors of the DEIR are able to estimate the scale of the employment that this drug production industry will generate. But they are challenged when required to venture a guess as to how much water will be necessary to supply this new industry. The issue of how much water volume marijuana cultivation will demand is apparently a subject to be dodged in this county with chronic water shortages from drought, depleted aquifers, continuous population growth, and with global warming drying up the entirety of California.

Tucked away in the section titled "Utilities and Energy Conservation" one finds this amazing statement: "As described in Section 3.0, *Introduction and Approach to Analysis*, the County estimates an average water demand of 0.03 gallons per square foot of canopy per day for outdoor operations, and 0.1 gallon per sq. ft. of canopy per day for indoor and greenhouse operations."

The pretense that an outdoor grown marijuana plant needs only 3 hundredths of a gallon per day per square foot of canopy is ridiculous. 0.03 gallons is 6 cubic inches of water. Someone has been smoking pot at work if they were able to write this estimate with a straight face. Large marijuana plants growing on a south facing, sun-struck, formerly chaparral covered ridgeline would quickly dry up and die on such a water ration. It is also pertinent to note that such ridge line chaparral locations are considered prime marijuana grow sites because they have, low humidity and full sun. It is also odd to see an estimate that indoor grown plants would use nearly ten times more water than outdoor plants under the hot August sun despite

---

[2] ***Cannabis Cultivators.*** Cannabis cultivators in the County's registry currently produce an estimated 244,620 pounds of cannabis per year based on information collected during the Environmental Review and registration process. That is roughly comparable to one-fifth of the 1,350,000 pounds produced by the 5-county Central Coast region, which is 10% of the estimated statewide production of 13,500,000 pounds, according to data provided by the California Department of Food and Agriculture. County registrants identified the desire to cultivate in excess of 1,743,000 pounds in the future, which would be almost 13% of the currently estimated cannabis production for the entire State. Industry experts believe that current production within the State is five to eight times higher than the 2.5 million pounds the State's population consumes, suggesting the amount of local production that can be sold into a legal, regulated market for consumption within the State may be a significant reduction from current production levels, not an increase. Bringing cultivators into the regulated, legal market should be seen as a way to daylight and hold on to some portion of the County's existing industry within the new competitive State-wide marketplace.

the fact that marijuana can be forced into 2 or 3 growths per year by manipulating the photo cycle with grow lights. Nothing about the water use estimates contained in the DEIR are consistent or logical.

According to a study by the CA Dept. of Fish and Wildlife[3], the water demand per plant is 22.7 liters per plant per day:

> "Our water demand estimates were based on calculations from the 2010 Humboldt County Outdoor Medical Cannabis Ordinance draft [27], which states that marijuana plants use an average of 22.7 liters per plant per day during the growing season, which typically extends from June-October (150 days). Water use data for marijuana cultivation are virtually nonexistent in the published literature, and both published and unpublished sources for this information vary greatly, from as low as 3.8 liters up to 56.8 liters per plant per day [7,28]. The 22.7 liter figure falls near the middle of this range, and was based on the soaker hose and emitter line watering methods used almost exclusively by the MCSs we have observed. Because these water demand estimates were used to evaluate impacts of surface water diversion from streams, we also excluded plants and greenhouses in areas served by municipal water districts (Outlet Creek, Fig. 4)."

One must then conclude that the water demand estimates in the DEIR are deficient, false and may be intentionally misleading. The study quoted above was easy to locate and is published in the well known "PlOS one" journal. "Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds"
Scott Bauer1◒*, Jennifer Olson1□, Adam Cockrill1, Michael van Hattem1, Linda Miller1,Margaret Tauzer2, Gordon Leppig1 California Department of Fish and Wildlife, Eureka, California, United States of America, 2 National Marine Fisheries Service, Arcata CA

The area where this study was conducted has a weather regime not substantially different from the Santa Cruz Mountains. Six cubic inches per square foot of canopy area can be converted to a similar "per plant" calculation. Assume an average outdoor plant to be three feet in diameter, and this is a large plant on average. That converts to a canopy area of 7.07 square feet. This converts (6 X 7.07) to 42 cu. in. per day. 42 cubic inches is 0.6882567L or roughly 0.7 liters.

We have 0.7 liters vs. 22.7 liters of water per plant per day assuming a plant diameter of three feet. Even with variations such as those between plants rooted in soil and those contained in pots and versions of both, this differential is vast.

The water demand estimate quoted in the DEIR is far less authoritative. Who should the public rely upon for this information, the Milewide Nursery or the CA Dept of Fish and Wildlife, the US National Marine Fisheries Service and Humbolt County? The answer is obvious, the State and Federal agency's estimate used is the authoritative estimate.
It is my assertion that the Milewide Nursery estimate was selected for inclusion in this

---

[3] Citation: Bauer S, Olson J, Cockrill A, van Hattem M, Miller L, Tauzer M, et al. (2015) Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds.PLoS ONE 10(3): e0120016. doi:10.1371/journal.pone.0120016

DEIR because it is misleading and because it underestimates the cumulative impact on County water resources. This nursery is associated with the commercial marijuana production industry in Humboldt County. Reference to the "Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds" study is mentioned on a Word Press web page titled "Humboldt Grower". "Humboldt Grower" is associated with the "Humboldt County Growers Alliance". All of these interrelated drug cultivation promotion organizations and individuals are at pains to refute the conclusions of the "Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds" study prepared by Humboldt County and adopted by the CA Dept of Fish and Wildlife and the National Marine Fisheries Service (part of NOAA).

The Lead Agency for the DEIR (Santa Cruz County Planning Dept.) has made a huge mathematical error regarding water use in comparison to *both studies*. This demonstrates the thorough incapacity to comprehend this crucial issue. This DEIR is both deficient, misleading and false. The Lead Agency first selectively presents information from clearly biased sources and then cannot even do the simple arithmetic necessary to estimate the water demand impacts upon Santa Cruz County. This is despite the fact that the DEIR Attachments include acreage of pot that can be produced under their Project versions.

The authors of the DEIR have selected a spurious estimate for water use in outdoor marijuana cultivation. This apparent lack of honesty, clear display of bias and also incompetence on the part of the Lead Agency fully discredits their statements and conclusions. The Santa Cruz County Board of Supervisors must reject this DEIR on this evidence alone.

Neighborhood Impacts Have been Deceptively Dismissed and Ignored

One of the tasks for the C4 advisory committee to the Board of Supervisors was the consistent and repeatedly expressed instruction from the Board to address neighborhood impacts from commercial marijuana cultivation. The DEIR frequently uses the term "existing communities".

Nowhere in the DEIR are neighborhood impacts, or impacts to "existing communities" addressed as a stand-alone topic. Instead the mere terms "neighborhoods", "impacts to neighborhoods", residents, children, "sensitive populations", "existing communities" etc. are scattered throughout the DEIR in a confusing, redundant and perfunctory manner so as to make it appear that this crucial concern of the affected public is actually addressed.
In reality this issue has not been addressed in any manner commensurate with the huge public safety, aesthetic, quality of life and home value issues involved. The DEIR does not even attempt to define what a neighborhood or an "existing community" are.

Hence this DEIR is misleading, evasive, defective and fails to meet the standards in the law, the California Environmental Quality Act.

CEQA guidelines, even the simple and common lists of impacts are either neglected or addressed so insufficiently as to render the DEIR illegitimate and deficient. The following impacts, that are indeed specifically impacts to this county's rural residential neighborhoods

include health and safety, aesthetics, scenic quality, anticipated physical changes, anticipated alterations to ecological systems, impacts to wildlife, light and glare, noise, and so on.

What follows is a synopsis of CEQA case law on this subject titled "A CEQA Primer" written by Keith Sugar, deceased. Mr. Sugar was an environmental attorney and a former Santa Cruz City Council member.

"An EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, both from a local and regional perspective. The description shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives." 14 CCR 15125. "Because the concept of a significant effect on the environment focuses on changes in the environment, this section requires an EIR to describe the environmental setting of the project so that the changes can be seen in context. Discussion following 14 CCR 15125, Office of Planning and Research. An accurate description of the existing environmental setting is indispensable to assessing the impacts that the project will have on the existing environment. 14 CCR 15125(a).

It is axiomatic to observe that on-site natural resources must be discussed in order for the public and the decision makers to know how the project will impact these resources. A corollary of the requirement to provide an accurate description of the existing environmental setting is the requirement to provide an accurate and stable project description. "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." County of Inyo v. City of Los Angeles (3d Dist. 1977) 71 CA3d 185, 193. Additionally, the entire project being proposed must be described in the EIR, and the project description must not minimize project impacts. City of Santee v. County of San Diego (1989) 214 CA3d 1438, 1450.

Without an accurate description of the project or its environmental setting, an EIR cannot achieve the foremost objective of CEQA, that is, the disclosure and analysis of project related impacts on the environment. A project description must include all relevant aspects of a project, including reasonably foreseeable future activities that are part of the project. (*Laurel Heights Improvement Assn. v. Regents of the University of California* (*Laurel Heights I*) (1988) 47 Cal.3d 376. Responsibility for a project cannot be avoided by limiting the title or description of the project. *Rural Land Owners Association v. Lodi City Council* (3d Dist. 1983) 143 Cal.App.3d 1013, 1025. The project description must be accurate and consistent throughout an EIR. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los* Angeles (3d Dist. 1977) 71 Cal.App.3d 185, 193, Discussion following CEQA Guidelines §15124). The primary harm caused by shifts among different project descriptions is that the inconsistency confuses the public and the commenting agencies, thus vitiating the usefulness of the process "as a vehicle for intelligent public participation." (*Inyo v. City of L. A.* 71 Cal.App.3d at 197-198) In preparing an EIR, a lead agency is required to thoroughly investigate the existing environmental setting. San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, (1994) 27 CA4th 713, 726. "While forecasting the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." 14 CCR 15144.

Mr. Sugar has included relevant case law that established the obligation of the Lead Agency to adequately address the following: "An EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, both from a local and regional perspective; An EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, both from a local and regional perspective; A project description must include all relevant aspects of a project, including reasonably foreseeable future activities that are part of the project; and; In preparing an EIR, a lead agency is required to thoroughly investigate the existing environmental setting."

It is my contention that none of the above legal precedents have been adequately adhered to. This is true in regard to neighborhood impacts, to the multiple impacts to natural resources, to wildlife, to water quality, to geological stability, to public health and safety.

