

Planning Commission Mtg.

OCT 05 2016

Agenda Item # 9A

September 28, 2016

Napa County Planning Commission  
1195 Third Street, 2<sup>nd</sup> Floor  
Napa, California 94559

Attn: Chair Michael Basayne

Dear Chair Basayne:

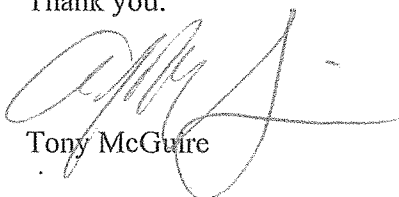
It is my understanding that Storage Tech, LLC has filed for a use permit in order to build the Napa Vault Project at 1055 Soscol Ferry Road west of the Napa-Vallejo Highway (Route 12/29).

I have reviewed the use permit application, and I understand that it is on the Commission's Agenda for 5 October 2016. I support and endorse the application and earnestly hope that the Commission sees fit to approve it.

I have known the Developer for years and they are local and always working for long term benefits for the area. The Napa Vault will be a useful and beneficial project to the Community.

Please accept my unqualified endorsement of this application.

Thank you.



Tony McGuire

J.M. O'Neill, Inc.  
354 Earhart Way  
Livermore, CA

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Napa County Planning, Building  
& Environmental Services



OCT 05 2016

Agenda Item # 9A

October 3, 2016

Napa County Planning Commission  
1195 Third Street, 2<sup>nd</sup> Floor  
Napa, California 94559

Attn: Chair Michael Basayne

Dear Chair Basayne:

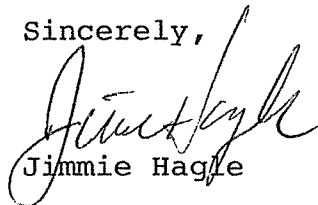
Re: Storage Tech, LLC - Use Permit

I have reviewed the above-noted use permit application, which is on the Planning Commission's Agenda for 10/5/16.

This project will create many jobs for area workers during the construction phase, and fulfill a storage need for the community at a location perfectly suited for its use. The location is not a main thoroughfare, so the impact to traffic will be low.

I appreciate the opportunity to share my input. Please accept my full endorsement of the Storage Tech, LLC Use Permit application.

Sincerely,



Jimmie Hagle

Pacatte Construction  
5560 Skylane Blvd.  
Windsor, CA 95407

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Planning Commission Mtg.

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Agenda Item #

9A

Jeffrey K. Dorso  
Partner

Joel Patrick Erb  
Partner

David L. Krotine  
Partner

Andrea A. Matarazzo  
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Blair W. Will  
Of Counsel

Jay M. Harris  
Associate

October 4, 2016

*Via Electronic Mail and  
Hand-delivery*

Michael Basayne  
Chair, Napa County Planning Commission  
Napa County Planning, Building and Environmental Services  
1195 Third Street  
Napa, CA 94559

Re: Proposed Napa Vault/Storage Tech LLC Project  
Our File No. 5187-001

To Chair Basayne and Members of the Commission:

Thank you for the opportunity to comment under the California Environmental Quality Act ("CEQA"), Planning and Zoning Law, and other statutes on the Mitigated Negative Declaration ("MND") for the proposed Napa Valley Storage Facility project ("Project"). On behalf of David Moreland and Soscol Ferry Self Storage LLC, we submit these comments in furtherance of such consideration.

County residents and property owners have a vital interest in the environmental effects of the proposed Project. The Project's MND fails as a satisfactory CEQA document, however, and substantial evidence demonstrates that the Project will result in significant adverse environmental effects that must be analyzed in an Environmental Impact Report ("EIR"). Furthermore, the entire environmental evaluation is premised on an improper baseline of hypothetical conditions that do not exist, and the project description fails to adequately describe the project because it does not include the expected Covenants, Conditions and Restrictions to be required of all owners of the condo-garages. It is unknown to what end owners will use the condo-garages and what activities they may pursue on their property. Review of similar sites shows that a wide range of uses is reasonably foreseeable, from simple storage to fully operational vehicle maintenance. The environmental impacts and necessary mitigation for the Project's potential uses have not been analyzed and disclosed.

Michael Basayne  
Chair, Napa County Planning Commission  
October 4, 2016  
Page 2

Without a complete project description and a realistic environmental baseline against which to measure environmental impacts, the MND fails as an informational document. Accordingly, the Project cannot be approved as proposed and must be reviewed in an EIR in compliance with CEQA.

