



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: September 21, 2021

Subject: Hearing on the appeal of the Notices and Orders to Abate a public nuisance on the real property located at 4725 and 4835 Tranquility Bay, Knightsen

### **RECOMMENDATION(S):**

1. OPEN the hearing on the appeal of the Notices and Orders to Abate a public nuisance on the real property located at 4725 and 4835 Tranquility Bay, Knightsen (APNs: 023-070-017, 023-070-018); RECEIVE and CONSIDER oral and written testimony and other evidence from the County Abatement Officer, the property owners, and other persons; and CLOSE the hearing.

2. FIND that the facts set forth below are true.

3. AFFIRM the County Abatement Officer's determination in the Notices and Orders to Abate by finding that: the hoophouse structures constructed without the necessary building permits and in use without valid certificates of occupancy; the electrical system consisting of generators, extension cords, and lighting fixtures used to light the hoophouse structures and installed without the necessary permits, not using commercially supplied electricity, and in use without authorization from the County building official; and the lighting fixtures installed and used in a manner resulting in glare on adjoining properties; on the above-referenced real properties are a public nuisance in violation of Contra Costa County Ordinance Code sections 72-6.202, 74-2.002, 76-2.002, 76-4.602, 76-4.608, and 76-4.612,

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/21/2021** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 21, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jason Crapo (925)  
655-2800

cc:

and California Building Code sections 105.1, 111.1, and 112.1.

## RECOMMENDATION(S): (CONT'D)

4. ORDER the property owners to abate the public nuisance by doing all of the following within thirty (30) days of the mailing of the Board's decision:

- a. Remove the hoophouse structures from the subject properties; and
- b. Disconnect and remove the electrical system from the subject properties.

5. DIRECT the County Abatement Officer to remove the hoophouse structures, and disconnect and remove the electrical system from the subject properties, and charge the cost of the work and all administrative costs to the property owners, if the property owners do not comply with the Board's order to abate the public nuisance.

6. DIRECT the County Abatement Officer to send the Board's decision by first-class mail to the property owners and to each party appearing at this hearing, and to file the Board's decision with the Clerk of the Board of Supervisors.

## FISCAL IMPACT:

Staff estimates the cost of removing the hoophouse structures, and disconnecting and removing the electrical system from the subject properties to be approximately \$10,000 to \$15,000 per parcel. If the County Abatement Officer performs the work of abatement and the property owners do not pay, the actual cost of the work and all administrative costs will be imposed as a lien on the properties after notice and a hearing, and may be collected in an assessment against the properties.

## BACKGROUND:

1. The real property located at 4725 Tranquility Bay, Knightsen, California in Contra Costa County; APN 023-070-017 is owned by U.S. God's Dragan Management, Inc. The real property located at 4835 Tranquility Bay, Knightsen, California in Contra Costa County; APN 023-070-018 is owned by Enquan He.

2. The above-referenced properties are contiguous. Each property is split-zoned, with a portion of each property located in a general agricultural (A-2) zoning district and the remaining portion of each property located in a heavy agricultural (A-3) zoning district.

3. Contra Costa County Ordinance Code section 72-6.202 and California Building Code section 105.1 prohibit the erection, construction, enlargement, alteration, repair, movement, improvement, removal, conversion, or demolition of any building or structure regulated by Title 7 of the County Ordinance Code, or the performance of any work regulated by Title 7 of the County Ordinance Code without the necessary permits from the County building official.

4. Contra Costa County Ordinance Code sections 74.2.002 and California Building Code section 111.1 prohibit occupancy of a building until a final inspection is made and the building official issues a certificate of occupancy.

5. Contra Costa County Ordinance Code sections 72-6.202 and 76-2.002 and California Building Code sections 105.1 and 112.1 prohibit making connections from a utility, source of energy, fuel, or power to any building or system for which a permit is required until approved by the building official.

6. Contra Costa County Ordinance Code section 76-4.602 prohibits connecting a source of electrical energy or supplying electric service to any electrical equipment for which a permit is required without first obtaining the County building official's written authorization.

7. Contra Costa County Ordinance Code section 76-4.608(a) requires all occupancies that have commercially supplied electricity to connect to the commercial supplier. Section 76-4.608(b) prohibits any occupancy that has commercially supplied electricity from using a permanent or temporary generator, except when authorized by the County building official.

8. Contra Costa County Ordinance Code section 76-4.612 requires lighting fixtures to be installed, controlled, or directed so that light will not glare on adjoining property.