No reasonable attempt is made in the DEIR to describe the types of rural neighborhoods or "existing communities" that are zoned RA and SU nor to explain how these neighborhoods differ from those within the Urban and Rural Services Lines as defined in the County General Plan. Scant effort is demonstrated in the DEIR to address how these neighborhoods will be changed much less "impacted" and harmed by the insertion of commercial drug production into their midst. Lastly no effort or text whatsoever addresses the foreseeable future activities that may result in these neighborhoods as a result of the Project.

For example, a 1950's era RA zoned subdivision, once a congenial neighborhood of responsible people, could be completely disrupted. The "more permissive option" would allow an adjoining neighbor with a 2.5 acre parcel to entirely clear the forest off of an entire acre (or more) of their parcel and then plant 2,723 square feet of marijuana plants within 100 feet of a neighboring house. (Land clearing permits are addressed elsewhere in this letter.) Anyone working for a county planning department *should* be able to understand what this would mean to the people in this example neighborhood.

In the above example many people would be driven into selling their homes and moving away. The Santa Cruz Mountains are beautiful, silent and once were filled with wildlife. People do not live here so as to be personally subjected to commercial drug production, nor to live next to transient employee's tents (without toilets), the imaginary code enforcement zeal of the Planning Dept. notwithstanding.

Aesthetics**,** including and not limited to the removal of trees and smaller vegetation is a major negative and disruptive visual impact upon the aesthetics of a forested rural neighborhood.

Land clearing and the likely clearing of large areas of forest and chaparral so as to get the maximum hours of sun exposure onto marijuana grow sites that are surrounded by tall forest trees will substantially degrade the existing visual character and quality of the site and its surroundings, in the case of this example, a rural forest neighborhood. Such forested neighborhood subdivisions are very common in SU and RA zone districts. The schedules of areas of land available to grow pot in this DEIR fail to address the impact of tree and terrain shading. This fatally misrepresents the impacts to forests.

The County's existing Title 16 codes provides the following under the heading: "16.22.080 Land clearing approval."[4] Outside of the Coastal Zone one entire acre of land can be cleared with a simple ministerial permit. Because the commercial cultivation of marijuana is intended to be a fully permitted activity, then there is not even a restriction on terrain slope, but merely *the possibility* of a site visit to review the permit. Hence land steeper than a 30% slope will not require anything but the submission of an "Erosion Control Plan".

In a one hundred year old second growth redwood or redwood and mixed hardwood forest, ,the tallest trees are now approximately 175 feet tall. A grow site of even 1000 square feet would motivate land clearing for full sun exposure that would be several times over the size of the "pot grow" and could easily induce legal land clearing of 10,000 or even 20,000 square feet, for simple convenience and crop security. An acre is 43,560 square feet. In this example, with no riparian setback, that entire area could be cleared. Such an action would completely demolish the shared esthetics of a rural residential neighborhood.

Astonishingly the Lead Agency makes the following claims regarding Esthetics:

"Secondary impacts of the Program would create significant and unavoidable impacts to all resource areas analyzed in Chapter 3, *Environmental Impact Analysis,* except for aesthetics and visual resources, which would have less than significant secondary impacts. This is because it is not possible for the County to completely eradicate all unregulated cannabis activity. These illegal activities would not necessarily adhere to existing County regulators and/or mitigation

---

[4] **16.22.080 Land clearing approval.**
Land clearing shall be kept to a minimum. Vegetation removal shall be limited to that amount necessary for building, access, and construction as shown on the approved erosion control plan. The following provisions shall apply:
(A) When no land development permit has been issued, the following extents of land clearing require approval of an erosion-control plan according to the procedures in Chapter 18.10 SCCC, Level III:
(1) Any amount of clearing in a sensitive habitat, as defined in this chapter.
(2) One-quarter acre or more of clearing in the Coastal Zone if also in a least-disturbed watershed, a water supply watershed, or an area of high erosion hazard.
(3) One acre or more of clearing in all areas not included in subsections (A)(1) and (2) of this section.
(B) When a land development permit has been issued, land clearing may be done according to the approved development plan.
(1) For land clearing in the Coastal Zone which will be more than that shown on the approved erosion-control plan, a new land-clearing approval is required if the land is located in a least-disturbed watershed, a water supply watershed, or an area of high erosion hazard.
(2) For land clearing in any area which will include more than one acre in excess of that shown on the approved plan, a new land-clearing approval is required.
(C) Approval of land clearing shall meet the following conditions. All disturbed surfaces shall be prepared and maintained to control erosion and to establish native or naturalized vegetative growth compatible with the area. This control shall consist of:
(1) Effective temporary planting such as rye grass, barley, or some other fast-germinating seed, and mulching with straw and/or other slope stabilization material;
(2) Permanent planting of native or naturalized drought resistant species of shrubs, trees, etc., pursuant to the County's landscape criteria, when the project is completed;
(3) Mulching, fertilizing, watering or other methods may be required to establish new vegetation. On slopes less than 20 percent, topsoil shall be stockpiled and reapplied.
The protection required by this section shall be installed prior to calling for final approval of the project and at all times between October 15th and April 15th. Such protection shall be maintained for at least one winter until permanent protection is established.
(D) No land clearing shall take place prior to approval of the erosion control plan. Vegetation removal between October 15th and April 15th shall not precede subsequent grading or construction activities by more than 15 days. During this period, erosion and sediment control measures shall be in place.(E) Land clearing of more than one-quarter acre that is not a part of a permitted activity shall not take place on slopes greater than 30 percent. [Ord. 4496-C § 87, 1998; Ord. 3439 § 1, 1983; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

measures in this EIR, and could therefore cause significant adverse impacts due to practices such as not following grading restrictions and causing erosion, using chemicals hazardous to biological resources, diverting streams and causing water supply and quality issues, and using diesel generators that contribute to air pollution and GHGs. Although this EIR introduces mitigation measures that would lessen these impacts through enforcement and surveys of unlicensed cannabis activities, as it is not possible to bring all unregulated cannabis activity into compliance with the Program, secondary impacts remain *significant and unavoidable*."

It is absolutely stunning for the Lead Agency to express such thoroughgoing indifference to aesthetics and visual resources (especially upon neighborhoods!!) as to assert that these impacts are less than significant secondary impacts.

This is profoundly insulting to the rural homeowners, most of whom are the stewards of this County's environment. These claims by the Lead Agency are preposterously illegitimate. Again this DEIR is repeatedly and thoroughly defective, deceptive, misleading, and utterly fails to perform its legal function, i.e. is to inform government decisions that impact the environment.

Quoting: 3.10.6.4 Cumulative Impacts (Established Communities)

"The potential for cumulative development in the County could lead to perceived quality of life impacts to residents and established communities located near future cannabis cultivation and manufacturing areas. Such impacts would likely be related to changes to the existing character of these neighborhoods, land use conflicts, and cannabis-related traffic, odor, and noise increases. However, it is anticipated that restrictions and regulations of the proposed Program, as well as review processes for Plan Updates and/or land use permits would address land use conflicts and existing community issues on a project-specific level before permit or cannabis license issuance. Therefore, cumulative impacts to land use and planning are anticipated to be less than significant."

Response: This is not merely a "perceived quality of life impact". It is a direct, anticipated and fully Significant and Unavoidable negative impact to rural residents, neighborhoods and "established communities". The Lead Agency can anticipate all it will regarding "anticipated future restrictions and regulations". This is irrelevant in a legitimate DEIR. All that is legally relevant are the proposed Ordinances and the existing County code. Speculations about possible future regulations are irrelevant. Again, the Lead Agency is misleading the public regarding how Cumulative Impacts are to be analyzed. Either this or they are simply incompetent to prepare a proper DEIR.

Reasonably Foreseeable Indirect Effect Of Project

This is entirely a government regulation based Program. The Draft EIR is presented as an explanation of how environmental impacts will be 'mitigated to levels of insignificance' (aside from the few impacts that are acknowledged to be "significant and unavoidable" and the listed unavoidable impacts are generally ancillary (traffic, greenhouse gasses etc.) and for the most part in no way exclusive to this Program, but part of every conceivable economic activity.

Arguably all of the proposed mitigations are specifically regulations, those either proposed in the ordinance language now under review or currently existing in County Code. The Lead Agency may falsely claim that a code stipulation such as defining the volume of a water tank or the area of a marijuana grow site is an actual physical mitigation. But in reality, these supposed mitigations are all highly speculative and currently largely non-existent on the landscape of this County. The Lead Agency presents very little objective "hard" data that can support it's the claims of mitigation made in the DEIR despite the fact that on December 2, 2015 Santa Cruz County adopted an interim marijuana cultivation ordinance which is de facto still in effect and also adopted the original *Chapter 7.126 (adopted in February 2014*) that precipitated what the Lead Agency now calls the "green rush".

The County and the Lead Agency, i.e. the County Planning Department and the Cannabis Licensing Officer have consistently demonstrated their inability or unwillingness to effectively enforce the pertinent regulations that are now in force (Chapter [Title] 16) of the County Code that will be essential to the effective regulation of marijuana cultivation. Assuming 1,800 commercial marijuana cultivation sites exist now (as the County Sheriff has estimated) where might be this imaginary mitigation through the enforcement of County code, Chapter 16 or any other chapter?

The False Pretense of Code Enforcement

In the ES-2 Program Overview one finds this statement: "The Program would regulate how, where, and how much cannabis and cannabis products may be commercially cultivated and manufactured to provide a reliable and high quality supply, while also protecting the environment and neighborhood quality. This section will investigate the DEIR to reveal if and how this goal would be accomplished.

Again quoting from the DEIR:
"On February 25, 2014, the County adopted a similar “limited immunity from enforcement” approach as related to medical cannabis cultivation within the unincorporated area of the County. The purpose of adopting the ordinance was to establish comprehensive civil regulations of premises used for cultivation in order to address existing adverse effects related to degradation of the natural environment, improperly diverting natural resources, risks of criminal activity, obnoxious odors, fire hazards from improper electrical wiring and inappropriate use of generators, and other adverse effects on neighborhood character and community quality of life. SCCC Chapter 7.126 was adopted to establish reasonable regulations upon the manner in which cannabis may be cultivated, including restrictions on the amount of cannabis that may be individually, collectively, or cooperatively cultivated in any location or premises, in order to protect the public health, safety, and welfare in the County.