**1. The MND violates CEQA and understates project impacts by using a hypothetical baseline of permitted uses never actually constructed.**

Under CEQA Guidelines 15125(a), the “baseline” or environmental setting must reflect the existing physical environment in which the project will be developed. A lead agency may exercise some discretion in determining the baseline, but only if its variation from the norm is supported by substantial evidence. (*Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal.4th 439; *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 328 (“CBE”). In no event, may the lead agency manipulate baseline conditions in order to understate or minimize potential environmental impacts, yet that is precisely what has occurred here. The MND violated CEQA by imputing permitted levels of use as the CEQA baseline – a practice the California Supreme Court expressly rejected in *CBE*. In *CBE*, the Court held that an air district’s selected air emissions baseline was impermissibly “hypothetical,” because it was based on maximum permitted operating conditions that “were not the norm” and that had never been reached. (See also *North County Advocates v. City of Carlsbad* (2015) 241 Cal.App.4th 94 [agency may use historic/entitled levels of use as CEQA baseline if use *actually occurred* in the physical environment at some point]; *Cherry Valley Pass Acres v. City of Beaumont* (2010) 190 Cal.App.4th 316 [acceptable CEQA baseline used not only an entitlement to extract water, but also “recent history of *actually extracting* substantially the same amount” of water] (italics added).)

Here, the CEQA baseline employed in the Project MND is purely hypothetical and the analysis understates Project impacts (and the need to consider additional mitigation measures or alternatives) by using an impermissible plan-to-plan comparison. This defect in the environmental analysis is fundamental and pervasive – it undermines the conclusions of the MND with regard to every resource category, including but not limited to traffic,

air quality, noise, water supply, water quality, public services and utilities, energy use, greenhouse gas emissions, and climate change.

**2. The Project Description is incomplete because it fails to meaningfully describe the anticipated uses.**

The project description describes covenants, conditions, and restrictions ("CC&Rs") that will bind the private condo-garage owners. These terms are material to the environmental analysis and assessment of Project impacts. Failure to provide the CC&Rs at this time leaves the public and the decision-makers without a meaningful understanding of how the Project will be used and its impacts mitigated in violation of CEQA. (*City of Redlands v. County of San Bernadino* (2002) 96 Cal.App.4th 398, 406.)

**3. The MND's Evaluation and Mitigation of Traffic Impacts Violates CEQA.**

The MND uses an improper hypothetical baseline that understates the Project's impacts and the need for mitigation. (CEQA Guidelines, § 15125(a); *CBE, supra*, 48 Cal.4th 310.) The traffic discussion fails to account for the Project's actual existing physical setting, including traffic routing through the industrial park and cumulative effects of the Project in combination with new projects such as Costco. Further, the traffic evaluation bases its anticipated traffic count by comparing the Project to an RV storage facility. The Project is not building or marketing its project as RV storage, but instead as personal garages for multiple vehicles that are expected to draw regular visits by their owners. A reasonable inference can be made that owners of those vehicles may often make multiple entries into the property each visit in order to work on, test, and drive some or all the vehicles in their collection. Substantial evidence shows that in relation to the baseline of actual existing conditions, traffic and circulation impacts will be significant and must be studied in an EIR.

The traffic evaluation compounds this error because it does not have rates for RV storage facility so it compares the rates to a project in Colorado, which in turn compared the rates to another facility elsewhere in Colorado. This comparison is highly flawed for a number of reasons:

A. The traffic evaluation fails to take into account the anticipated use of the site as private garages for the storage of multiple vehicles. The owners of the site likely will use multiple vehicles each trip as they test out multiple collection vehicles during each visit to the site.

B. Vehicles used by the garage owners also likely will be towed in at times by much larger vehicles that are not analyzed in the MND. As explained above, the traffic discussion fails to provide any actual traffic study or to explain, anticipate, and analyze the use of the site as primarily a location for storing multiple vehicles – large and small. Larger vehicles will require at least a turn lane to accommodate their entry to the property safely. The MND fails to accurately assess the Project's true impacts and to identify mitigation for those impacts.

C. The MND manipulates the CEQA baseline in order to understate traffic impacts and mitigation requirements. During the six years Napa Storage & RV has been in business, there have been significant changes along the Soscol Ferry Road area. The traffic evaluation does not account for changes in travel patterns and circulation issues that will be significantly affected by the proposed Project. Impacts must be properly analyzed in a traffic study that accounts for the Project's incremental and cumulative effects and requires the applicant to mitigate those impacts in compliance with CEQA.

#### **4. The MND's Evaluation and Mitigation of Water Supply Impacts Violates CEQA.**

Here again, the MND employs an improper hypothetical baseline that understates Project impacts and the need for mitigation. (*CBE, supra*, 48 Cal.4th 310; see also *North County Advocates, supra*, 241 Cal.App.4th 94; *Cherry Valley Pass Acres, supra*, 190 Cal.App.4th 316.) In addition, the MND fails to account for all reasonably foreseeable Project needs. The water supply evaluation cursorily explains that use of the site is compared to an undocumented similar site provided by the applicant that is nearly half the size of the Project. It is impossible to tell from the information provided what the water is used for under "facility" water. Does it include sprinkler systems for the condo-garages? Does it anticipate its users washing their vehicles? Is there a plan for these uses during drought conditions? The water study is based on undefined amounts provided by



the applicant, compares its use to the prior winery based study in 2009 (an improper baseline), and concludes that the Project's use will be less. After multiple years of drought conditions and increased demand in the area, using the 2009 hypothetical scenario as the Project baseline violates CEQA as a matter of law.

