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REPORTER'S TRANSCRIPT OF MAY 19, 2020

BOARD OF SUPERVISORS HEARING

ITEM NO. 20-588 REDWOOD PROPERTIES' APPEAL OF THE
PLANNING COMMISSION APPROVAL OF THE EMERALD TRIANGLE
GROUP, LLC CO'S SPECIAL PERMITS TO ALLOW CANNABIS
DISTRIBUTION AND NON-VOLATILE MANUFACTURING IN THE
C-2(D) ZONING DISTRICT

TUESDAY, MAY 19, 2020

JOB NO: 4121188

TRANSCRIBED BY: SHAWNA HOGAN COX, C.S.R. 14038

1 REPORTER'S TRANSCRIPT OF MAY 19, 2020 BOARD OF
2 SUPERVISORS HEARING, ITEM NO. 20-588, AT 11:00 A.M.,
3 TUESDAY, MAY 19, 2020, TRANSCRIBED BY SHAWNA HOGAN COX,
4 C.S.R. NO. 14038.

5

6 APPEARANCES:

7

8 CHAIR ESTELLE FENNELL

9 DIRECTOR JOHN FORD

10 STEPHEN LUTHER

11 JOE BILANDZIJA

12 TIMOTHY DILLON, ESQ.

13 JOSHUA ALLEN

14 DEPUTY CLERK RYAN SHARP

15 ALLISON JACKSON, ESQ.

16 KENT SAWATZKY

17 NATALYNNE DELAPP

18 UNKNOWN MALE CALLER

19 KAREN MICLETTE

20 JEFFERSON BILLINGSLEY, ESQ.

21 SUPERVISOR VIRGINIA BASS

22 SUPERVISOR REX BOHN

23 SUPERVISOR MIKE WILSON

24 NATALIE DUKE, ESQ.

25 SUPERVISOR STEVE MADRONE

Page 2

1 HUMBOLDT COUNTY, CALIFORNIA

2 TUESDAY, MAY 19, 2020, 11:00 A.M.

3 --ooOoo--

4
5 CHAIR ESTELLE FENNELL: So earlier on it really
6 became clear to me that this might be a long meeting.
7 And so as a result of that, there's a hearing scheduled
8 at -- pretty much at the end of the meeting, and I have
9 moved that over to Item I-1.

10 And so we're gonna go to that right now. It's
11 a public hearing on Redwood Properties' appeal of the
12 Planning Commission approval of Emerald Triangle Group's
13 permission to allow cannabis distribution and
14 non-volatile manufacturing in Downtown Garberville.

15 I'll toss that back to you, Director Ford.

16 Just for the information of those watching
17 online, we will have the appellant and the applicant on,
18 hopefully. There was contact from an attorney
19 representing the applicant, and I'm not sure if he can
20 be with us at this stage.

21 But I'll go to you now, Director Ford.

22 DIRECTOR JOHN FORD: Thank you, Chair Fennell
23 and members of the Board of Supervisors. John Ford with
24 the Planning and Building Department. Joining me this
25 morning is Chris -- Cliff Johnson and Stevie Luther, and

Page 3

1 we're going to be presenting an appeal of the Planning
2 Commission's decision to approve special permits for
3 manufacturing and distribution of cannabis use within
4 the downtown Garberl -- Garberville area.

5 Well, Stevie Luther will present the specifics
6 of the application and also the appeal. I just want to
7 cover some very kind of global thoughts. And one of
8 those has to do with where does manufacturing and
9 distribution fit into the cannabis industry.

10 CHAIR ESTELLE FENNELL: Excuse me, Director
11 Ford, may I --

12 DIRECTOR JOHN FORD: Yes.

13 CHAIR ESTELLE FENNELL: I'm sorry. Just to
14 be -- to stick to the process, I have just for the --
15 the record open the hearing.

16 And now I'm seeing you. Thank you.

17 DIRECTOR JOHN FORD: Thank you.

18 So manufacturing and distribution uses are
19 priority uses for the County in order to support the
20 industry. And it's preferred that these types of uses
21 be within community areas, be in locations that have
22 (paid?) access, be in locations with utilities and
23 services.

24 Now, we're going to -- the applications in
25 question are special permits. And I just wanted to

1 point out that normally special permits are processed as
2 administrative permits. They are typically pulled
3 without a public hearing, particularly related to group
4 planning items. The way these are acted upon is that we
5 send out a notice of intent to approve, and if nobody
6 contacts us, we simply approve these.

7 And so the commercial medical marijuana land
8 use ordinance and the commercial cannabis land use
9 ordinance identify these special permits as the
10 appropriate mechanism to approve this type of use within
11 a C-2 zone.

12 It's just important to point out that we have
13 approved many of these -- as is reflected in the staff
14 report -- many manufacturing and distribution uses
15 within the C-2 zone. In fact, we have actually zoned
16 property from another zoning designation to C-2 to allow
17 these uses to occur in those zones.

18 So the purpose of the special permit in this
19 lo -- in this particular case really is about
20 compatibility with the surrounding area.

21 And I'll now ask Stevie Luther to give you a
22 rundown of the application itself and also the facts of
23 the appeal.

24 CHAIR ESTELLE FENNELL: Welcome, Stevie.

25 STEPHEN LUTHER: Morning, Chair Fennell,

1 supervisors. I'd like to share my screen, if I can.

2 So I'm the assigned planner for the Emerald
3 Triangle Group applications. And an important
4 consideration for the Board at the outset is that, while
5 these types of manufacturing and distribution tend to
6 evoke images of industrial activity involving factories
7 and heavy truck traffic, the proposed business at this
8 location would operate at a much smaller scale, intended
9 to serve the needs of the surrounding area.

10 By way of example, pictured here is a rosin
11 press, an ice water hash machine, a steam distiller, and
12 a Sprinter van that are indicative of the types of
13 equipment that would be used in this operation.

14 The site is currently developed with a
15 three-story wood frame building, a two-story concrete
16 building, and a two-story metal storage facility.

17 The project activities will occur on the first
18 floor of the three-story building fronting Redwood
19 Drive. Half of the floor would be devoted to the
20 distribution activity, which involves packaging product,
21 the other half devoted to extraction using presses and
22 other mechanical means to create products such as kief
23 hash and steamed distilled turbinates. There will be no
24 ethanol extraction in this building.

25 Minor alterations include wall partitions,

1 installing stainless steel work desks, and adding
2 secured entryways. There will be no expansion of the
3 building. The use of the second floor office space and
4 the third floor residence will not change as a result of
5 this project.

6 There would be five employees per shift with
7 two eight-hour shifts per day. The business hours would
8 be Monday through Friday from 6:00 A.M. to 10:00 P.M.
9 and Saturday and Sunday from 9:00 A.M. to 5:00 P.M. Two
10 Sprinter vans would each make two deliveries per day.