An unintended consequence of adopting SCCC Chapter 7.126 in February 2014 was that it triggered a “green rush”, with existing cultivators expanding operations due to a sense that being hidden was less important, as well as new cultivators moving into the area and setting up new cultivation and manufacturing sites both outdoor and indoor. It appeared that many of the cannabis operations, especially new operators, simply acted upon a misunderstanding that the County allows cannabis activities, without reading or complying with the restrictions and

requirements of the SCCC. Therefore, the adverse effects of illegal cannabis cultivation were exacerbated and expanded to include increased areas of hillside grading, clearing of trees and vegetation, and other environmental and community impacts. Currently, there is a significant known but difficult-to-quantify level of cannabis cultivation and manufacturing activity within the unincorporated area of the County.

Thus in the italicized quote above, the Lead Agency acknowledges that "the adverse effects *of illegal cannabis cultivation were exacerbated and expanded to include increased areas of hillside grading, clearing of trees and vegetation, and other environmental and community impacts."*

Where I live in a quiet forested RA subdivision *all* of the impacts enumerated above, such as hillside grading and clearing of trees and vegetation are directly community neighborhood impacts. My community is not an asphalt street grid. It is a silent forest sheltered rural neighborhood.

Again quoting:

An unintended consequence of adopting SCCC Chapter 7.126 in February 2014 was that it triggered a "green rush", with existing cultivators expanding operations due to a sense that being hidden was less important, as well as new cultivators moving into the area and setting up new cultivation and manufacturing sites both outdoor and indoor. It appeared that many of the cannabis operations, especially new operators, simply acted upon a misunderstanding that the County allows cannabis activities, without reading or complying with the restrictions and requirements of the SCCC. Therefore, the adverse effects of illegal cannabis cultivation were exacerbated and expanded to include increased areas of hillside grading, clearing of trees and vegetation, and other environmental and community impacts. Currently, there is a significant known but difficult-to-quantify level of cannabis cultivation and manufacturing activity within the unincorporated area of the County."

Considering this text quoted from County documents above; Santa Cruz County has already made bad decisions and enacted uninformed and foolish policies (code Chapter 7.126) that have harmed the rural County and the present and the future of forested RA, SU, and TP zoned neighborhoods and commercial forest lands, and in fact, illegal operations must exist in every zone district.

Within less than one mile of my residence we have had several illegal water diversions (one directly causing a fish kill of endangered steelhead), two open camp fires, one in extremely flammable chaparral, at least one and probably two squatter tent camps established and then one abandoned as piles of junk, poisons and debris, a dead pet dog, and gunfire from marijuana cultivators. Until recently, approximately 2014, none of these problems existed. The County's ill advised actions are the specific proximate cause of the problems.

By the magical thinking displayed by the authors of this DEIR, such impacts are supposedly going to be "mitigated" to insignificance. The authors put forth the preposterous notion that by establishing further and specifically permissive rules, that these illegal activities will magically abate. This is stunning flawed logic. The Lead Agency is unable to learn from experience that compliance with the law is not promoted by a permissive approach.

The assertions of fact and the supposed policy outcomes imagined in this DEIR are imaginary, false, misleading, inconsistent, absurd and beneath the level of integrity I expect from *any* County Government in California.

Water Quality and Water Pollution

Every addressed subset of water pollution impacts is assigned a "less than significant after mitigation" designation. This is ridiculous, both self-evidently false and misleading in the extreme. 10,000 marijuana grow sites, including "300 to 350 established larger commercial cultivation businesses…" (source DEIR 4-4) are estimated to exist." These thousands of marijuana growing (and manufacturing) sites must cause significant and unavoidable cumulative impacts to water quality. The Central Coast Regional Water Quality Control Board has no staff residing in Santa Cruz County. The Regional Board offices are in San Luis Obispo 164 miles from the County Government Building. When the staff of this agency visit this county, it is usually to attend some meeting and most certainly seldom to survey this County for water pollution impacts. The primary task of the Regional Board is to supervise the County's efforts to control water pollution. The County relies upon the County Health Department's Office of Environmental Health to regulate water pollution. I have been unable to locate any reference within the DEIR to this crucial Public Health sub-agency.

Virtually every river and creek in Santa Cruz County is listed as impaired for various pollutants by both the Central Coast Regional Water Quality Control Board and the Federal EPA under the Clean Water Act. The pertinent laws governing water pollution specify a total daily maximum allowed load of allowable water pollution, specifically a TMDL once a water body is found to be "impaired". Nothing in the DEIR is remotely legitimate in response to this water pollution.

Here is the list of pollutants currently accounted for: Boron, Chlordane, Chloride, Chlorpyrifos, DDD,Dieldrin, E. coli, Fecal,Coliform, Low,Dissolved Oxygen, Nitrate, Nutrients, PCBs, Sedimentation/Siltation, Sodium,Turbidity, PH, pathogens, and Enterococcus.

Every impact listed under the heading "Hydrology and Water Quality" is given an impact rating as "less than significant after mitigation". I have previously in this document explained how the Lead Agency has misrepresented the water supply demand for marijuana cultivation. Now we are expected to accept the nonsense that water pollution will also be mitigated to levels of insignificance. This is preposterous. The County can spend all the time is wants promoting Best Management Practices. However there is nothing material in the proposed Ordinances that will accomplish this. Thus the claim of "less than significant after mitigation" is complete nonsense and deserves no further wasted time on my part as the author of this letter.

Biological Resources

There is a rodenticide catastrophe underway in California. Most of these poisons are anticoagulants, both first generation warfarin and far more lethal second generation poisons. When a poisoned dying or dead rodent is ingested by a predator or a scavenging animal these

poisons transfer to that animal and begin to poison it. When the poisoned rodents are eaten by larger animals those animals also die. In some cases, such as with owls, death can occur from eating a single contaminated rodent. Death is caused by internal bleeding through the rupture of capillary blood vessels. The actual cause of death varies by the poison used. Rat poisons are very commonly used by marijuana cultivators because they are easy and inexpensive. The alternative is to wire cage pot plants beginning below the soil and continuing until covering the top of the plant. Only *very* well built tight green houses can avoid this rodent problem. Both wild native animals (wood rats, harvest mice, voles etc) and exotic invasives including brown and norway rats and house mice will eat the xylem tissue from marijuana plants seeking the sugars and water that the plants transmit.

The anadromous steelhead rainbow trout and the virtually extinct coho salmon and other fishes native to the Santa Cruz Mountains are at extreme risk from the large-scale commercial marijuana cultivation taking place and planned to expand in future.

Timber Production (TP) zoned land is the last refuge of our wildlife from these rat poisons. If TP lands are opened up to legal marijuana cultivation then this county's predators and scavengers are doomed to death by rodenticide poisoning. TP lands must be excluded from cultivation for reasons of fire safety, wildlife conservation and water pollution. Marijuana cultivation clearing and conversion will also violate the Forest Practice Act's conversion of use regulations.

Stream water diversions are currently causing fish kills by stranding. This is true both from near steam and aquifer wells and through the direct pumping from creeks and small ephemeral tributaries. **The mitigation proposed in the DEIR to use tanks that are only filled during the rain season is speculative. Once these tanks, if they are ever actually installed, are dry, they become essentially irrelevant. Very few pot grower are going to abandon their crop to dry out if there is a water source like a spring or creek within reach. This mitigation is insufficient.** Only the direct and continuous metering of commercial cultivation water supply sources could come close to managing water supplies so as to not destroy our fish species. The DEIR states that unregulated commercial cannabis cultivation impacts would be significant and unavoidable. Well…. I'm glad we finally agree on something.

Alternatives Analysis

The evaluations of "alternatives" to the Project and the selection of which alternatives to consider is a major obligatory and informational facet of CEQA.

The **alternative rejected** by the Lead Agency is the **Residential Cannabis (Garage Grow) Alternative.** The authors state:

"This alternative was discarded in that it would not meet key Program objectives. This would include Program Objective No. 4, which states: “Prevent impacts of cannabis cultivation and manufacturing sites on children and sensitive populations.” Interspersing cannabis grows within residential zones would likely expose children, seniors and other sensitive population to cannabis activities and odors. In addition, residential zones typically support many school

sites, which even with required setbacks, would incrementally increase exposure of children to cannabis activities. Further, allowing residential "garage grows" could conflict with Program Objective No. 7, which states: "Ensure compatibility of commercial cannabis cultivation and manufacturing sites with surrounding land uses, especially residential neighborhoods, educational facilities…" Even accounting for the well managed nature of some known garage grows, allowing commercial cannabis activities in single family residential neighborhoods could lead to commercial residential land use conflicts, exposure of children to cannabis activities, increases in odor complaints, and other impacts. In permitting cannabis cultivation proximate to large concentrations of residential units, this potential alternative could incrementally increase impacts related to safety, noise, and air quality beyond those of the Program. Finally, substantial early public comment on the NOP from residents of neighborhoods indicated strong concerns over the potential impacts of allowing grows in such locations. Therefore, this potential alternative was discarded from further consideration."

Comment: It is ironic that this alternative was rejected out of hand. This was clearly based upon a political and not an environmental consideration. The unstated task of the Lead Agency was to create a DEIR that was politically viable to the majority of the voting population. Garage grows in R1 zoning would annoy the largest sub-set of voters in the County. Cultivation and manufacturing in RA and SU zoning also leads to; " land use conflicts, exposure of children to cannabis activities, increases in odor complaints, and other impacts" as well as; " incrementally increase impacts related to safety, noise, and air quality beyond those of the Program." **In many ways Garage Grows are environmentally superior. There is far less impact to water resources because of the metering and pricing of "system" supplied water. The impacts to the natural landscape (deforestation, dewatering of streams, rodenticide poisoning of wildlife, road construction and inducement to develop substandard rural parcels are all greatly reduced.**

The Alternatives Analysis---- and the "Program" and the "More Permissive Program"----

These two classifications, one described in Chapter 2 and one herein included in the Alternatives Analysis create substantial confusion. These obscure semantic distinctions are another example of how obtuse and confusing this DEIR is.

However because of the similarities between these two set groups of alternatives, I will limit my comments to the Alternatives described within the "Alternatives Analysis". I could just as well propose an alternative of my own. However I am fully satisfied with Alternative 1, Most Restrictive Alternative (described below).