**5. The MND's Evaluation and Mitigation of Hydrology and Water Quality Impacts Violates CEQA.**

The MND's improper baseline and its incomplete project description render its discussion of hydrology and water quality impacts inadequate. The onsite wastewater system proposes to accommodate the seven bathrooms, but does not describe how it will manage the influx of RV waste and other waste from the anticipated machinery to be stored and potentially repaired and maintained at the Project site. The lack of CC&Rs regarding condo-garage owner usage leaves the public and the decision-makers without the necessary information to make an adequate conclusion as to what kind of waste the Project will generate and its potential effect on the stormwater runoff, sewer and sanitation impacts. To prevent reasonably foreseeable environmental and other problems, it is critical that the Project be required to annex into the Napa Sanitation District. We urge the County to act responsibly by requiring annexation to the District as a condition of approval.

This will be an industrial use with multiple independent owners. As far as the MND is concerned, these owners regularly will be using – at will and their own discretion – large recreational and industrial vehicles and equipment. The application states that the Project will not store hazardous materials, but no information is provided regarding Project mitigation – for example, what are the conditions of approval or rules between the project applicant and the owners as to what can and cannot be stored in the warehouse?

**6. The MND's Evaluation and Mitigation of Noise Impacts Violates CEQA.**

The MND states that use at each of the Project's individual condo-garages will be minimal. Nothing in the record substantiates this conclusion, which is purely speculative given the marketing of such spaces. No information is

provided as to how condo-garage owners will be required to conduct on site activities such as revving engines, maintaining vehicles and the like. The project description lacks CC&Rs or Project conditions that would describe how often and during what hours' noise-generating activities can be conducted, and whether noise-dampening materials will be required for more intensive uses. Promotional materials indicate that the sites may be used as full service garages if an owner so desires. If owners may enter the site at all hours to access their vehicles and work on their cars, the conclusion that noise impacts will be less than significant is speculative at best. The MND's baseline, analysis, and conclusions violate CEQA because they are not supported by substantial evidence.

**7. The MND's Evaluation and Mitigation of Air Quality and Greenhouse Gas Emissions Violates CEQA.**

As described in detail above, the MND employs an improper hypothetical baseline to understate the Project's impacts related to air quality and greenhouse gas emissions, and the need for mitigation. (*CBE, supra*, 48 Cal.4th 310; see also *North County Advocates, supra*, 241 Cal.App.4th 94; *Cherry Valley Pass Acres, supra*, 190 Cal.App.4th 316.) Using a proper baseline of existing environmental conditions, the Project's emissions are significant. They must be fully disclosed, analyzed, and mitigated in full view of the public in an EIR.

Moreover, the MND fails to consider the full scope of anticipated uses at the Project site, which involve multiple sources of air pollution. The MND understates Project impacts by considering only vehicles traveling to and from the property as condo-garage owners and as employees to measure potential emissions. Owners are allowed to use or maintain their vehicles on site, however, such that there will be additional emissions not considered in the MND. For instance, when owners idle their collection cars, those vehicles generate emissions. The lack of CC&Rs, conditions of approval, and the overall sparse nature of the project description fail to give the public a meaningful opportunity to understand the scope of Project uses and the resulting environmental consequences.

**8. The MND's Lack of Evaluation of Energy Use and Climate Change Violates CEQA.**

The MND fails to comply with CEQA's informational requirements concerning energy use and the Project's relationship to local, regional, and statewide efforts in response to climate change. (CEQA Guidelines Appendix F; CEQA Guidelines, § 15126.4(a)(1)(C)); *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173; *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 930; Pub. Resources Code, § 21100(b)(3).)

The lack of energy conservation measures and the lack of description of the Project's uses once the condo-garages are built compounds the problems inherent in the MND. The absence of CC&Rs, conditions of approval, or other project information raises many questions about how the Project will actually be used by the garage-condo owners. With power and water supplied and each unit independently owned (for a premium price), the environmental analysis must accurately describe how these units will or will not be used. How will the CC&Rs restrict the owners from unanalyzed uses? If an owner wants his garage to be heated, will that be allowed? If an owner needs her garage to be air conditioned during the summer will that be allowed? No consideration has been given in the MND to the requirements of CEQA regarding potential energy use and the measures that may be taken to reduce energy consumption.

Thank you for the opportunity to submit these comments. The MND violates CEQA and the Project cannot be approved as proposed. We look forward to reviewing an accurate environmental analysis and proper mitigation measures in a substantially revised document that complies with CEQA. Because substantial evidence supports a fair argument that the Project, as proposed and "mitigated," will result in a host of significant adverse environmental impacts, an EIR must be prepared. Because of those impacts, not the least of which are the Project's foreseeable impacts to hydrology and water

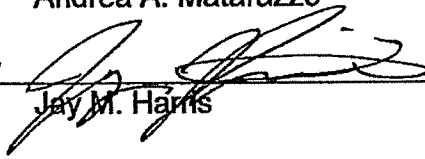
Michael Basayne  
Chair, Napa County Planning Commission  
October 4, 2016  
Page 8

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Very truly yours,

PIONEER LAW GROUP, LLP

By   
Andrea A. Matarazzo

By   
Jay M. Harris

AAM:JMH/jis

cc: Wyntress Balcher, County of Napa  
David Moreland  
David Gilbreth