9. Based on complaints from the public, County staff made an initial inspection of the above-referenced properties on November 30, 2020. County staff observed the construction of hoophouse structures greater than 120 square feet in size without required permits, in violation of Contra Costa County Ordinance Code section 72-6.202 and California Building Code section 105.1. County staff observed that occupancy of the hoophouse structures had occurred without an approved final inspection or issuance of a certificate of occupancy in violation of Contra Costa County Ordinance code section 74-2.002 and California Building Code section 111.1. County staff observed that an extensive electrical system consisting of generators, extension cords, and lighting fixtures use to light the hoophouse structures had been installed without the necessary permits, was not using commercially supplied electricity, and was in use without authorization from the County building official in violation of Contra Costa County Ordinance Code sections 72-6.202, 76-2.002, 76-4.602, and 76-4.608, and California Building Code Sections 105.1 and 112.1.

10. County staff observed what appeared to be a single industrial hemp cultivation operation occurring across both properties, including a single entry point providing access to both properties. Approximately 168 hoophouse structures have been constructed on APN 023-070-017. Approximately 142 hoophouse structures have been constructed on APN 023-070-108. County staff observed the electrical system installed to provide lighting to the hoophouse structures on both properties.

11. Inspection of County files related to the above-referenced properties revealed that no building permit was issued for either property for the construction of the hoophouse structures or installation of the electrical system.

12. Re-inspection of the properties on December 7, 2020, January 6, 2021, January 20, 2021, February 3, 2021, March 9, 2021, and May 24, 2021 showed that the properties continued to be in violation of Contra Contra County Ordinance Code sections 72-6.202, 74-2.002, 76-2.002, 76-4.602, and 76-4.608, and California Building Code sections 105.1, 111.1, and 112.1. Based on complaints and evidence submitted by neighboring property owners, County staff also determined that lighting fixtures within the hoophouse structures resulted in light glaring onto adjoining properties in violation of Contra Costa County Ordinance Code section 76-4.612. See Attachment A for the chronology of events and site inspections at the properties.

13. The Notices and Orders to Abate were served on the respective property owners by certified mail on May 24, 2021, and posted on the above-referenced properties on May 24, 2021.

14. A representative of the property owners file an Appeal of Notice and Order to Abate on May 25, 2021.

15. The Appeal contends that the property owners (U.S. God's Dragan Management, Inc., and Enquan He) leased the properties to other parties in September 2020 and that under the lease agreement, the property owners are not responsible for any operations conducted on the properties. However, the property owners are responsible for code violations on their property, notwithstanding any lease they may have. As described herein, County staff has observed violations of the County Ordinance Code and California Building Code on the subject properties. Under the County Ordinance Code, the County abatement officer may declare and abate these violations as public nuisances upon notice to the property owner. County staff properly serviced the Notices and Orders to Abate on the respective property owners by mail and physically posted the Notices and Orders to Abate at the properties in accordance with County Ordinance Code section 14-6.412.

16. The Appeal also contends that the lessees of the subject properties have obtained licenses to plant industrial hemp and have applied for building permits for the hoophouses, but that those building permit applications have not been processed. Inspection of county files related to the subject properties revealed that there are no pending building permit applications for the properties. On November 17, 2020, the Board of Supervisors adopted an urgency ordinance to establish a moratorium on industrial hemp cultivation and processing that also prohibited the issuance of building permits for hoophouses or any other structures used or intended to be used for industrial hemp cultivation or processing. Even if a building permit application had been submitted, a building permit for the hoophouse structures on the subject properties, which are currently being used for industrial hemp cultivation, could not have been issued during the moratorium.

17. The current State hemp registration associated with the subject properties will expire

on September 22, 2021. Under the County's Industrial Hemp Cultivation Ordinance, the registration cannot be renewed because outdoor cultivation of industrial hemp, including cultivation within a hoophouse structure, is not permitted on the subject properties.

18. Re-inspection of the properties on August 30, 2021 showed no change in the conditions, including the continued nighttime light glare from operations on the subject properties, and that the properties continued to be in violation of Contra Costa County Ordinance Code sections 72-6.202, 74-2.002, 76-2.002, 76-4.602, 76-4.608, and 76-4.612, and California Building Code sections 105.1, 111.1, and 112.1.

19. Notice of this appeal hearing was sent to the representative and property owners by the Clerk of the Board by certified mail and e-mail on September 10, 2021. Notice was also mailed to the tenants named in the appeal letter.

#### ATTACHMENTS

Attachment A-Event Chronology for 4725 and 4835 Tranquility Bay

Exhibit A - Photos

Attachment B-Notice and Order to Abate letters for 4725 and 4835 Tranquility Bay

Attachment C-Appeal Letter of Notice to Abate

Attachment D - PowerPoint Presentation. Tranquility Bay