The alternatives selected for consideration by the Lead Agency within " the Alternatives Analsys are as follows:
(1) 4.2.1 No Project Alternative
(2) 4.2.2 Alternative 1 — Most Restrictive Alternative
(3) 4.2.3 Alternative 2 — Most Permissive Alternative
The Residential Cannabis (Garage Grow) Alternative was rejected from consideration by the Lead Agency however I consider a discussion of this alternative to be illuminating. I will discuss it. The Lead Agency does not have the authority to distort a

DEIR into total confusion at their whim. They must follow CEQA.

This alternative was " was discarded from further consideration" by the Lead Agency because of their claim that it does not meet the goals of the Program.

While it is true that this alternative "would not meet many of the key objectives of the Program", it would nevertheless empower law enforcement to control the most egregious environmental damage caused by cultivators operating in radically inappropriate locations where they destroy forest and chaparral, poison creeks, destroy rare plants and animals and endanger public health and safety through igniting fires, use the threat of firearms, resort to open gunfire and so forth. **Vigorous and better-funded law enforcement (County Sheriff, City Police, Highway Patrol, Fish and Wildlife Wardens, State Parks Law Enforcement Rangers) will necessarily be a key component <u>of all</u> of the enumerated alternatives in this DEIR.**

(2) 4.2.2 Alternative 1 — Most Restrictive Alternative

The Most Restrictive Alternative would modify the proposed Project scenario as follows:

- Ineligibility of cultivation within RA and TP zoning districts
- Consideration of two approaches to SU zoning district eligibility:
- Option 1. Ineligibility of cultivation for only those SU zoned parcels with residential general plan land use designations
- Options 2. Ineligibility of cultivation for all SU zoned parcels
- No outdoor cultivation; only indoor cultivation and indoor greenhouse cultivation allowed
- Within the Coastal Zone + 1 mile buffer area, cultivation only allowed in CA, A, M1, M2, M3, and C4 zoning districts
- A residence or caretaker units is required on cultivation sites within all eligible zoning districts, including CA
- Increased required setback to perennial stream, water body, or wetland from 100 feet to 200 feet
- Manufacturing would only be permitted on M1, M2, M3, C2 (only if in a licensed dispensary), and C4
- Increased setbacks between habitable structures and cultivation in the A zone district
- No cannabis activities licensed on public lands
- These restrictions would be implemented through development standards and zoning regulations included under this alternative to reduce the area of eligibility compared to the proposed Project scenario (Figure 4.1a and 4.1b).
- Similar to both Program scenarios, the 2016 License Registration limits the total number of potential cultivation licensees to a maximum of 760, though the licensees may locate anywhere within the reduced areas of eligibility. Data collected indicated that 567 registrants currently cultivate, while 193 registrants propose new cultivation in the future under the Program. Data collected also provided the location of 259 potential sites for licensing, which allows for comparison between the Program alternatives for what portion of registrants may qualify. Under this alternative, data indicates that approximately 19 percent to 20 percent of registrants would be eligible for licensing based on site location within the Program's area of eligibility (Table 4-1).

Comment: 4.2.2 Alternative 1 — Most Restrictive Alternative: is clearly the ENVIRONMENTALLY SUPERIOR ALTERNATIVE despite the Lead Agency's comments to the contrary.

Alternative 1 (4.2.2) protects rural land environments (forests, sensitive habitats, chaparral, riparian corridors, stream flows, endangered wildlife, sand hills, unconverted coastal grassland terraces, scenic vistas etc. It reduces water use demand,

diversion of stream flows, aquifer depletion and water pollution because of the inherent limitation on cultivation in areas with no established legal water right or identified water supply. It nearly eliminates the promotion of new development and road construction. And it fully protects rural neighborhoods and "established communities" from the disruption caused by rural neighborhood properties being converted into pot farms.

Their theory of compliance with new codes is based upon the nonsense notion that growers will voluntarily comply over time without vigorous enforcement. This is magical thinking and delusional. Enforcement is key and the Lead Agency refuses to acknowledge this obvious and fundamental principle of human nature. The Lead Agency might just as well argue that the Highway Patrol should rely upon the good sense of drivers not to speed or drive recklessly. Their position is ridiculous and flies in the face of thousands of years of human history.

Their assertions about what is the Environmentally Superior Alternative, especially considering their assertion that the County is unable to enforce the code, is false and misleading.

The Ordinance's even include the specific statement that the County has "no duty to enforce". This is an amazing abrogation of responsibility and renders this entire DEIR into absurdity. The County is the applicable civil authority. As such it cannot legitimately claim that it has no legal enforcement obligations for civil code.

The County is fully capable of enforcing its codes. It has all the necessary legal tools. The County merely chooses not to enforce their code for political and financial reasons.

The influx of new taxation funds from marijuana will provide ample funding for enhanced enforcement as long as the Board chooses to use enough of this money for this specific purposed, instead of diverting the money to other uses. The notion of voluntary "good will" compliance is unworthy of serious consideration.

4.2.3 Alternative 2 — Most Permissive Alternative

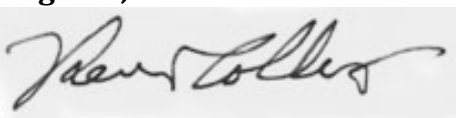
The Most Permissive Alternative would allow the most damage to natural resources and to the neighborhoods and the citizens of this County. It expands the area of cultivation to virtually the entire County and peppers the landscape of the Santa Cruz Mountains with legalized grow sites that currently have no existing water rights, no fire access complaint roads and no required legal residences. It is growth inducing in areas where the General Plan calls for low density or no development. It fails to protect county water resources and sacrifices wildlife and natural areas. To assert that this is sensible is completely delusional. Apparently the Lead Agency has interpreted its role as to facilitate the marijuana industry at the expense of the environment and the of the health and safety of this County's rural residents, especially its mountain residents. This Alternative is discriminatory, destructive, and an offence to good sense.

4.3 Environmentally Superior Alternative

"Based on the information in this EIR, the Most Permissive Project Alternative is identified as the Environmentally Superior Alternative. Alternative 2 was found to generate the least adverse impacts, with the potential to substantially improve natural resources and public service conditions associated with secondary impacts, while achieving the most Program objectives. The Most Permissive Project Alternative would give the County the most flexibility and opportunity to bring cannabis operations into compliance with the SCCC and the County General Plan and monitor operations over time. It also provides the greatest opportunity to mitigate impacts and increase County tax revenue to support ongoing improvement and enforcement programs. With implementation of mitigation measures, the Most Permissive Project Alternative provides a balance between meeting Program objectives, including quality of life concerns, while addressing environmental impacts by maximizing participation in the Program and, in doing so, applying SCCC regulations, County policies, and required mitigation measures from this EIR to all licensed cannabis cultivation and manufacturing."

This quote is false, misleading, and filled with magical thinking. It is not worthy of any further response.

Regards,



Kevin Collins

Attachments:
(1) Report to the Santa Cruz County Board of Supervisors on Two Years of Administrative Exceptions to the County Riparian and Wetlands Protection Ordinance -- June 12, 2012

This report is attached to demonstrate to the Board of Supervisors how easily the Planning Department issues Exceptions to Chapter 16 codes be they riparian, grading, geologic or otherwise.

This is pertinent because the text of the DEIR could lead one to believe that Chapter 16 is strongly enforced, when in fact it is frequently rendered ineffective by the ministerial issuance of Code Exceptions based upon statements such as ""and there is no feasible less environmentally damaging alternative" --- to allow development of a substandard parcel.

And: "This finding can be made, in that the vast majority of the parcel is located within the riparian corridor and the granting of an exception will allow a reasonable use of the property. In addition, a large portion of the property contains unclassified, unstable fill that is prone to erosion and failures. This fill will be removed in order to provide a stable slope and to better control drainage."

Report to the Santa Cruz County Board of Supervisors on Two Years of Administrative Exceptions to the County Riparian and Wetlands Protection Ordinance

Prepared by Kevin Collins
<bats3@cruzio.com> - 831-335-4196
P.O. Box 722 Felton, CA 95018

- SC County Fish and Game Advisory Commission
- Founding member, Lompico Watershed Conservancy
- Executive Committee, Ventana Chapter Sierra Club, former Chair Santa Cruz County Group
- Environmental Committee, San Lorenzo Valley Women's Club
- Extensive experience with administrative appeals, law and procedure, CA Water Quality Code, State Forestry Code, County Zoning and land use code, easements and other natural resource conservation matters. Former licensed General Building Contractor.

Submission date June 12, 2012

The source files for this report were obtained from the Santa Cruz County Planning Department through use of the California Public Records Act. These source files themselves are "Staff Reports to the Zoning Administrator" that describe individual Riparian Exceptions, with "Development Permit Findings" and "Conditions of Approval". These documents also contain narrative descriptions of building sites and references to other reports including geologic surveys and septic permit reviews. Planning supplied these documents for the years of July 11, 2009 through July 11, 2011. There is no intent with this report to retroactively challenge the approval of past Exceptions such as those enumerated in this document.

Report Summary

The purpose of this report is to demonstrate to the Santa Cruz County Board of Supervisors and others how Exceptions to the Riparian and Wetlands Protection Ordinance (Riparian Ordinance or simply

Ordinance) are administered. That is, the means in which permission to be exempt from the written intent of the Ordinance is provided to applicants by the County. Administrative language is crucial to understand in this context. This is an issue of public policy that is being projected into the future.

The source information is objective in that it comes from County documents. Thus it is not a matter of my personal opinion. Opinions are only expressed in regard to the historical change in how the Ordinance is applied and why that change has occurred. To understand this report more thoroughly, one can read the source material itself. This report contains two appendixes. The first contains detailed descriptions of four example Exemptions. The second appendix is a synopsis of the entire 2 years of the collected Riparian Exceptions that were approved.

No review of the implementation of this important ordinance, nor its practical effect, has ever been prepared before. This document hopefully fills that void.

The Riparian Ordinance establishes defined distance set-backs from streams (and other water bodies) of varying widths in which grading, land clearing, building and paving, tree and shrub removal, deposition of refuse or debris, the use of herbicides, pesticides, or any toxic chemical substances, and any other activities determined by the Planning Director to have significant impacts on the riparian corridor, are all prohibited. The code establishes an administrative process to provide "Exception" to some of these prohibitions, depending on specific circumstances.

Fifty-one Exceptions from the Riparian Ordinance were reviewed for this report. There were a few duplicates provided by Planning and this is noted in the appendix. A number of these Exceptions pertain to Public Works and private road (and driveway) projects and are not pertinent to this report, which primarily concerns the question of Exceptions necessary for buildings. It is important to consider that real estate investment activity has been at an historic low, including during the two years (2010-11) that were researched for this report. This would logically be expected to suppress the number of development-based Exceptions that were sought from Planning during that period.

