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William H. Shearer, Esq.

Via U.S. Mail

May 28, 2020

Monterey County Board of Supervisors
P.O. Box 1728
Salinas, CA 93902

Author's Email Address:

HReed@walkerandreed.com

**Re: PLN170296 Cannabis Dispensary and Cultivation Use Permit
115- 117 Monterey Salinas Hwy, Salinas, California**

Dear Supervisors:

I am an attorney representing a group of Salinas Valley farmers and landowners regarding the above stated Planning File and the property at 115-117 Monterey Salinas Hwy, Salinas, California (the "Property"). Please accept this letter and its enclosures as continued direct opposition to the PLN170296 permit process for a cannabis dispensary use permit and/or cannabis cultivation use permit application.

To avoid restating points that I have made previously, I have enclosed copies of previous letters my firm has send the Committee and AAC on this matter. We request that this letter and the attachments (previously submitted letters) be included in the Use Permit Planning file record.

We request that the permit submitted for the cannabis dispensary and cannabis cultivation on the Property be denied by the county. If you have any comments or questions, please feel free to contact my firms.

Very truly yours,

Hansen P. Reed /S/

Hansen P. Reed

HPR/whs

Enclosures

CC: Clients

Brandon Swanson, Planning Services Manager

Craig Spencer, Senior Planner

Jackie Nickerson via email NickersonJ@co.monterey.ca.us

Melissa McDougal via email McDougalM@co.monterey.ca.us

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ATTORNEYS AT LAW P.C.

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Via Email: nielsenk@co.monterey.ca.us

June 25, 2019

William Lipe, Monterey County AAC
Committee Chair
Monterey County AAC
1428 Abbott Street
Salinas, CA 93901

Author's Email Address:
HReed@walkerandreed.com

**Re: PLN170296 Cannabis Dispensary and Cultivation Use Permit
115- 117 Monterey Salinas Hwy, Salinas, California**

Dear Mr. Lipe:

I am an attorney representing a group of Salinas Valley farmers and landowners regarding the above stated Planning File and the property at 115-117 Monterey Salinas Hwy, Salinas, California (the "Property"). Please accept this letter as a direct opposition to the PLN170296 permit process for a cannabis retail use permit and/or cannabis cultivation use permit application. The applicant should not be permitted to transform the Property to a cannabis retail operation and/or for use of cannabis cultivation. We have reviewed the MCRMA letter dated May 31, 2019. While we agree with all the bases given in that letter for denial our opposition goes beyond the technical failures of the application.

CANNABIS RETAIL

The County of Monterey only allows cannabis retail operations and cannabis cultivation with an Administrative Permit and/or Use Permit and therefore any proper transformation will require County approval. The Property cannot be used for a cannabis retail site because the Property is not zoned for Light Commercial or Heavy Commercial. The Property is zoned for Farming/Agriculture. Cannabis retailers are limited to Light Commercial and Heavy Commercial. "21.67.040 - Regulations for cannabis retailers. A. Applicability. The provisions of this Section are applicable in Light Commercial (LC) and Heavy Commercial (HC) zoning districts. Cannabis retailers shall not be allowed in any other zoning district." The Property is not within the mandatory zoning for a cannabis retail and therefore as a matter of law cannot be approved. We want to be clear we are not seeking to thwart our neighbor from making a living in the field of agriculture. The historical usage of the nursery is as a nursery. The application is attempting to engage in the cannabis industry in every way.

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This is undoubtedly one of the reasons the County's letter of May 31, 2019 stated, The County does not consider cannabis uses similar in the nature to any existing or permitted use. It makes perfect sense and is completely consistent with past actions of the County in granting the permits in 1984, 1996 and 2006. In each case the fundamental use was consistent with the nature of the existing business. A landscape material business is like/kind to a nursery. Storage buildings and greenhouses are consistent with and supplement a nursery business. We agree completely with the applicant's argument as made by Alex J. Lorca on October 1, 2018 that, "PLN 060174 accurately summarized allowable uses at the Site: "the nursery, located on APN 207-131-004-000, consists of the main nursery building and greenhouse, annuals and perennial bedding flowers, various ornamental shrubs and trees, demonstration gardens and staging areas containing soil, soil amendment blends, bark, mulches and decorative rock, a storage and mixing area. The ornamental landscape material business (APN 207-131-005-000); consists of large quantities of bark, decorative rock and other landscape materials."