11 This is a floor plan of the proposed project.
12 Following the appeal, the applicant revised the design
13 to include art and branded merchandise in the windows
14 displays -- display in the street. The project would
15 also have a 50-square foot viewing area for tourists.
16 Once inside the secured viewing area, tourists would be
17 able to see the work tables and observe the
18 manufacturing process in action.

19 Except for this limited use, the business would
20 not be open to the general public or have customers on
21 site.

22 The project also proposes to demolish the
23 existing concrete building and construct in its place a
24 180-square foot metal building to house a closed-loop
25 ethanol extraction unit. The new building will be the

1 same size as the building being removed. The structure
2 will be built according to the California Building and
3 Fire Codes. The third building, the two-story storage
4 building in the back, will be retrofitted with a walk-in
5 refrigeration unit to store cannabis products for the
6 distribution operation.

7 The project site is a .12-acre parcel located
8 in Downtown Garberville on the commercial frontage of
9 Redwood Drive. The Humboldt brand clothing store, a
10 vacant storefront, and the Hemp Connection are to the
11 north. To the south are businesses including (audio
12 cuts out) Redwood Properties, Karen Miclette Insurance,
13 Getti Up coffee stand, and a grocery store. The Chevron
14 and Shell gas stations are across the street. A
15 resident (audio cuts out) vacant lot and motel are to
16 the east.

17 The Presbyterian church that was home to a
18 preschool before being closed due to fire damage and the
19 New Hope Assembly of God Church are both within 500 feet
20 of the project site and marked with the stars.

21 The project area is zoned community commercial,
22 C-2. This zone principally permits uses such as
23 hardware stores, banks, minor car repair, (audio cuts
24 out). The commercial cannabis land use ordinance
25 principally permits distribution in the C-2 zone and

1 permits nonflammable manufacturing with a special
2 permit.

3 The CMMLUO, which is the applicable regulation
4 for this project, permits both distribution and
5 manufacturing uses in the C-2 zone with a special
6 permit. The nature of the special permit is to ensure
7 compatibility with the surrounding land uses and apply
8 conditions of approval to the operation to address any
9 potential issues.

10 As Director Ford mentioned, the County has
11 approved a number of other distribution and
12 manufacturing uses in the C-2 zone that have been
13 compatible (audio cuts out) areas.

14 The project was originally noticed for the
15 zoning administrator and subsequently re-noticed to a
16 Planning Commission hearing where it was approved on
17 December 5th. The "yes" votes found that the project
18 met the zoning requirements and was consistent with
19 previous land uses and other permitted uses at this
20 location, and the "no" votes found that the location was
21 not appropriate for the proposed use and questioned
22 whether a light industrial use type was appropriate in
23 this zone at all.

24 I'll now move into a discussion of the merits
25 of the appeal. This will be an overview of the appeal

1 issues that staff identified and responded to in detail
2 in the staff report before the board today.

3 The first issue is the claim that the CEQA
4 exemption for existing facilities does not apply because
5 the project represents an expansion of use. The second
6 issue is an argument that there is substantial evidence
7 that the project will result in adverse environmental
8 impacts. And the third issue is the contention that the
9 project does not, but should, comply with the provisions
10 of the Commercial Cannabis Land Use Ordinance.

11 This is a view of the proposed facade that
12 the -- the appellant asserts the California
13 Environmental Quality Act exemption for existing
14 facilities cannot be used for the project. They mean
15 that the project is an expansion of use beyond what the
16 site has been used for or could otherwise be principally
17 permitted at this location.

18 The exemption for existing facilities is
19 appropriate because the proposed use will not change the
20 nature of the area or result in changes to the physical
21 environment. The project is proposing to continue the
22 commercial use of the space with minor alterations to
23 the existing buildings. The proposal to demolish the
24 concrete building and construct in its place a
25 180-square foot structure falls within the CEQA

1 exemption for construction of new small structures.

2 Prior uses of this site include Miranda's
3 Rescue Thrift Store, the Garberville Boutique, and The
4 Healthy Choice ice-cream and smoothie shop. The type of
5 commercial food-grade equipment that would be used in
6 the manufacturing of cannabis products is of a similar
7 character to the type of equipment used in an ice-cream
8 shop or use that could otherwise be permitted at this
9 location.

10 The amount of traffic generated by the project
11 is no different than a clothing store and could be even
12 less due to the lack of customer traffic. The change of
13 use from one commercial use to another use with similar
14 characteristics that results in minor modifications to
15 the existing buildings is entirely consistent with the
16 categorical exemption (audio cuts out).

17 The appellant claims there is the possibility
18 of substantial adverse effects from the project, such as
19 odor, ethanol, traffic, and parking. No substantial
20 evidence has been provided that impacts would occur.

21 Members of the public have raised concerns of
22 potential odor impacts from the project. A standard
23 condition of approval applied to all cannabis projects
24 in enclosed buildings requires the applicant to install
25 an odor control filtration system. The requirement to

1 install odor control is a standard industry practice.

2 The referral response was received from the
3 Garberville Fire District objecting to volatile
4 manufacturing in the wood frame building. Staff
5 responded to clarify the application was for nonvolatile
6 manufacturing and that ethanol would only be stored and
7 used in the new building engineered specifically for
8 such a purpose. Again, no ethanol will be stored or
9 used in the three-story wooden building.

10 The neighboring business owners raised concerns
11 about fire risk from the ethanol extraction unit.
12 However, the building would be designed to meet the
13 California Building and Fire Code, which addresses any
14 potential impacts.

15 The parking demand resulting from five
16 employees per shift and two delivery vehicles is seven
17 spaces. This is less than the twelve parking spaces
18 that would be required for a typical retail use, and
19 that would include customer traffic. The project would
20 generate approximately 28 trips per day. The building
21 in the rear of the lot was being used as a mini storage
22 facility. The other will discontinue this use, and this
23 will result in less traffic down the alley. The parking
24 and traffic that would result from this project are no
25 more than what would otherwise be created from a

1 permitted commercial use at this location.

2 The third issue is which regulations are
3 applicable to the project. The applications were
4 submitted on December 28th, 2016 under the Commercial
5 Medical Marijuana Land Use Ordinance. The CMMLUO does
6 not require setbacks to sensitive receptors for
7 manufacturing and distribution.

8 The CCLUO was subsequently passed and had a
9 clause stating that projects are governed by the
10 regulations that existed at the time of application.
11 The only exception to that was to address odor and
12 public notice in residential areas. The CCLUO does
13 require setbacks for sensitive receptors for
14 manufacturing and distribution. However, those
15 regulations are not applicable to this project.

16 Staff is recommending that the Board adopt the
17 resolution and make the findings to reject the appeal
18 and approve the special permits.

19 Thank you, and I'm available to answer
20 verifying questions.

21 CHAIR ESTELLE FENNELL: Thank you, Stephen. I
22 do -- I think we will probably just go ahead with the
23 rest of the presentation and then go back for any
24 questions from the Board.