A limitation of this report is that it does not contain a list of applications for Exception to the Riparian Ordinance that may have been denied by Planning. The reason for this is that Government Records Act requests need to be concise and specific. They are not meant to be "fishing expeditions".

Environmental Ordinances

There are six environmental ordinances in Chapter (Title) 16 of the County Code that are administrated by Planning: the Riparian and Wetlands Protection Ordinance (subject of this report), the Geological Hazard Ordinance, the Grading Ordinance, the Erosion Control Ordinance, the Significant Trees Ordinance and the Sensitive Habitats Ordinance. Of these six, the Riparian Ordinance is the most vital to both the conservation of wildlife *and simultaneously* to the protection of water quality.

These six Chapter 16 codes are only applied in common practice during new construction. An example is the Erosion Control Ordinance. It has little practical effect upon general homeowner site maintenance and management, despite the fact that the authority to control erosion at all times is included in the County Code. Unfortunately erosion from existing home-sites is, by far, the most significant and chronic source of soil erosion when this major source is combined with our extensive public and private mountain road networks (including logging land). In situations that are not connected with active construction projects, enforcement of the Erosion Control ordinance and

determinations of harm are specified in the code "as determined by the Planning Director" and are entirely discretionary. It is clear that at present, this issue is of very low priority.

Riparian and Wetlands Protection Ordinance

The Riparian Ordinance is uniquely important. Riparian woodlands, stream-side trees and plants, the stream channels and stream banks themselves, and the wildlife migration corridors that they represent, are vital to the broadest range of wildlife species of any single habitat in this County. This is usually understood as an issue for endangered salmon fishes. However a simple example of the much broader species impacts is that songbirds are always most common near streams and rivers when compared with the other habitats they occupy. Equally important is the physical condition of these strips of land, because they have a direct and immediate impact on water pollution. If stream banks and near stream areas are eroding soil, this soil and other human caused pollutants flow directly into this County's surface waters. Surface waters are our predominant source of drinking water. It has long been understood that botanically diverse and intact vegetative "filter-strips" are important pollutant traps.

It is common for the stream frontage of entire lots to be stripped of riparian vegetation and trees from property line to property line. Few would expect the immediate site of a home or business to have no disturbance to its native vegetation. However, entire riparian lots are often converted to other uses with little or no consideration taken for these fragile and important locations. This neglect has a major destructive impact upon the public trust resources that the Riparian Ordinance was intended to protect.

How Riparian Exceptions are Granted

Most Riparian Exceptions are granted during the general building permit review process for structures and also for road related repairs and the construction of new roads and private driveways. Exceptions to Chapter 16 codes are "ministerial" and do not require a public hearing. Exceptions must be accompanied by both "Findings" and "Conditions". Interestingly, these Findings do not require any reference to damage to the environment or to water resources, except for Exceptions granted within the Coastal Zone. The language applying to the Coastal Zone reads: "That the granting of the exception, in the Coastal Zone, will not reduce or adversely impact the riparian corridor, and there is no feasible less environmentally damaging alternative; and…". I suspect that the Coastal Commission would not allow the ordinance to be applied within the Coastal Zone without this provision. However it is generally voided by the use of the "Conditions" section in some fashion related to mitigation, so as to appear to meet the intent of the ordinance. Also the structure of the clause, "and there is no feasible less environmentally damaging alternative" provides a means to legally allow, at the discretion of the County, actions that are damaging to riparian corridors.

A great deal of confusion arises over the issues of fairness or proportionality when properties that were built before the Ordinance was adopted (most riparian lots), or properties that were built illegally, are located near vacant properties now proposed for new development, and /or previously developed properties proposed for expanded redevelopment.

Exceptions to the Ordinance and to the closely interrelated Zoning Variances (for setbacks from property boundaries and roads) are sought and granted based upon the text below and similar justification language from Planning. It is crucial to understand that the logic of these examples would apply to any of the many remaining severely substandard parcels. These parcels were subdivided before this County had any standards whatsoever for land subdivisions.

Riparian Exception Findings Example

"This finding can be made in that the special circumstances affecting this property include the steep slopes, zoning setbacks, and riparian setbacks which, when combined, limit the developable area of the parcel. From a geologic and geotechnical safety perspective, there is no other feasible location to build a structure on the property."

Related Zoning Variance Findings Example

"This finding can be made, in that parcel (X), the parcel proposed for a variance to the required XX-foot front yard setbacks, is extremely steep in all other areas besides the proposed development envelope and would require a massive amount of grading to create another buildable area on the site. In addition, the parcel is further constrained by a creek located near the only flat buildable area, which creates additional setback requirements. *(Quoted text bolded for emphasis)* **Other surrounding properties are developed with single family residences at rural densities, therefore, strict application of the Zoning Ordinance on this particular parcel would deprive the property of the privilege to build a small single family residence as enjoyed by other properties in the vicinity and under the same Residential Agriculture (RA) zoning district."**

Thus a "lowest common denominator" effect takes place in the granting of Exceptions (and related Variances) leading to a situation in which the Riparian Ordinance is rendered close to irrelevant except in cases were the parcel has sufficient space. Many if not most riparian lots do not have sufficient space outside the set-back. Comparing a new development proposal to neighboring lots that were built upon before the Ordinance was adopted, renders the Ordinance moot.

Zoning Variance Language Example

"That the granting of such variances shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.---- This finding can be made, in that the creek runs through many adjacent parcels and the topography is severely limiting in this area: therefore, any parcel of similar size and topography would be granted a variance to site standards for building site location if the building site was the only buildable area on the parcel."

Consideration of adverse environmental impacts, or harm to water quality, have no bearing upon the Findings made in this permitting process in any case that I reviewed in the record. Conditions of approval occasionally suggest limitations upon possible future additional development on a site. However these statements are not binding because no such permit is under review.

Enforcement in the Absence of Building Permits

The Riparian Ordinance is frequently ignored entirely by builders of structures and roads who act without permits. Property owners of stream-side (riparian) buildings build improvements to their back and side-yards such as swimming pools, parking areas, accessory structures and additions of various types. Riparian setbacks are also cleared of trees and shrubs simply to open up views of creeks and the river. Riparian areas are highly resistant to wildfire, but this fact does not deter people from clearing streamside land in response to their fear of wildfire.

From well over 20 years of observing this situation, it is my view that the Ordinance is now rarely enforced in cases were no building permit exists. Violations are rarely noted or enforced without a

citizen filling a formal code violation complaint with the Planning Department. The general public is the primary source of code violation reports. Complaints require the name, address and phone number of the person who files the complaint. Some Planning staff will reveal the identity of the complainant to the person responsible for the code violation. People whom I trust to report facts have described to me how their confidential code complaints to Planning have resulted in them being confronted by the property owner of the lot that was the subject of their complaint, and in specific terms.

This lack of consistent confidentiality very effectively reduces the number of complaints that are ever filed. It is impossible to challenge such a breach of confidentiality. It is deniable in every case. In addition, the person who files a complaint must frequently be persistent in following up their complaint with further inquires to Planning staff. I am writing in average general terms and I am specifically **not** making these claims about all code enforcements officers or every situation.

This has not always been the case. In past years, when County environmental codes were held in higher regard, the Planning Department included field staff and code enforcement officers who issued red-tags for violations of the Riparian Ordinance. However this effective practice generally ceased years ago. In private conversations with former Planning Department employees over many years, I have been told that they were pressured by superiors not to act upon their personal knowledge of violations of the Ordinance.

Legal Significance of the Ordinance

The mere presence of the Riparian Ordinance in the County Code is fundamental to various agreements that the County has with State and Federal Agencies, including the Central Coast Regional Water Quality Control Board, the State Water Resources Control Board, the CA Department of Fish and Game, the National Marine Fisheries Service (NOAA) and others.

An example of such agreements are the three TMDLs (Total Daily Maximum Load-*i.e. pollution loads*) for sediment, nitrates and pathogens adopted by the combined Water Boards, under EPA supervision, for the San Lorenzo River. TMDLs exist as instruments of the Clean Water Act to resolve water pollution problems. The Riparian Ordinance is part of the written plans in TMDLs for improving pollution levels in water bodies such as the San Lorenzo. TMDLs are mandatory.

The River was initially placed on the Federal Water Pollution Control Act Sec. 303(d) list of "impaired" or polluted water bodies. Subsequent to that "listing", a plan or TMDL was adopted to reduce the specific pollutant. The County Riparian Corridor and Wetlands Protection Ordinance and its enforcement is cited as a correcting factor in these TMDL agreements.

It is also important to understand that in the case of pathogens and nitrates, the laxly enforced County Septic Code (Chapter 7.4 of the Health and Safety Code) is also tied into these agreements with the State and Federal Government.

Other County agreements involving the Ordinance exist with other agencies such as the National Marine Fisheries Service for the recovery of endangered salmonids (salmon fishes).

The Riparian and Wetlands Protection Ordinance is part of a set of rules, laws and intergovernmental agreements. These rules, permits and agreements either work together to protect public trust resources, such as water resources and wildlife, or instead, they simply exist "on paper" to masquerade for objective reality.

There is always a shifting context in these cases. No regulatory administration is ever perfectly standardized. However in my view, at the present time, an illusion of law rather than its effective administration is the predominant situation in Santa Cruz County in regard to the Riparian Ordinance and related codes.

This is incongruous for a county with a tourism industry, high home prices, and a reputation for "environmental awareness". This situation is, in part, a result of the disconnect between the urban and rural parts of Santa Cruz County. It also results from the fact that local government is prone to complaint driven responses. A prevailing culture of complaint about the very existence of County land use regulations, of any kind, now overwhelms the opposing position of support for conservation-based environmental regulations. This is especially true in regard to the personal risks that private individuals must take in order to demand enforcement of this County's environmental codes.

In certain cases County staff do make efforts to enforce this code, but in my view these efforts come nowhere near to either the intent of the Ordinance, or to the meaning of interagency agreements in which the Ordinance is frequently claimed to be a mitigating and supporting factor.

Conclusion

There are numerous ways that the application of the Riparian Ordinance (and all of Chapter 16) could be improved. There must be the political will to protect natural resources. The Board of Supervisors sets policy at this level. Effectiveness is an issue of public administration and the interpretations that are applied to the code. No one else will have respect for these codes unless the County shows respect for its own code. At present we have a cadre of retired Planners who work as consultants with property owners to find loopholes in the code.