What the applicant's attorney refuses to acknowledge is what is obvious to the County; cannabis uses are not similar in nature to any existing or permitted use. The existing business would have to cease operations. The only way for the existing business to continue operations is if every customer who sought traditional nursery items qualified for entry into a cannabis business. All minors would have to be excluded. All identification requirements permitting entry to a cannabis business would have to be adhered to in order to gain entry into the nursery. Unless this was required option 1. of the County's two possible options as set forth on page 2 of the May 31, 2019 letter would not be meeting minimum legal requirements. Option 2. Is a hypothetical and will not be addressed.

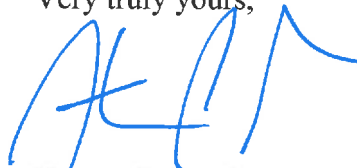
CANNABIS CULTIVATION

Although the Property could potentially be considered for cannabis cultivation, as the Property is zoned for farming and includes a small greenhouse which existed on or before January 1, 2016, the other buildings located on the Property cannot be utilized as greenhouses or as "industrial buildings" as they are not buildings located in an industrial zoned property. The "barn" has never been a barn. It has only been used as retail space. Should the applicant be permitted to transform the barn buildings into greenhouse space, the County would risk every tractor barn or out structure on an agriculture zoned property to be converted to cultivation use. The unavailability of greenhouse space on the Property would limit the operation to the current square footage of the greenhouse. Cannabis cultivation is limited to areas zoned for Farmland, Light Industrial, Heavy Industrial, and Agricultural Industrial and outdoor cannabis cultivation is prohibited in all Salinas Valley zones. It is the County's intent to provide adaptive reuse of greenhouses in Monterey County and to restrict the proliferation of greenhouses and other structures on productive agricultural lands. While the greenhouse could be improved for cannabis cultivation, the footprint of the existing building could not change. No cannabis can be visible from offsite and no visual markers indicating that cannabis is cultivated on site shall be visible from offsite. The greenhouse located on the Property is smaller than normal greenhouses and located just as traffic enters Salinas.

Further, Highway 68 is a designated scenic highway and, pursuant to Caltrans, the impacts on the view need to be considered. One of the benefits of a scenic highway designation is that it will, "Mitigate activities within the corridor that detract from its scenic quality by proper siting, landscaping or screening." The impact of allowing cannabis cultivation on the view could be substantial if large barbed wire fences or other items were placed on the Property for protection of the cultivation. Heavy protection is standard in the industry for a variety of reasons. The City of Salinas has a vested interest in not having a cultivation facility at its gateway.

We request that the permit submitted for the cannabis dispensary and cannabis cultivation be denied by the County. Should you wish to discuss this matter further or if you have any questions or concerns, please do not hesitate to contact my office. Finally, I would like to be kept up-to-date on any changes/advancements, hearings, filings, and actions taken on PLN170296.

Very truly yours,



Hansen P. Reed

HPR/aeg

CC: Clients

Carl P. Holm, AICP, RMA Director

Brandon Swanson, Planning Services Manager

Craig Spencer, Senior Planner

Jackie Nickerson via email NickersonJ@co.monterey.ca.us

Melissa McDougal via email McDougalM@co.monterey.ca.us

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Hansen P. Reed, Esq.

Ashlee E. Gustafson, Esq.

John N. Staples, III, Esq.

Barry Alan Kinman, Esq.



Via Email: nickersonj@co.monterey.ca.us

July 16, 2019

Jacquelyn Nickerson
Spreckels LUAC
Monterey County RMA
1441 Schilling Place South, 2nd Floor
Salinas, CA 93901

Author's Email Address:
bkinman@walkerandreed.com

**Re: PLN170296 Cannabis Retail Dispensary Use Permit
115- 117 Monterey Salinas Hwy, Salinas, California**

Dear Ms. Nickerson:

I am an attorney representing a group of Salinas Valley farmers and landowners regarding the above stated Planning File and the property at 115-117 Monterey Salinas Hwy, Salinas, California (the "Property"). Please accept this letter as a direct opposition to the PLN170296 permit process for a cannabis retail use permit. The applicant should not be permitted to transform the Property from its historic agriculture usage into a cannabis retail operation. We support agriculture and the current application is based upon abandoning the agricultural usage of the property and converting it into a non- agriculture based retail cannabis operation. The MCAC previously rejected the application in part based upon the MCRMA letter dated May 31, 2019. While we agree with all the bases given in that letter for denial our opposition goes beyond the technical failures of the application. For us, preserving agriculture is paramount.