25 And so now does -- are -- any more from the

1 Department, or will I go to the applicant at this point?

2 DIRECTOR JOHN FORD: I would say go to the
3 applicant and then the appellant.

4 CHAIR ESTELLE FENNEL: Okay. The applicant --
5 I believe Mr. Bilandzija is here. And I don't know if
6 you have a representative as well.

7 JOE BILANDZIJA: Can you guys hear me? Hello?

8 CHAIR ESTELLE FENNEL: Yes, we can hear you.

9 JOE BILANDZIJA: Yeah. This is Joe Bilandzija.

10 TIMOTHY DILLON: Good -- good morning. My name
11 is Tim Dillon. I'm the attorney representing Emerald
12 Triangle. Thank you very much for allowing us the
13 opportunity to present.

14 I -- I have listened to Stephen Luther's
15 presentation, reviewed all the documents submitted.
16 Obviously, my client has worked very hard with the --
17 with the staff to try and present and answer and address
18 all areas of concern. I believe they've worked in good
19 faith, and I believe the staff has done, frankly, an
20 amazing job of reviewing these items, working with us to
21 address any concerns, and, in fact, addressing all of
22 the appellant's concerns with significant detail.

23 We have also available Josh Allen, who was a
24 significant assistant, that can provide or address any
25 specific commentary. I think that some of the issues

1 that came up were traffic issues. Again, I think
2 Mr. Luther did a great job of addressing how traffic
3 could be less under this plan, addressing, for instance,
4 the concerns with the ethanol and odor. I think
5 Mr. Allen would be able to address that and has appended
6 to the staff documentation, a very detailed letter
7 addressing the concerns, again, raised by the appellant
8 and concerns raised by the public.

9 I'd certainly point out as well that -- that
10 Joe has gone out and -- and tried to obtain public
11 support and has done a very good job with that, and
12 that's also included with the same information as
13 Mr. Allen's.

14 I do believe Mr. Allen had a couple of comments
15 as well, and if -- if I may turn my time over to
16 Mr. Allen so he can address some particular concerns, I
17 would appreciate it, and thank you.

18 CHAIR ESTELLE FENNEL: Thank you, Mr. Dillon.
19 Mr. Allen.

20 JOSHUA ALLEN: Hi. My name's Joshua Allen.
21 I'm a planner for this project. I've been working with
22 Joe on many projects, including one that we're showing
23 on a particular documentary being rated.

24 We're -- my client, Mr. Bilandzija, he's a
25 long-time resident of Humboldt County, and he's very

1 active in his community. His family owns a store in
2 Alderpoint. He actually has been involved with his PTA,
3 is coaching on a bunch of his -- elementary school
4 teacher of his own elementary school kids. So we're not
5 just like outsiders trying to start a project and -- or
6 do something that's gonna harm the community.

7 I do thank Stevie for all of his work on this
8 project. He's done an excellent job.

9 And so some of the issues that have been
10 brought up, I really don't see these as particular
11 problems. It's more as a NIMBY issue, specifically when
12 we're looking at licensing to get this project licensed
13 and the permits under Ordinance 1.0 with the amendments
14 that the Board of Supervisors has made to include some
15 of the additional 2.0 projects, such as filtration and
16 many of the other issues that they've caused us to look
17 at.

18 But essentially, this project is safe. That
19 building, which is one of the main concerns, it's going
20 to be completely replaced in this footprint. That
21 entire thing is separated from any other buildings next
22 door. And those things need to be completely safe.
23 It's actually got a lot more safety features than what's
24 across the street at the liquor store, which is gonna
25 hold -- actually will hold a lot more alcohol than we

1 will.

2 We will be required to have a hazardous
3 materials business plan under State code. It's gonna
4 have fire extinguishers that are automatic off the roof.
5 The roof is gonna have -- be built to Fire Code for
6 three-hour standards. We can have higher standards on
7 the walls.

8 Essentially, the only thing that's in there
9 that's flammable is alcohol, and it's not an explosive
10 gas, according to the State. It does evaporate, and it
11 can cause fire issues, but it does need an actual spark
12 or a flam -- or a flame to that liquid and that gas,
13 which is -- takes time for it to actually see. And if
14 somebody was working on it, they would see a spill, and
15 once it got to a point that it can be explosive, they
16 would literally be drunk because it's ethanol that we
17 would be using, which is what everybody drinks in
18 liquor.

19 Under the State rules, we're allowed -- they
20 would be allowed 350 gallons, I do believe, under a
21 hazmat plan. The plan is to have a 30-gallon washing
22 machine that's sealed, essentially. And the whole
23 entire time alcohol is sealed within this washing
24 machine, it spins out everything within the cannabis.
25 The cannabis -- all the alcohol is taken out, 98 percent

1 recyclable on the alcohol, and then everything is
2 processed within the sealed machine, which then spits
3 out an extract. And that extract is then gonna be used
4 for a small handicraft-type of a product within the main
5 facility, which is also allowed under Code.

6 A lot of the -- that product, that raw product,
7 is gonna be mixed with other product within the
8 distribution facility to make proprietary and secondary
9 (value at?) product. On top of it, the amount of jobs
10 that this is gonna provide in a depressed economy -- as
11 Garberville has been going through for a few decades
12 now -- and especially if we look at the coming economic
13 depression that we're gonna have, it's gonna be
14 extremely important that there's -- that we can compete
15 in a cannabis market within the State, and that, during
16 this whole thing, we can provide ten jobs. They're
17 gonna be living wage jobs with benefits.

18 My client, Joe, he's actually a very good
19 employer. He makes sure everybody gets paid before he
20 pays himself. And I hear -- I have to hear from him
21 constantly about budgetary problems. We work pretty
22 close on his businesses.

23 But essentially, when it comes to the State as
24 per churches, there is no protection in the State
25 license with the BCC, our CDFA, or any other -- our DPH.

1 When it comes to actually a church, the only thing that
2 is protected is a licensed operating (child?) facility.
3 But that has to be in operation before and at the time
4 of the submission of the application. And the church
5 has been burnt down for years.

6 So essentially, what it boils down to is the
7 realtor next door, who hasn't been in operation for a
8 while, and the building, in and of itself, which has had
9 defunct businesses in it for a year, is not in
10 operation. And it's gonna continue like that. And so
11 what it is is we have NIMBYism going on with the realtor
12 next door, who has also actually shut off the -- the --
13 the roadway, which I believe, actually, should be opened
14 up for business and according to County code with a
15 fence, and that creates a fire hazard and some traffic
16 circulation issues with the whole issue.

17 And when we're looking at the long-term
18 development in Garberville, you should really be
19 focusing on business development, traffic circulation,
20 and trying to fix some of those problems in the past, if
21 you can, in order to have a viable economic town. And
22 this project actually is a start towards that.

23 The building is going to be rehabilitated.
24 It'll be repainted. It's gonna have to meet Code. It's
25 gonna need to be -- spent a lot of money to bring it

1 back up. This buil -- the front building is one of the
2 first historic buildings in Garberville, and so it's
3 over 100 years old, and it's gonna need the -- it's
4 gonna need some retrofitting in order to have employees
5 in this place. And so there's gonna be a lot of
6 secondary money that's gonna be spent throughout the
7 local economy with businesses and local contractors who
8 are gonna be working on this as well. So there -- there
9 are some domino effects whether or not this project
10 passes.