"Takings" case law is sometimes invoked as the explanation for the retreat from the application of general land use authority. This is not a justifiable excuse to dismiss the obligation to protect public resources. Riparian areas are public resources, just as the water that flows down their streams is a public resource. The two cannot be separated. Creeks and rivers are not ditches. Counties bear a clear responsibility to protect the public "commons". This is the reason that Chapter 16 of the County Code exists. It is not decoration.

If disclosure during property transfers included public information about the specific constraints upon sub-standard lots (too steep, in riparian set-backs, below size for septic systems or zone district, within a zoning set-back etc. , this would completely transform the current dynamic regarding the sale of severely sub-standard lots and seriously non-conforming structures. When people buy a house having no idea of how constrained or non-conforming to code that house already is, they are in an unfair position. People do not possess the knowledge to understand this and so they blame the County. It might appear a rather simple matter in town such as a side yard set-back, but in the mountains it is another story altogether. Your Board has made non-conforming structure policy more discretionary with little to no public review. It was claimed that this action did not affect the environmental ordinances. This was complete nonsense. The codes intersect in complex ways. Most of the building Riparian Exceptions in this report are coupled with Zoning Variances.

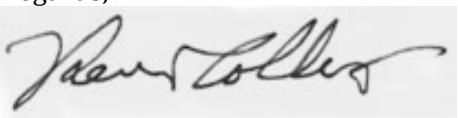
Another necessary improvement is to clarify policy for code compliance and enforcement. Some cases drag out for years in preposterous ways. Enforcement should not be arbitrary or inconsistent. It must be rational and based upon procedures that are clear and easy to understand. It is my understanding that the County only assesses recovery costs for it's own administrative expenses in doing compliance work. Planning looses money and has no incentive to improve compliance. Establish fines for violations and use them when necessary. Other cities and counties impose fines. It works. San

Francisco's building code has a maximum fine of nine times the original permit fee. It also has an appeals board. The City of Carmel has one of the most effective tree protection ordinances in the United States. It's success is inescapable when one walks down any street in Carmel. In Carmel this is an issue of civic pride rather than grudging argument.

Unless the County establishes some baseline standard below which the extent of environmental harm is unacceptable then the Ordinance is irrelevant. The examples that follow in the appendixes to this report raise the issue that Exceptions are being granted in some extreme situations.

This report was prepared in the spirit of cooperation. I have had very productive interactions with your Board in years past and I also understand how complex this particular issue is. I am clearly the type of person who responds to environmental problems in a very personal way. But please understand that this characteristic gives me the ability to foresee trends that will have major consequences in years to come.

Regards,



Kevin Collins

Appendix One: Four Examples of Riparian Exceptions Explained in Detail

Example One-No. 4. Development review of a residential lot requiring a lot line adjustment, Zoning Variance, and Riparian Exception, APN 103-171-31 and 32. Note: this is not the record of a building permit. It is the record of an applicant / owner seeking the designation of a building site, perhaps with the intent to sell the lot once this goal has been achieved. This strategy is one I have seen before, as landowners speculate on difficult lots in order to increase their value for re-sale.

Elements of the Exception (APN 103-171-32) that are in conflict with general zoning and building site standards or with the stated intent of the various environmental ordinances:

1. Zoning Variance to reduce the front yard setback (from a road right of way) from 40 feet to 5 feet.

2. Riparian Exception to allow encroachment of approximately 25 feet into the required 40 foot (ephemeral stream setback) Riparian Buffer.

3. "The entire "geologically safe" (*quotation marks are copies of the Planning document*.) habitable area as designated by the building envelope on "Exhibit A" is within the riparian setback area. Some redwoods within the building envelope, which are considered riparian, will be removed for construction. At the closest point, the development envelope encroaches to within 15-feet of the bank full flow line. (amended at ZA 8/3/07)"

4. From Variance Findings: "*the parcel proposed for a variance to the required 40-foot front yard setbacks, is extremely steep in all other areas besides the proposed development envelope and would require a massive amount of grading to create another buildable area on the site.*"

5. Review includes the consideration of 3 septic leach field locations, on the ridge top (pump-up) and on the valley floor near the ephemeral drainage streambed and thus possibly in conflict with septic codes. This is unclear in the report. The septic review analysis was not included with the Exception record.

6. Geological Feasibility study for lot: *"In our opinion, the proposed development might be subject to a greater than ordinary risk from flooding coming from the creek that borders the development area."*

7. Note: This is not a building permit record, and there is evidence in the record that a problem will exist in providing for parking for the house when a building permit is actually sought. The site may still be too small and constrained.

Selections from Prior Permitting History

1. "In 1972 the property owner was denied a use permit (4399-U) to construct four resort cabins and a restaurant on parcels 103-171-31 and 32."

2. "Between 1973 - 1976, the property owner applied for two variances (1684-V and 75-1132-V) to build a single family residence on parcel 103-171-31 with reduced side yard setbacks and to temporarily reside in a mobile home during construction of the residence (115-T). Both variance applications and the temporary permit application were denied."

3. "In 2001, a code compliance case on parcel 103-171-31 was opened and eventually the property was red tagged for the unpermitted conversion of a non-habitable accessory structure to a second unit, a retaining wall over three-feet in height and electrical problems in the single family dwelling." These problems were apparently later corrected and the red tag was lifted.

4. The administrative record makes clear that this permit is to "designate a building site" (APN - 32) and does not include an actual building permit. This suggests that the intent is to set up a "buildable parcel" for re-sale rather than for building construction by the applicant in this permit record.

5. Three letters in the administrative record of this permit (two from a member of the private road association impacted by the proposed development) address the question of whether this parcel was declared as unbuildable in the past. The County letter explains: "Our files do not indicate that this parcel was determined "unbuildable". In the past, several projects on the two subject parcels have been denied by the County for various reasons; however they were not denied based on a determination that parcel 103-171-32 was unbuildable. This would require a written determination by the County Geologist and Environmental Health Services and would be recorded with the Assessors Office."

Comment: It is clear from the history of development permitting on this lot, that it was indeed considered as "unbuildable" by the County between 1973-'76. It may be that both lots were unbuildable. The Planning Commission denied two Variances necessary to construct a house on this location. This is particularly confusing because apparently both parcels had substantial problems.

It is obfuscation for the Planner, in the quote above, to assert that the denial of those prior zoning site Variances necessary to build, did not constitute a de facto determination of "unbuildable".

For *any* lot to truly be declared as legally "unbuildable", would require the lot's owner to act against his/her own personal self-interest and force such a determination to be recorded against the advice he or she would naturally be provided by Planning and EHS.

This record is a good example of how the interpretation of the code has changed so as to now allow construction upon severely sub-standard lots that were in the past denied permits under identical codes.

Example Two- No. 48, Proposal to construct a two story single family with attached garage on a vacant parcel. Zoning Variances and a Riparian Exception, APN 041-181-39.

Elements of the Exception that are in conflict with general building zoning site standards or with the stated intent of the various environmental ordinances:

1. Parcel is undersized for the zone district.

2. Zoning Variances are necessary for both front and side yards. **The required Riparian setback of 50 feet plus 10 feet (perennial stream) from Valencia Creek over laps the zoning front yard setbacks.**

3. Variances reduce the front yard setback of 40 feet to 8 feet and reduce the side yard setback from 20 feet to 12 feet.

4. Riparian Exception to reduce the setback from Valencia Creek from 60 feet to 17 feet. House is to be built on a pier and grade beam foundation due to steep slope down to Valencia Creek. The record available for this example does not include any parts of the geological or soils reports that were necessary.

Selections from Prior Permitting History: The record available includes none of the prior history other than references to 1999 in regard to a geological survey and a prior expired Riparian Exception.

Example Three- No. 5 or 47 (duplicates), Proposal to construct an approximately 1,455 sq. ft. single family dwelling, a sewer pipeline crossing over an existing unnamed creek and an approximately 6 foot high retaining wall. (APN 086-082-22)

Elements of the example that are in conflict with general building zoning site standards or with the stated intent of the various environmental ordinances:

1. Variance to reduce the required 40-foot front yard setback to 2 feet.

2. Riparian Exception to build retaining walls within the riparian setback to support a house and improvements (within the same setback), and also an Exception to suspend a sanitary sewer line across a creek to a leaching location of the opposite side of the creek from the proposed house. The developable area of the parcel is apparently so small, due to steep slopes, that the house is being built right up to ("approximately 2 feet from") the Highway 236 right of way. The proposed house site slopes down from the highway to the creek apparently necessitating the use of retaining walls to support the house site. The Riparian setback and the road right of way overlap, apparently including at the location of the house site. The record available does not include any septic design information or other details regarding the site itself.

Selections from Prior Permitting History: The record in the Exception documents available does not include any permitting history other than this statement: "The site has been historically graded and is located below the grade of the adjacent highway."

Example Four- No. 2 or 9 (duplicates) 030-112-05, Rodeo Gulch Creek. Proposal to construct a 2 bay, 2 story lube/oil facility of 2852 sq. ft. Remove 3243 cu. yds. earth. Requires a Roadside/Roadway Exception. Majority of the parcel is within the Riparian Buffer. Requires a Riparian Exception to locate parking, driveway, trash enclosure and part of structure within the 60 foot Riparian Setback. All trees located on the slope to the stream will be removed to accommodate re-grading of the riparian corridor.

The site is described as having been used for illegal dumping occurring in the 1960's. The proposal is to excavate out debris, garbage and un-engineered fill. Re-grade to get a 2:1 slope. Reduce the final width of the Riparian buffer to 20 ft. plus 10 ft. Original code is for total 60 ft.

Elements of the Exception that are in conflict with general building zoning site standards or with the stated intent of the various environmental ordinances:

1. Riparian Exception to reduce the set-back from the stream from 60 feet to 30 feet. Exception to completely re-grade, apparently to the streambed and remove all existing vegetation and create a "bench" above the streambed. Incorporate a new drainage system "that will release runoff at the toe of the slope." Presumably this is associated with the fact that the site drains into Rodeo Gulch Creek.

Note: It is an interesting choice to permit a drive-through vehicle oil changing facility with Exceptions from various codes on a site that drains rain runoff directly to a stream.