CANNABIS RETAIL IS NOT AGRICULTURE

The County of Monterey only allows cannabis retail operations and cannabis cultivation with an Administrative Permit and/or Use Permit and therefor any proper transformation will require County approval. The Property cannot be used for a cannabis retail site because the Property is not zoned for Light Commercial or Heavy Commercial. The Property is zoned for

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Farming/Agriculture. Cannabis retailers are limited to Light Commercial and Heavy Commercial. "21.67.040 - Regulations for cannabis retailers. A. Applicability. The provisions of this Section are applicable in Light Commercial (LC) and Heavy Commercial (HC) zoning districts. Cannabis retailers shall not be allowed in any other zoning district." The Property is not within the mandatory zoning for a cannabis retail and therefore as a matter of law cannot be approved. We want to be clear we are not seeking to thwart our neighbor from making a living in the field of agriculture. The historical usage of the nursery is as a nursery. The application is attempting to engage in the cannabis industry in a strictly retail fashion.

This is undoubtably one of the reasons the County's letter of May 31, 2019 stated, "The County does not consider cannabis uses similar in the nature to any existing or permitted use." It makes perfect sense and is completely consistent with past actions of the County in granting the permits in 1984, 1996 and 2006. In each case the fundamental use was consistent with the nature of the existing business. A landscape material business is like/kind to a nursery. Storage buildings and greenhouses are consistent with and supplement a nursery business. We agree completely with the applicant's argument as made by Alex J. Lorca on October 1, 2018 that, "PLN 060174 accurately summarized allowable uses at the Site: "the nursery, located on APN 207-131-004-000, consists of the main nursery building and greenhouse, annuals and perennial bedding flowers, various ornamental shrubs and trees, demonstration gardens and staging areas containing soil, soil amendment blends, bark, mulches and decorative rock, a storage and mixing area. The ornamental landscape material business (APN 207-131-005-000); consists of large quantities of bark, decorative rock and other landscape materials."

It is obvious that the County, by rejecting the application through the prior processes, understands that cannabis retail sales are not similar in nature to any existing or permitted use. The existing business would have to cease operations. All minors would have to be excluded. All identification requirements permitting entry to a cannabis business would have to be adhered to in order to gain entry. Not only does the existing facility fail to meet code and the proposed usage would have no rational relation to its historic usage, the entire clientele would have to change. It begs the question, if this were permitted what change of usage from agriculture would not be permitted?

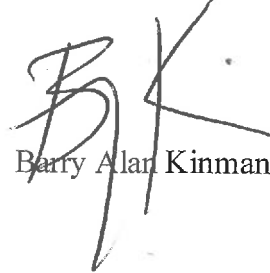
Further, Highway 68 is a designated scenic highway and, pursuant to Caltrans, the impacts on the view need to be considered. One of the benefits of a scenic highway designation is that it will, "Mitigate activities within the corridor that detract from its scenic quality by proper siting, landscaping or screening." The impact of allowing a cannabis retail operation on the view could be substantial if large barbed wire fences or other items were placed on the Property for protection retail operation and parking area. Heavy protection is standard in the industry for a variety of reasons. The City of Salinas has a vested interest in not having a cultivation facility at its gateway.

We request that the permit submitted for the cannabis dispensary be denied by the County. Should you wish to discuss this matter further or if you have any questions or concerns,

July 16, 2019
Page 3

please do not hesitate to contact my office. Finally, I would like to be kept up-to-date on any changes/advancements, hearings, filings, and actions taken on PLN170296.

Very truly yours,

A handwritten signature in black ink, appearing to be 'BAK' with a long horizontal stroke extending to the right.

Barry Alan Kinman

BAK/hpr

CC: Clients

Michelle Frederick: friedrichm@co.monterey.ca.us

Diana Najjar: najarda@co.monterey.ca.us