11 But essentially, as it is right now, (what
12 you've been?) put forward by the person who's appealing,
13 this is just NIMBYism. There really is no Code issue.
14 There is no issue with State law, licensing, permitting,
15 or anything else. And essentially, much like many
16 people do, they use CEQA in order to get -- to oppose
17 projects that otherwise meet State law.

18 And we've seen that over decades now, what it
19 has done to our economy within the State and
20 specifically what it's done to the economy here in
21 Humboldt County. And not saying that I'm against CEQA.
22 I have a background in environmental sciences and I work
23 on watershed restoration. But I also have a background
24 in economic development; so I understand that this stuff
25 is extremely, extremely important, that you have a

1 community and have these type of businesses available.

2 And at this point I'll let you guys ask any
3 questions.

4 CHAIR ESTELLE FENNELL: Thank you. If you'd
5 just stand by, Mr. Allen, we will now go to the
6 appellant.

7 Who would that be, Mr. Ford?

8 DIRECTOR JOHN FORD: It should be Ms. Jackson.
9 And I don't see her on the screen.

10 CHAIR ESTELLE FENNELL: Me neither.

11 DIRECTOR JOHN FORD: Has she been brought into
12 the panel?

13 DEPUTY CLERK RYAN SHARP: Chair Fennell, yes.
14 She is in the -- in the meeting. I just saw her unmute
15 her mic so we can just ask her to start her video and
16 unmute the mic.

17 CHAIR ESTELLE FENNELL: Ms. Jackson?

18 ALLISON JACKSON: -- hear me? Can you hear me?

19 CHAIR ESTELLE FENNELL: Yes. We -- we can hear
20 you --

21 ALLISON JACKSON: Can you see me?

22 CHAIR ESTELLE FENNELL: -- Counsel Ja --

23 No, we can't see you yet. Just hit that --
24 that little icon of a camera down at the bottom of the
25 screen.

1 ALLISON JACKSON: I do -- I do not have a
2 little camera at the bottom of my screen.

3 CHAIR ESTELLE FENNEL: No. You just pull
4 the -- pull the mouse down, and you'll see that -- at
5 the bottom you'll see a mic, a video, participants --

6 ALLISON JACKSON: How about the one that says
7 "Start Video"?

8 CHAIR ESTELLE FENNEL: There you are.

9 ALLISON JACKSON: Okay.

10 CHAIR ESTELLE FENNEL: There you are.

11 ALLISON JACKSON: Oh, good morning, or what's
12 left of it.

13 CHAIR ESTELLE FENNEL: Good mor --

14 ALLISON JACKSON: You know that my -- my name
15 is Allison Jackson, and I represent the appellant,
16 Mr. Lehman, in this matter.

17 With all due respect to the Board as a
18 collective, to the individual members of the Board, and
19 to the planning director and his department, who I have
20 great respect for, this board does not have the
21 jurisdiction to hear this appeal today.

22 If I might explain, because I'm not gonna waive
23 or consent to the jurisdiction today, on February
24 the 5th, 2020, six weeks before the Governor's order
25 went into effect regarding shelter in place, a Complaint

1 was filed on Mr. Lehman's behalf for declaratory relief
2 regarding failure of this Board to comply with CEQA and
3 its own ordinances and failing to hear the appeal at any
4 time between December 18th and the end date of February
5 the 3rd.

6 We allege some other CEQA violations,
7 including, but not limited to, the failure to comply
8 with appropriate categorical exemptions, the effect of
9 the cannabis ordinance, and also the failure of the
10 applicant, both at the time of the Planning Commission's
11 hearing and today, of being a legal entity. They --
12 they simply are not in a legal status to even have
13 engaged in the Planning Commission's hearing in December
14 nor even before the Board today.

15 Now, I am aware that you know all of this
16 because you hired Remy, Moose & Manley to defend the
17 County in this matter, and they filed an Answer to this
18 Complaint on March the 6th. We tried to resolve this
19 just simply on the CEQA basis, but this Board rejected
20 that.

21 On -- on -- the matter is currently pending
22 before the court, the court has jurisdiction, and our
23 next hearing date is June 15th, a mere, what, three
24 weeks away. So the jurisdiction to decide all of these
25 issues, including, but not limited to, failure to hear

1 the appeal within the appropriate time, the CEQA issues,
2 as well as the effect of the applicant not being a legal
3 entity is now currently before the court, and the --
4 this board really doesn't have the jurisdiction to hear
5 it at this point. And I'm not going to consent or waive
6 my client's rights to have all of these legal matters
7 determined by the court.

8 So with that being the state of the case at
9 this point and with that -- everything's pending before
10 the court, I am going to reiterate we don't have the
11 jurisdiction, we are not consenting to this, and I will
12 be signing off. Thank you.

13 CHAIR ESTELLE FENNEL: Thank you, Counsel
14 Jackson.

15 Any other comments from the appellant side? I
16 don't see anyone related to that in the --

17 ALLISON JACKSON: Well, that oughta do.

18 CHAIR ESTELLE FENNEL: What'd you do -- you're
19 still on -- you're not on mute, Allison. Your --
20 your -- your mic is live.

21 Okay. So if -- if Counsel Jackson -- well,
22 okay. I'm going to bring it back to the Board right now
23 and hear some comments from the Board.

24 Are there any comments or questions from the
25 Board on this item?

1 Well, first of all, to bring it back to
2 Director Ford.

3 DIRECTOR JOHN FORD: Thank you, Chair Fennell.
4 I was just going to suggest that perhaps before the
5 Board does have a conversation about this, unless you
6 have questions of staff, that you may want to allow the
7 public to provide input.

8 CHAIR ESTELLE FENNELL: Okay. I'll let the
9 public provide input at this point since the Board has
10 no questions for staff at this time. So I would open it
11 up to public comment.

12 And, Ryan, do we have public comment on this
13 item?

14 DEPUTY CLERK RYAN SHARP: Yes, Chair Fennell.
15 We do have public comment on this item. I currently
16 have two people in the queue.

17 I would just remind people to push "*9" that
18 don't have their hands raised if they would like to
19 comment.

20 CHAIR ESTELLE FENNELL: Thank you, Ryan. And
21 we will take the first caller.

22 Welcome caller.

23 KENT SAWATZKY: Estelle, Kent Sawatzky.

24 As far as full disclosure, I retained Allison
25 Jackson years ago. As far as I'm understanding, she has

1 not returned my retainer and she's still retained; so
2 that's full disclosure.

3 Allison Jackson is the sharpest legal tool in
4 my tool belt, and I have an extensive tool belt in this
5 particular forum and access to way more things than
6 people would want to know about, and they won't.