2. Roadside-Roadway exception.

Selections from Prior Permitting History:

1. Denied permit in 1978 to construct a 2700 sq. ft. automotive repair and light industrial due to unstable site conditions indicated in soils report.

2. 1984 site visit to delineate the Riparian Corridor and setback requirements. "The determination was that a 50 foot setback would be required; however the letter indicates that a reduced 20 foot setback would be supported by staff."

3. 1985 Proposal to construct a one and two story commercial building and create seven condominium units. Application withdrawn.

4. 1988 site visit to delineate the Riparian Corridor and setback requirements. "Letter indicates that staff would not be able to make riparian exception findings based upon the instability of the slope. " Expired.

5. 2006 Riparian Presite for a proposed auto repair shop. "Staff determined that setbacks of 50 feet from the top-of-bank, 20 feet from edge of dripline and an additional 10 feet from all structures would be required. Expired

NOTE: Useful example of Riparian Exception Findings in Coastal Zone etc.

1. That there are special circumstances or conditions affecting the property.
***"**This finding can be made, in that the vast majority of the parcel is located within the riparian corridor and the granting of an exception will allow a reasonable use of the property. In addition, a large portion of the property contains unclassified, unstable fill that is prone to erosion and failures. This fill will be removed in order to provide a stable slope and to better control drainage." This demonstrates that the Coastal Zone designation does little to strengthen the Riparian Ordinance.

Appendix 2

Numerical List and a Brief Analysis of the Collected Riparian Exceptions Provided by Planning

Legend and explanations applying to the following list:

The numbering itself is in the order these that the documents (Exception records) were provided by Planning. It has no other significance.

(B) This refers to environmental significance in relationship to a building development proposal, rather than to a road or driveway based exception. (This does not indicate that road development has no environmental significance, but that roads and driveways are always associated with general development in the case of this report.) A numeral after this (B) symbol is a counting of these exceptions as in 1-B1 that follows.

Ten such development based Exceptions were included in the 2 years of data for this report. *(correction dated June 13--There is a mistake in original document submitted to the Board on June 12-- There are 11 development based Exceptions in the record.)*

Several of those are particularly striking in that highly constrained (thoroughly sub-standard building sites) were provided with exceptions. In at least two cases the sites had previously been rejected by Planning and had been denied permits to build. The available records are not entirely consistent and do not include the same types of information.

The question naturally arises as to what would constitute the poorest possible building site that Planning (and the Zoning Administrator, or the Planning Commission) would accept as buildable as opposed to unbuildable. This is a changing situation with more and increasingly deficient building sites being granted various environmental code exceptions and Variances from zoning site standards. All of this leads to a continuous deterioration in the aggregate condition of Riparian Areas in Santa Cruz County. From the standpoint of what remaining buildable lots exist in Santa Cruz County, this issue is fundamental.

1- (B) refers to environmental significance in relationship to a building development proposal.

2- (PW) refers to Public Works (usually road work). Eight Exceptions were granted to Public Works.

3- (PR) This refers to Private Road, Bridge or Driveway Work. There were eight of these Exceptions. Many of these driveways lead to new development sites,

4- (RDA) This refers to Redevelopment Agency Projects. There were six Exceptions granted to RDAs

5- (AG) One agricultural greenhouse business was granted an Exception.

6- If a particular stream is noted in the staff data, then the name of that stream is listed in this report.

7- One illegal water diversion installation was granted an Exception to leave a collection basin (tank) in place in a streambed below the edge of a road, ostensibly to avoid weakening the road edge by the act of removing of the illegally placed tank.

8- One Exception was granted for a private in-stream impoundment used for the irrigation of a row of trees. Both of these in-steam impoundments raise questions about endangered wildlife that may have been impacted, perhaps on a permanent basis.

No. 1-B1

031-011-02, 2345 S. Rodeo Gulch Rd. Rodeo Creek Gulch

Proposal to "recognize" a landscape contractors yard, including existing 665 sq. ft. office. 176 sq. ft. office trailer, parking area for 6 work trucks, three outdoor storage areas and a 320 sq. ft. office trailer. Requires Commercial Development Permit and a Riparian Exception for removal of improvements in Riparian Buffer.

Assorted prior use history leading to 2001 application for a vehicle storage yard, withdrawn 2003. Red-tag recorded 2009 for existing unpermitted landscape contractor yard.

2 General Plan designations, CS 17,400 sq. ft. and 6,880 sq. ft. OU (urban open space).
Riparian area is "cleared of woody vegetation associated with the riparian corridor areal photos from 1975, 1989, 2003, and 2007. Conditions require removal of "improvements and structures including trailers and chain link fence" and re-plant corridor.

No. 2-B2

030-112-05, Rodeo Gulch Creek

Proposal to construct a 2 bay, 2 story lube/oil facility of 2852 sq. ft. , remove 3243 cu. yds. earth, requires Roadside/Roadway Exception.

Majority of the parcel is within the Riparian Buffer. All trees located on the slope will be removed to accommodate grading.

Denied permit in 1978 to construct a 2700 sq. ft. automotive repair and light industrial due to unstable site conditions indicated in soils report. Extensive permitting history including condominium unit denials or dropped permit application.

Excavate out debris, garbage un-engineered fill. Locate future parking, drive, storage within Riparian Setback. Re-grade to get 2:1 slope. Reduced Riparian buffer to 20 ft. plus 10 ft. setback. Original code is for total 60 ft.

No. 3

103-171-79, Soquel San Jose Rd. for permit 06-0488-lot line adjustment for another Riparian Exception. below.

No.4-B3

103-171-31 and 32, Lot line adjustment, Variance to reduce the front yard setback from 40 ft. to 5 ft., and Riparian Exception to encroach 25 ft. into the 40 ft. Riparian setback.

No.5-B4

086-082-22 New House, Zoning Variance to reduce the 40ft front road setback to 2 feet, Riparian Exception to extend sewer line over creek and build house inside the Riparian setback.

Riparian Exception_ Site undevelopable without Exception therefore “appropriate”.

Cut and fill_227 cut 156 fill

Unnamed creek bisects property—“historic grading for pad inside highway (236) for unpermitted trailer.

New building site. “best site adjacent to highway”, intends to pull stumps.

Riparian setback intersects with the road setback. –special circumstances-

House setback to be 2 Feet

Septic to be on the opposite side of creek with a suspended sewer line.

No.6-B5

041-181-39 New House, Valencia Creek, 17 feet from stream bank.
Variance to reduce front yard setback to 8'. Variance to reduce side yard to 12' and Riparian Exception

No.7-PW

Public Works, Schwan Lake, Mitigated Neg. Dec.

No.8-RDA

037-101-58 and 59, Owner RDA, park development Tee Street, Grading 6,800 yards cut 1,900 fill, Variance for parking, and access, increase in impervious surface (paving etc.)

No.9 DUPLICATE OF No. 2 ADDITIONAL ANALYSES

030-112-0, Rodeo Gulch and Soquel Drive, vacant site 24,100 sq. ft. 0.55 acres, 2852 sq. ft. 2 story oil and lube facility. Riparian exception to strip vegetation and grade in the riparian to create 2:1 slope. A portion of the proposed parking area, drive aisle, trash enclosure and structure to be located in 50' Riparian buffer and 10' setback.

Staff supports Exception given the lack of developable area on the parcel and the necessity to improve slope (riparian dump site) stability.

NOTE: Useful example of Riparian Exception Findings in Coastal Zone etc.

1. That there are special circumstances or conditions affecting the property.
****"**This finding can be made, in that the vast majority of the parcel is located within the riparian corridor and the granting of an exception will allow a reasonable use of the property. In addition, a large portion of the property contains unclassified, unstable fill that is prone to erosion and failures. This fill will be removed in order to provide a stable slope and to better control drainage.

4. Demonstrates that the Coastal Zone designation does nothing to strengthen the ordinance.

No. 10- (Duplicate case)

031-011-02. 24,280 sq. ft. C-4 Commercial zoning. Parcel has an O-U (Urban Open Space) General Plan designation on 6,880 sq. ft. at rear of parcel abutting Rodeo Gulch Riparian Area.

History "ending" with a 2009 recorded red-tag for the existing unpermitted contractor's storage yard.

Intent of permit is to recognize a landscape contractor's yard including an existing 665 sq. ft. office building, a 176 sq. ft. trailer, parking for work trucks, 3 outdoor storage areas and a 320 sq. ft. storage container. Riparian Exception for removal of improvements within the riparian buffer.

No. 11-PW

Public Works Application for Riparian Exception for road repair Nelson Rd. Scotts Valley. No building construction associated.

No. 12-RDA

030-153-24 Applicant RDA 4740 Soquel Dr. Soquel

Soquel Creek Linear Path "Park". Permit for removal of former mobile home utilities, concrete pads, non-native trees.

No. 13-PW

Public Works. Replacement of failed culvert, with temporary stream diversion, crossing of Lochhart Gulch Rd. over Lockhart Gulch.

No. 14-PW

Public Works. Replacement of corroded culvert leading under Two Bar Rd. to Two Bar Creek.

No. 15-PW

Public Works culvert replacement Kings Creek Rd. Includes channel back fill and new headwalls.

No. 16-B6

028-181-05 Corcoran Lagoon, Code violation (from complaint) unpermitted construction of new retaining walls dating from 1960's (date is neighbor opinion).

Riparian Exception and Coastal Development Permit applied for. Objected to by staff, Permit withdrawn.

Current application with minor changes "the proposal does not represent a substantial revision to the application that was made in 2009 and does not incorporate the changes requested by Environmental Planning staff."

Other adjoining properties constructed away from the 100 ft. Riparian Corridor near 24th Ave. Includes U-O Urban Open Space designation. New wall used to extend the yard landscape use within the Riparian setback.

Appears that this Exception was denied. See number 18 when approved.

No. 17-B7

081-071-08, HWY 236

370 sq. ft. addition to existing house within Riparian setback also within calculated 100 year flood zone of Boulder Cr. Findings section claims addition " is necessary for the permitted residential use of the property." Note: claim of report that basement floor elevation is above FEMA base flood elevation.

No. 18-continuation

Overturns decision on No. 16, 028-181-05, Corcoran Lagoon retaining walls question. Claims replacement of prior existing but failed non-conforming retaining walls in not in violation of the Riparian Ordinance or the Coastal Act despite filling of site and poured in place walls. No record of process other than Findings and Conditions.

No. 19-PR

102-471-03 and 06, Pilkington Rd. and Paul Sweet Rd.

