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April 24, 2019

Duane Steele, Chair, and Commissioners
Contra Costa County Planning Commission
30 Muir Road
Martinez, CA 94553

Re: 18121 Bollinger Canyon Road --Cannabis Exclusion Zone Text Amendment and Rezoning

Chair Steele and Planning Commissioners:

I am writing on behalf of my client, the owner ("Owner") of the property located at 18121 Bollinger Canyon Road (the "Property"). We object to the proposal to rezone the Property as a cannabis exclusion (CE) combining district. As stated in more detail below, including the Property in a CE zone would be arbitrary, inconsistent with the County's adopted framework for regulating cannabis, and prevent the County from undertaking a measured and reasoned consideration of whether the Property is appropriate for certain commercial cannabis uses.

My client purchased the Bollinger Canyon Property, after the County's adoption of its ordinance regulating commercial cannabis in the unincorporated areas of the County in reliance on the fact that (1) cannabis uses were allowed on the site under the adopted regulations; and (2) the Property is particularly suited for cannabis uses. Since then, the Owner has pursued potential partners and tenants for the Property, and they have inquired with the County staff regarding permitting for cannabis uses.

Thus, it came as a surprise when the Owner learned for the first time just a week ago that the County on its own initiative was proposing to rezone the Property to completely prohibit even the consideration of cannabis uses on the site. The staff report for the rezoning states that the proposal is consistent with the approved Framework for Regulating Cannabis in the Unincorporated Area of the County. In that document the staff recommends only that the CE zone "overlay be added to the Retail Business, P-1 and General Commercial zoning districts that

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are located more than four miles from Highway 4 or Interstate 80.” (emphasis added). However, the Property is not zoned Retail Business, P-1 or General Commercial. Rather, the Property is zoned Controlled Manufacturing (C-M), and, if the rezoning is adopted the Bollinger Canyon properties would be the only sites with the CE overlay that have an underlying zoning district of C-M or anything other than Retail, Commercial or P-1.

We do not think this was an oversight, because the C-M zoning and the 18121 Bollinger Canyon in particular is suited for commercial cannabis uses for several reasons, including the following:

- It is large and removed from major public sites that would potentially be impacted or offended by cannabis business operations.
- But it also within 5 miles of Highway 680 and thus not inconvenient for a business operation.
- There is existing warehouse space which is optimal and highly sought after for cannabis business uses, and there are relatively limited spaces in the County that are similar to this site in terms of size & location.

But I am not asking you today to consider all of these factors, as those are properly left to the Land Use Permit review process that has been established by the zoning ordinance in general and the cannabis use regulations in particular. What I am asking is that the County not take the extreme step of prohibiting that process from taking place at all by rezoning the Property.

Through the existing regulations the County staff can consider a land use permit application and all of the relevant factors, such as location, potential impacts, as well as potential benefits of cannabis uses at this specific site. If concerns are raised by the staff or the community, any proposal can be modified and the County can also impose appropriate conditions of approval, as is done for any land use project proposal.

It is also important to recognize that the existing regulations already impose restrictions on the cannabis uses at the Property. For example, because the Property is located outside the Urban Limit Line, no cannabis retail uses are allowed. But other uses are certainly at least potentially appropriate, and we ask only that the Property Owner and potential users be allowed to more fully present their case to the decision-makers.

For all of these reasons we respectfully request that the Commission recommend against the CE overlay for the Bollinger Canyon Property.

Very truly yours,



William M. Fleishhacker
Special Counsel