7 But may Mother Nature have mercy upon your soul
8 should you move forward with this. It'll be a major "I
9 told you so." Allison's skilled beyond the means of any
10 of the counsel that you have to come up against her on
11 this, and I highly recommend you heed her request that
12 you not hear this topic, or if you do, that you just go
13 ahead and grant the appellant's request on this matter.

14 I hate to see you wasting my money on
15 litigation. I have yet to see Allison move forward on
16 something in which she hasn't prevailed on, which is a
17 pretty good track record. She doesn't take things to
18 court unless she thinks she's going to win, and she
19 does. So that's my fatherly advice, whatever you want
20 to call it.

21 I -- it wasn't even raised here, but I have
22 talked to people, and my -- my concern is that you never
23 did go ahead and link the term "cannabis" up with your
24 land use. Your determinations have been made -- that
25 this is based upon to allow this permit was made without

1 your consent, without due process, and it was nothing
2 more than an interpretation by planning department staff
3 that this would be appropriate here.

4 Having been on the Planning Commission, it does
5 not belong here. It's conversion of a -- a retail use.
6 It is something that belongs in a zone which would be a
7 light industrial, as your staff suggested. That's the
8 proper place for it. You had two very smart people, and
9 you may wish to follow the lead -- at least two of you
10 on the Planning Commission, which was Mr. Morris and
11 Mr. Bilandzija both voted "no." They've been voting
12 "no" repeatedly for this.

13 And, of course, the other people that voted
14 "yes" are -- are the "Anything for cannabis is okay.
15 Doesn't matter what the rules are. Doesn't matter what
16 it is. We're gonna rubber stamp it because we think
17 this is something we should do."

18 That's not what law is based upon. That's not
19 what planning's based upon. And so this is a little bit
20 of advice -- is to go ahead and follow Allison's
21 suggestion. And, of course, it's going to court, sounds
22 like, whether you do something or not. But I'd put this
23 one to bed right now. It does not follow the
24 constraints of a permitted thing, no matter what your
25 staff tell you.

1 Thank you for my opportunity to speak.

2 CHAIR ESTELLE FENNEL: Thank you, Kent.

3 We'll go to the next caller, please.

4 NATALYNNE DELAPP: Good day. This is Natalynne
5 Delapp from the Humboldt County Growers Alliance.

6 Can you hear me?

7 CHAIR ESTELLE FENNEL: Yes, Natalynn.

8 Welcome.

9 NATALYNNE DELAPP: Okay. Thank you. This is a
10 new format for all of us so getting used to it.

11 I am here today to show my support for this
12 project and urge you to deny the appeal. Of course, I
13 cannot speak to the CEQA claims being provided by the
14 appellant, but what I can speak to is Joe as a business
15 owner, as a member of HCGA for the past three years, to
16 the -- the intent of what Ordinance 1.0 was as we've
17 developed that ordinance as well as the second
18 ordinance, that this project has gone through nearly
19 three years of -- of -- of regulation and oversight and
20 has made it through planning department's very careful
21 consideration.

22 It was approved by the planning commissioners
23 in December. And this is the type of project that
24 Humboldt County needs for our cannabis industry. It's
25 what we need for our workers. As we all are keenly

1 aware, the world is facing a global recession, Humboldt
2 County is facing a budget shortfall, as we'll be
3 discussing later today, and we need to see this type of
4 project that's gonna bring workers and funds and
5 economic stimulus into our industry and into our
6 community.

7 I ask you to move forward thoughtfully and
8 efficiently with this type of project, and I would like
9 you to deny the appeal. Thank you.

10 CHAIR ESTELLE FENNEL: Thank you, Natalynne.

11 And do we have another caller, another comment?

12 UNKNOWN MALE CALLER: Hello?

13 CHAIR ESTELLE FENNEL: Welcome caller.

14 UNKNOWN MALE CALLER: Hello. So if I
15 understand correctly, these guys have been going through
16 this since 2016, and only one side of this is willing to
17 actually come to this meeting and to have substantial
18 conversation.

19 The -- the side of the farm seems to be willing
20 to meet any and all (audio cuts out) that seem to have
21 arisen, and the other side seems to be willing to start
22 a lawsuit without actually discussing -- at least in
23 this forum -- what was going on.

24 So it would be -- I think -- I think it's
25 disingenuous for them to start a frivolous lawsuit, not

1 really discuss anything about it here, and just get off
2 the phone and not -- and not -- at least to, you know,
3 interact with the public, interact with the Board of
4 Supervisors and the planning department in this forum,
5 which has been set up for them. So I'm -- I -- I find
6 that really disappointing.

7 And for me, I don't know, I think Garberville
8 needs businesses that are going to employ people at
9 living wage. I think our community needs businesses in
10 the cannabis community that are doing the right thing.
11 So I support this project, and I hope it goes forward.

12 Thank you for your time.

13 CHAIR ESTELLE FENNEL: Thank you, caller.

14 Do we have another caller with comments on this
15 item?

16 Welcome.

17 KAREN MICLETTE: Hello?

18 CHAIR ESTELLE FENNEL: Hello.

19 KAREN MICLETTE: Can you hear me?

20 CHAIR ESTELLE FENNEL: Yes, we can. Welcome.

21 KAREN MICLETTE: Oh, hi. This is Karen
22 Miclette calling from Karen Miclette Insurance.

23 And we did not know about this permit that was
24 applied for back in 2016. We would have had an issue
25 with it then as we have an issue with it now.

1 Somebody mentioned earlier about the traffic
2 being about the same as any other store. We are
3 concerned about the type of traffic, not the amount of
4 traffic, but the type of traffic. We are here five days
5 a week, sometimes six days a week, and we see what
6 happens. This project is right next door to a known
7 drug motel that nothing seems to be happening about
8 either. That's a whole nother issue.

9 And the -- the parking is a huge issue. The
10 delivery and drop-off of products -- I've talked to Joe
11 about this. Having a hash lab in the middle of Downtown
12 Garberville is ridiculous. Like, besides the -- the
13 CEQA issue, having that type of a business in Downtown
14 Garberville where I have my office with two employees
15 two door -- two doors down from that scares the heck out
16 of me. Besides our safety, it's a public safety.

17 If anybody has seen the news about the hash lab
18 that blew up in Southern California several days ago --
19 to me that's a huge issue. Everybody keeps saying that
20 it's safe, it's safe, it's safe, and yet we keep hearing
21 about these explosions.

22 So I am against this project being permitted,
23 and I feel like, at the beginning of this whole process,
24 it was tried to be pushed through without appropriate
25 notification to the neighboring properties.

1 CHAIR ESTELLE FENNELL: Thank you, Karen.

2 Is there anybody else who would like to speak
3 on this item?

4 Yes -- hello? Is there -- Ryan, is there any
5 other caller?

6 DEPUTY CLERK RYAN SHARP: Yes, Chair Fennell.
7 I just unmuted the next commenter, if they -- if they
8 would like to speak.