Replace-repairs an unnamed gated road called an "emergency access right of way". Failure of culvert and bank resulting in fallen trees etc. at a intermittent tributary to Arana Gulch

No. 20-PR

099-011-19, Olson Rd. 2.7 miles from Soquel San Jose, landslide induced road failure repair West Branch Soquel Creek. Permit allows construction of gabion wall inside Riparian Setback 42ft. from active channel.

No. 21-PW

Public Works, Schulties Rd., Burns Creek, replace failed culvert and roadway embankment on ephemeral tributary to Burns Creek near Laurel Rd.

No. 22-PR

087-021-26, 20595 Saratoga Toll Rd. Sempervirens Fund

Demolition of cabin. Replacement of culvert.

No. 23-PR

109-112-05 and -16, 821 Old Smith Rd. Watsonville

Grading permit and Riparian Exception, construction of bypass driveway road around landslide 1,600 cu. yds. cut and fill and 5,000 cu, yds. (phase 2) plus drainage and Hilfiker retaining wall. Requirement for 5 year monitoring for vegetative coverage of site, Verifying agency is County Planning. No information in the documents about the scale of the slide or length of road segment or proximity of active stream channel.

No. 24-residential repair-maintenance

040-163-15, 823, Mangles Gulch. 1982 original landslide, Gabion wall recommended in 1991. Not built. In 2007 owner requests permit and Riparian exception for shotcrete wall to protect upper portion of slope below the house and deck. Permits issued and approval of gabion baskets installed without permit prior to 2000--- be legalized or removed. 3 tier wall in 3' high steps buried 3'deep with 1 ft. step backs. (very steep). Note: structure apparently stands too close to ephemeral watercourse for safety due to periodic high flows as is case of original landslide.

No. 25- B8, residential repair-expansion-

078-101-03, Marshall Creek

Channel immediately below existing house. Unpermitted gabion wall is failing. Conclusion to retrofit the existing wall. Construct 25ft. diversion wall and a 42' 6" long reinforcement retaining wall in front of existing gabion baskets, install rock slope protection within the Riparian Corridor of Marshal and remove 576 sq. ft. of unpermitted deck and 601 sq. ft. of unpermitted room additions at dwelling. "Recognizes" conversion of 1068 sq. ft. of lower floor to habitable space and conversion of habitable detached structure to storage space.

No information on Marshall Creek at completion or extent to which the live channel is modified or impacted in the future.

No. 26-RDA

Applicant RDA, amendment to Soquel Creek Linear Park, Pathway Improvement Project. Permit is for additional tree removal in the designated Riparian Woodland and permit extension.

No. 27-PR

064-191-17, RV Park, Highway 9 Felton.

Permit to "recognize" an existing 260 ft. long retaining wall up to 34" high and remove approx.. 94 ft. of the as-built wall.

"Conditions" state authorization for construction of a 3 ft. max height wall topped by a split rail fence. No information about distance to channel of San Lorenzo River. May be a tributary channel through the RV park. Claim of need to additional space for larger RVs. Pretext of long standing use.

No. 28-PR (unclear in association to related development)

099-111-12, Soquel San Jose Rd.

Proposal on 5.4 acre parcel to construct new single-family dwelling and driveway over an existing drainage swale with oak woodland and willow thicket. Drainage passes through several downstream culverts to confluence with West Fork Soquel Creek. Permit if for culvert. No discussion of distance of proposed structures to the watercourse.

No. 29-B9

104-211-19,

Demolish existing single-family dwelling, two sheds, fence, & well. Build replacement house with New driveway, 3 parking spaces. Inside Urban Services Line. Lot partially in flood-plane of Soquel Creek. According to Riparian Ordinance 50 ft. buffer from top of arroyo. There is 5-10 ft. strip of developable land between buffer and road right of way.

Approved. **NOTE: No reference is made to relative square footage of the original and the replacement house in the exception document.**

No. 30-PW

Scott Creek, Swanton Rd. Bridge, CALTRANS bridge repair.

No. 31 and 32 (are duplicates)-continuing case

028-281-15, 171 Moran Way (went to Board of Supervisors hearing)

Entire parcel in 100 ft. setback from Moran Lake. 135 sq. ft. additional in footprint of replacement house (original 1961 structure). States 350 sq. ft. less lot coverage due to proposed removal of existing viewing platform and walkway. Original building one story, replacement building 2 story with "non-habitable" basement (less than 7' ceiling height). Building rotated for preservation of neighboring views. Approved.

No. 33 and 34 are duplicates.

Several parcels, Hover Rd. Replacement of private road bridge over Hester Creek, tributary to Soquel Creek.

No. 35-PR (second bridge)

070-151-21, 123 Cathedral Drive, Scotts Valley, Lockhart Gulch Creek private road bridge replacement. Pacific Southwest Evangelical Covenant Church. A full replacement bridge was constructed in 2008. Now applicant requests permit for a new (second) replacement bridge at site of original bridge on new alignment.

No. 36

Mission Springs Christian Camps and Conference Center (Pacific Southwest Evangelical Covenant Church failure to provide documents, notarizations on above permit No. 35.

No. 37--(38 is duplicate) B9

051-701-13, Kelly Lake

Proposal to "recognize" a sheet pile wall extension of 44 ft. to an existing wall of 115 ft. approved under a previous application. Parcel of 1.14 acre-majority of which is underwater. Site of dry land extending 50 ft. from water edge along 200 ft. of shoreline. Entire parcel within the 100 ft. Riparian protection area. "The slope behind the newly constructed (approved according to document) garage required stabilization. Given the existing site conditions and limited space between the garage and lakeshore, the additional section of sheet pile is an acceptable method of stabilizing the slope, and is in keeping with the intent of the previously approved application (06-0269).

No. 39 (No. 40 is duplicate) illegal water diversion

062-122-02, Majors Creek

Recognizing construction of illegal cistern placed below road edge near public road culvert outfall. Cistern said to now support road edge. Required rock in cistern and breach of cistern. plant re-vegetation, resolve Red Tag.

No. 41AG

109-241-11 and 29, 750 Casserly Rd. Watsonville

Deals with an illegally cut drainage channel on a green house property and require re-vegetation of repaired modified channel.

No. 42 (private land water impoundment)

074-181-01, 19490, Quail Hollow Rd. and East Zayante Rd. 110 Quail Hollow Rd. Felton
Grading 2,760 cu. yds.

Project consists of re-building an in-stream dammed impoundment within Quail Hollow Brook downstream of the Quail Hollow County Park pond. Major excavation, deposition of fill and impacts to channel. Pond is used by landowner to irrigate a row of redwood trees planted along Quail Hollow Rd.

No. 43 (classification unclear)

049-101-33, Larkin Valley Rd.

Original red tagged land clearing associated with planned development of site. Riparian Exception issued under this permit to create a culverted crossing over an ephemeral stream for a driveway to the planned house site.

No. 44-PR

068-061-14, 2830 Glen Canyon Rd. Carbonera Creek

Drive way culvert 30ft. and fill 20ft. replacing ephemeral stream for access to new building site. Apparent burial of watercourse in relationship to driveway.

No. 45

103-171-79, Riverdale and Soquel San Jose Rd.

Time extension document related to Riparian Exception- Apparently associated with a new house construction (09-0281) No information about actual Exception permit.

No. 46- B10

103-171-31 and 32, Soquel San Jose Rd.

Lot line adjustment to create a "development envelope and a building envelope at the proposed building site. Variance to reduce the front yard setback (40 ft. to 5 ft. Riparian Exception to allow development into 25 ft. of the 40 ft. Riparian buffer. (Leaving buffer of 15 ft.)

Between 1973 and '76 owner applied to two variances to build single-family residence on (-31) and to temporarily reside in a mobile home during construction. Both variance applications and temporary permit applications were denied.

In 2001 a red-tag issued for unpermitted conversion of a non-habitable accessory structure into a second unit

In 2000 application for second unit applied for then withdrawn. Permit issued to reduce retaining wall height and remove "habitable features" (probably toilet or stove). Electrical permit issued to correct electric problems.

Parcel (-32) currently vacant, has apparent site problems (slope, ephemeral stream, dirt road down center etc.

Proposed equal exchange between (-31 and (-32) to create building site. for future single-family residence.

Development of (-32) requires a Variance for reduced front yard setback and riparian exception. Proposed envelope would allow SFR (single family residence) with garage and carport.

Redwood riparian setting where required setback is 30 ft. from the edge of the riparian woodland to beyond the edge of the dripline. In addition a 10 ft. setback from the edge of the buffer is required for all structures. Redwoods will be removed. At closest point the development envelope encroaches to within 15 ft. of bank full flow-line.

*"Findings for a riparian exception can be made because no alternative building area exists on the property that is geologically suitable and as a condition of approval, no disturbance shall occur outside of the development envelope." Substantial geo analysis in permit must indicate landslide risk assessment reasoning.

No. 47-B11

086-082-22, south side of Big Basin Way 236, 19515 Big Basin Highway

Proposed building site is entirely within the Hy 236 set-back between highway and a perennial creek with leach field on opposite side of creek from dwelling with sewer pipe crossing the stream.

Variance, Residential Development Permit, Riparian Exception Geo. Review. Variance to reduce the 40 ft. front yard setback to 2 ft.. Increase front yard wall height from 3 to 6 ft.

Residence proposed to be 2 ft. from the northern property line and Highway 236 right of way. Proposes to suspend sewer line to leach field over the creek to a leach field on the opposite side from house. Steep slopes, narrow developable area. Proposes retaining walls 5 ft. within the front set-back apparently to support the building site that is below the grade of the public highway.

No. 48-duplicate of 5

041-181-39, Valencia Creek

Variance and Riparian Exception. Variance to reduce the 40 ft. front yard setback to 8 ft. and to reduce the 20 ft. southeast side setback to 12 ft. Steeply sloped to stream and no conforming building site. Zoning setbacks merge with Riparian set-back.

Riparian Setback of 50+10 is reduced to 17 ft. to edge of decking.

No. 49-RDA

County Public Works and RDA _Schwan Lake suspended walkway.

No. 50-RDA

Live Oak RDA, Cunnison Lane and Soquel Dr. Tee Street apparent duplicate or addition to earlier permit in this record.

No. 51-PW

Public Works, Graham Hill Widening Project. Extensive biological damage but reviewed in other venues prior to this report preparation. Well known project.