9 CHAIR ESTELLE FENNELL: And can you let me
10 know, do we have others in the queue?

11 DEPUTY CLERK RYAN SHARP: This is currently the
12 last public commenter for this item.

13 CHAIR ESTELLE FENNELL: Okay. Thank you.

14 In case anybody wants to call, they should do
15 "*9" as -- after calling those numbers.

16 Welcome caller. Hello? Hello? You are -- you
17 have been --

18 DEPUTY CLERK RYAN SHARP: Chair Fennell,
19 they -- they have disconnected. So that would conclude
20 public comment. I don't have anyone else that's hand
21 raised (sic) in the queue.

22 CHAIR ESTELLE FENNELL: Okay. Thank you.

23 So I'll bring it back to the Board and ask if
24 there are any questions. I definitely want to talk with
25 you, Counsel Billingsley. Can you --

1 JEFFERSON BILLINGSLEY: And Chair, just as a --
2 if -- if the testimony por -- portion is closed, we
3 should close the public hearing.

4 CHAIR ESTELLE FENNELL: Oh, thank you. I'm now
5 closing the public hearing, and we're going to
6 discussion of the Board.

7 Thank you, Counsel Billingsley.

8 Supervisor Bass.

9 SUPERVISOR VIRGINIA BASS: Thank you, Madam
10 Chair.

11 Actually, I have some questions I can ask
12 later, but I -- I'd like it if we could hear from John
13 Ford. I think you went to Director Ford, and then he
14 suggested going to the public comment. So I'm kinda --
15 I'm curious if he has some things to add after hearing
16 the public comment. So that's all (audio cuts out).

17 CHAIR ESTELLE FENNELL: Thank you. Thank you
18 very much.

19 So Director Ford.

20 DIRECTOR JOHN FORD: Thank you, Chair Fennell
21 and -- and Supervisor Bass.

22 Just I would like to kind of respond to a
23 couple things. Obviously, the appellant has raised the
24 concern that they've filed a lawsuit. However, the
25 appropriate process in this particular case -- and I

1 will ask County counsel to weigh in on this -- is for
2 the County to finish the appeal process before it's
3 really ripe for the court.

4 In terms of the concerns related to the appeal
5 related to the CEQA violations and -- and whether or not
6 the CCLUO or CMMLUO apply, I think Stevie's
7 presentation -- or Mr. Luther's presentation and also
8 the staff report go (audio cuts out) detail to express
9 what the staff's considerations on those are. We do not
10 believe that they're CEQA violations. We do believe
11 that this is appropriately being processed under the
12 provisions of the CMMLUO.

13 One of the things that was raised was the
14 failure of the applicant to be a legal entity. We are
15 under the understanding that the paperwork is in the
16 process of being processed with the State. And it is
17 important that there be an entity that is established in
18 order to grant the permit to. I know you've closed the
19 public hearing, but that may be a question that you want
20 to get more information on from the applicant's counsel
21 to determine where that is. And I think that we would
22 not want to grant a permit to an entity that does not
23 exist.

24 I -- I think those were the -- in terms of the
25 concerns relative to the -- this being a hash lab, often

1 the stories that we see are related to unpermitted,
2 unregulated activities that are going on. I've heard
3 different stories about whether or not the lab in Los
4 Angeles was actually permitted or not and whether it was
5 operating in compliance with regulations that exist.

6 We do believe that, given the fact that there
7 are adequate provisions in place relative to storage
8 of -- of hazardous materials, that starts at the State
9 level, that's implemented through our environmental
10 health department. Chapter 6.95 of the Health and
11 Safety Code does require reporting and understanding of
12 what's -- what materials are being stored on site. The
13 building and fire code will be exercised in terms of
14 addressing how the small building is constructed and the
15 measures that are put in place to mitigate any potential
16 impacts relative to the storage of ethanol. Tho --
17 those are all things that are already hardwired within
18 the regulations for both the fire code and the building
19 code.

20 I think those are the -- the primary things
21 that we would respond to.

22 CHAIR ESTELLE FENNEL: Thank you, Director
23 Ford.

24 Counsel Billingsley, with regard to the -- the
25 process here, I would like to hear from the applicant in

1 terms of legal -- legal entity status as such.

2 Is that within the process for me to do that?

3 JEFFERSON BILLINGSLEY: Yes, Chair. You -- you
4 can -- the Board can continue to ask questions.

5 CHAIR ESTELLE FENNEL: Thank you.

6 So Counsel Dillon, maybe you can clarify for
7 us, or Mr. Allen, either one.

8 TIMOTHY DILLON: I'm happy to take that,
9 Supervisor Fennell, and -- and thank you, Counsel
10 Billingsley.

11 So as sometimes may inadvertently happen,
12 things don't get filed appropriately, and we picked up
13 on that several -- several weeks ago and have paid and
14 filed all appropriate documentation with the State. So
15 unfortunately, although we paid the fees and filed the
16 appropriate paperwork, whether it's COVID-19-related or
17 just bureaucracy-related, it's taken us more days than
18 we expected to have it show up on the website as back in
19 good standing.

20 So this is not an uncommon issue that we run
21 across in our -- my corporate practice. Things
22 inadvertently happen. That does not mean companies no
23 longer exist or are not able to proceed forward. It
24 just -- the -- the State has these -- it turned out to
25 be a tax payment. They want their taxes paid. They

1 have been paid. They just have not been processed. I
2 don't believe that that should affect -- typically when
3 you obtain a certificate of revivor, it revives the
4 company as if the company was never suspended.

5 So candidly, the company currently shows an FTB
6 suspended status because the tax filings had not been
7 all current. That, again, has been taken care of. We
8 are only waiting for the administrative function of the
9 check being cleared and the person changing on the web
10 page that it's back in good standing.

11 CHAIR ESTELLE FENNEL: As a -- that gives me a
12 bit of pause. I don't know about the rest of my
13 colleagues, but in terms of our standing to -- to be in
14 a position to -- to move forward with this until then,
15 that's been accomplished by the -- by the applicant.

16 And the other question I have is how long has
17 it been suspended? Is -- is this -- you said a few
18 weeks, but we know this has been going on for quite a
19 while.

20 TIMOTHY DILLON: Well, so I -- I -- it doesn't
21 tell you when it starts; so all I know is when I learned
22 about it, which was a couple of weeks back. So the --
23 and so I don't know when it's been started. But
24 typically, the legal issue would be, once it's revived,
25 it's revived all the way back to when it started.

1 So I don't know specifically the process and
2 whether, in this particular instance, if the supervisors
3 have concerns, whether this is approved subject to the
4 company being in good standing. I appreciate that
5 everybody takes time to get to these meetings, and so we
6 had hoped the State would have processed these things
7 faster, as they sometimes do. Unfortunately, although
8 you can typically go in face to face to pay these bills
9 and get it done within a day, obviously, that function
10 is not currently available.

11 So in order to allay any concerns, those would
12 be my potential thoughts.

13 CHAIR ESTELLE FENNEL: Thank you, Counsel
14 Dillon.

15 From the Board -- are there any questions or
16 comments from any members of the Board on this item?

17 We may be alone.

18 Oh, there we go. Supervisor Bohn.

19 SUPERVISOR REX BOHN: I -- I'd -- I'd like to
20 hear from our counsel on what protocol we should take.
21 I appreciate Mr. Dillon's telling us that everything's
22 okay and good to go, but we -- we heard different from
23 the other side; so I think we'd better find a neutral
24 party that isn't cheering for the home team. I'd
25 appreciate your -- your input.

1 CHAIR ESTELLE FENNEL: Counsel Billingsley?

2 JEFFERSON BILLINGSLEY: Chair, I -- I guess the
3 preliminary issue is whether or not the Board should
4 hear the appeal, which -- which I think clearly the --
5 this process should move forward.

6 I was not aware of the issue with the -- with
7 the expired Franchise Tax Board. I believe what the
8 applicant was saying is correct. You can revise that
9 status, but I have not had time to fully research that
10 issue.

11 CHAIR ESTELLE FENNEL: Thank you, Counsel.

12 Mr. Ford, Director Ford.

13 DIRECTOR JOHN FORD: Well, I -- I would just
14 recommend under the circumstances that the Board
15 continue this until that is completed and so you can be
16 assured that you are issuing a permit or denying a
17 permit, depending on what the Board chooses to do.

18 Well, there's -- there's really two options
19 here. One option is the -- the Board is inclined to
20 give consideration to denying the appeal or approving
21 the permit, then I would recommend that you continue it
22 to a date certain so that there is the legal entity
23 established when you're granting that entitlement.

24 If the Board is inclined to uphold the appeal
25 and deny the permit, then it really doesn't matter, and

1 you can take -- give direction to staff that that is
2 your intent today, and we could come back with findings
3 to that fact.

4 CHAIR ESTELLE FENNEL: Just from my
5 perspective, there's a third one, and that is that the
6 appellant has not made any presentation and has made the
7 point that we shouldn't go forward because it's before
8 the court. That -- that's -- that's disturbing to me
9 because I want to hear from the -- I wanted to hear the
10 legal arguments from the appellant. So that is the
11 third thing.

12 Supervisor Bass.

13 SUPERVISOR VIRGINIA BASS: Thank you, Madam
14 Chair. And -- and I do want to say I did have a meeting
15 with the applicant quite a while ago about the project;
16 so I want to be up front with that, just a background to
17 it.

18 But, you know, according -- you know, with what
19 Supervisor -- or Chair Fennell just said, it -- it's --
20 it's an interesting thing. I've never in, you know,
21 18 years had seen something sued before it actually came
22 to the appeal. Normally, I -- I -- it follows -- I
23 mean, I think either way it goes is -- you know,
24 sometimes it's, unfortunately, expected.

25 So I -- that to me seems odd, and I don't know

1 what -- you know, when we're being told that we no
2 longer have jurisdiction because it's in the courts --
3 and if that is true, that was actually a really, really
4 smart legal move, and I've never heard it before. And
5 so I'm -- I am curious about the question of
6 jurisdiction. It's never anything I have encountered
7 like this one yet; so I'd like to have more -- I'd like
8 more information on that, quite frankly.

9 Let's see. What else?

10 And one question I had for Director Ford and
11 going through these, I'm not sure if the main concern
12 was the, you know, vol -- potential volatile or -- you
13 know, extraction or exactly, but when the applicant
14 reached out to the appellant, there also was no -- not a
15 reply. And does -- do you happen to know if that was
16 because they had already filed a lawsuit so they didn't
17 want to try to talk to come to middle ground? Or do you
18 have any idea of -- of where -- of what happened there?

19 DIRECTOR JOHN FORD: I really can't speak to
20 interactions between the applicant and the appellant.
21 I -- I -- I don't know.

22 CHAIR ESTELLE FENNEL: Well, I -- I have to
23 clarify here. I was a little bit puzzled by that
24 statement that there was no response from the appellant.
25 Now, this might be a timing thing, but for full

1 disclosure, I have spoken with both the applicant and
2 the appellant. And as I understand it, from both sides
3 I've heard that they have discussed this issue. They
4 met at the location and there were a lot of discussions.
5 So I'm not sure where this comes from that there was no
6 response from the appellant.

7 I know -- I'm saying this. I know it.

8 Mr. Allen.

9 JOSHUA ALLEN: Yes. I just wanted to say, as
10 someone with a Master's in public administration
11 focusing on local government and over a decade of public
12 experience as a -- as a public servant, essentially, I
13 found it extremely disturbing that Ms. Jackson was also
14 overstepping the whole public process, essentially, and
15 not giving the public the opportunity and time to hear
16 this.

17 On top of this she thinks that the public
18 process seems to be court. And it's not. It's a --
19 it's a -- oh, I forget -- it's a -- it's a judicial
20 process, but it's not exactly court. Things have legal
21 standing that you all do, but essentially it -- what
22 she's doing is essentially trying to bully everybody,
23 and she's been doing that since day one. As soon as
24 this went through with the Planning Commission, she
25 filed court. I think she filed court even before it

1 went to that.

2 But essentially, like some of the things that
3 she's requiring and -- and saying that the appellant
4 didn't get -- or she didn't have this hearing within
5 30 days. It's not up to the person appealing it whether
6 or not they have due process within 30 days; it's up to
7 the proponent of the project whether or not they want
8 that heard within 30 days.

9 On top of that, we're in a state of emergency
10 for a pandemic, and I'm sorry, but, Ms. Jackson, you
11 need to get with the times. A state of emergency
12 essentially means that everything is put on hold in
13 government. And so we have issues that -- they just
14 arise. We've been going through this project for three
15 years. We weren't even sure it was gonna make it.
16 There have been many different problems with going
17 through this project, trying to meet all the changing
18 State regulation codes.

19 And so I can tell you right now, when I deal
20 with State licenses -- and I write State licenses all
21 the time -- that essentially the State requires that you
22 submit your seller's permit, your corporate
23 documentation, all your financial interest, all this
24 stuff. They will not approve the license without that
25 approval as well as the permit from the County.

1 So one of your other options could be a
2 condition of use on this permit that essentially it is
3 not issued until that corporate documentation is
4 rectified with the State, which right now it's on hold
5 because of the pandemic.

6 That's all I gotta say at this moment.

7 CHAIR ESTELLE FENNEL: Thank you, Mr. Allen.

8 Any further comments or questions on this item?

9 I'm going to ask the supervisors to stay on
10 camera a little bit. It's a little frustrating for you
11 to go in black on everything and then me having to find
12 you. So please stay and attend as part of the meeting.

13 Supervisor Wilson.

14 SUPERVISOR MIKE WILSON: Thank you.

15 I mean, from what I've heard so far, I mean,
16 I -- I think I'm not inclined to uphold this appeal so
17 far. That being said, I really haven't heard -- the --
18 the only negativity towards this that I -- at least
19 hearing in the testimony, one, is this legal argument
20 by -- from the attorney, but the other is from another
21 business owner nearby who's concerned about the type of
22 business and the type of traffic. And again, that just
23 really is playing into culture war issues that I'm just
24 not -- I'm not, you know, predisposed to really want to
25 entertain.

1 So that being said, I mean, I -- for me, just
2 if we're taking straw polls, I'm kinda interested in
3 Director Ford's option of -- of postponing this until
4 some of these legal issues are taken care of or at least
5 the licensing part of this or the -- or the -- and so
6 that's -- that's where I'm at. I'm just kinda throwing
7 it out there just to see where we can kinda move this
8 forward or not.

9 CHAIR ESTELLE FENNEL: Director Ford.

10 DIRECTOR JOHN FORD: Yeah, I -- I think before
11 we do, one of the things I would really like to just
12 address the jurisdiction issue, but I'm -- I'm not the
13 attorney to attempt to address that. And so I'm gonna
14 ask Ms. Duke or Mr. Billingsley to speak to that
15 directly before we -- we move any further.

16 The second item is that, just from probably a
17 litigation standpoint, we could put a condition onto
18 a -- a permit that it's not effective unless the legal
19 entity status is reestablished. I don't know what a
20 court would do with that because how do you issue a
21 entitlement to an entity that doesn't currently exist?

22 And -- and so I would feel much better about
23 delaying at least that part -- part of the action to a
24 point when it is absolutely clear that this is a legal
25 entity that the entitlement's being rented to.

1 CHAIR ESTELLE FENNEL: Supervisor Wilson, do
2 you want to hear from Counsel Billingsley or Counsel
3 Duke?

4 SUPERVISOR MIKE WILSON: I do. But I just also
5 wanted to add that I did -- I mean, I still do have some
6 questions with relationship to the safety and some other
7 things. I mean, it -- I -- I -- like I said, my
8 inclination was to move in a certain direction, but I
9 did have, you know, questions that were germane to this,
10 but I wanted to clarify our process first before we get
11 into substantive discussion.

12 CHAIR ESTELLE FENNEL: Okay. All right. I'll
13 go to either one of the counsels. Who wants to go
14 first?

15 I'll ask -- I'll -- Counse -- Counsel
16 Billingsley, and you can make that decision.

17 JEFFERSON BILLINGSLEY: Yes, Chair. I -- I can
18 give advice to the Board and Ms. Duke and Stephen on
19 behalf of the planning department.

20 CHAIR ESTELLE FENNEL: Okay.

21 JEFFERSON BILLINGSLEY: I -- I do think with
22 the issues we've heard, I would be supportive of a
23 continuance so some of these things could be sorted out
24 and some of the issues you addressed, obviously, we
25 haven't really -- one side is essentially choosing not

1 to participate at this point, and then there is the
2 issue with the entity status. That would involve a new
3 hearing, which, of course, would start the process all
4 over again.

5 And then Ms. Duke can speak on behalf of the
6 planning department.

7 CHAIR ESTELLE FENNELL: Welcome, Counsel Duke.

8 NATALIE DUKE: Thank you, Chair Fennell.

9 I wanted to say that, with respect to the
10 litigation, the court has not adjudicated jurisdiction
11 or the effect of a delayed hearing. There hasn't been
12 any injunction issued by the court or temporary
13 restraining order. And we do have this appeal process
14 in our local code, and the applicant is entitled to the
15 appeal and to due process. I just wanted to point those
16 out.

17 CHAIR ESTELLE FENNELL: Thank you. All right.
18 Any further --

19 Oh, you wanted to -- oh, so you're -- how do
20 you feel now, Supervisor Wilson? Do you want to pursue
21 it or delay at this --

22 SUPERVISOR MIKE WILSON: I mean, I think -- I
23 think it seems like delaying -- well, I want to hear
24 from the other Board members. I mean, I --

25 CHAIR ESTELLE FENNELL: Yeah, me too.

1 SUPERVISOR MIKE WILSON: -- I --

2 CHAIR ESTELLE FENNELL: But you're the one
3 who's got your hand up.

4 SUPERVISOR MIKE WILSON: Oh, do I have it up?
5 I didn't mean to have it up if I do.

6 CHAIR ESTELLE FENNELL: No -- I'm sorry. I --
7 as I recall, you said you wanted to hear from counsel
8 before you went any further. I just wanted to know if
9 you had anything further to add after having heard from
10 counsel.

11 SUPERVISOR MIKE WILSON: No, I don't have
12 anything further --

13 CHAIR ESTELLE FENNELL: Okay.

14 SUPERVISOR MIKE WILSON: -- to add other than
15 I -- I -- I would entertain continuance even still, if
16 that's possible, though it sounds like it's -- has its
17 own issues.

18 CHAIR ESTELLE FENNELL: Thank you, Supervisor
19 Wilson.

20 Any other supervisor wish to speak on this
21 item?

22 All right. You're usually so talkative, it's
23 really interesting.

24 SUPERVISOR REX BOHN: Yeah.

25 CHAIR ESTELLE FENNELL: Supervisor Bohn.

1 SUPERVISOR REX BOHN: Well, and I can see both
2 sides of this -- this issue, and I -- I thought I knew I
3 was -- where I was going, and then after listening to
4 Mr. Allen, it kinda through me for a 180. So I hear
5 less is better a lot; so I -- I think we probably have
6 to get everything lined up.

7 I -- I -- I worry about the exit of the
8 appellant from this hearing. I know we can do bits and
9 pieces, but it sounds like we -- we might be vulnerable.
10 Nobody's told me let's go ahead, there's no problems
11 with it. And that's kind of like what I'd like to hear
12 from our legal team.

13 CHAIR ESTELLE FENNEL: Well, as this project
14 has come to my attention, I have spoken with both
15 Mr. Bilandzija, another member of his team, and -- and
16 some of the local neighbors. And as I indicated
17 earlier, they actually have been in communication in
18 certain areas. I'm not sure where that statement came
19 from.

20 And I know that Mr. Bilandzija was anxious to
21 find solutions or -- to some of their concerns. So I
22 know that there were -- there was kind of a
23 back-and-forth among the people who were concerned, but
24 Mr. Lehman, who's filed the appeal, seems to have stayed
25 very strong in his concerns.

1 There were a couple things I'm -- I don't know
2 if we even want to go into it with this discussion as it
3 stands right now, but I did have a couple of questions
4 about the new building.

5 It would have the same footprint, is that
6 correct, Director Ford?

7 DIRECTOR JOHN FORD: Yes, that is correct.
8 It -- it's basic --

9 CHAIR ESTELLE FENNEL: So it would be -- it
10 would still be a two -- a -- kind of a small two-story
11 building? Okay.

12 And the other question that's been brought to
13 me in terms of -- of -- of this being compatible with
14 the zone and being in consistency with what has happened
15 there before, is it's different.

16 Are there any other manufacturing businesses on
17 the main street in Garberville? I don't believe there
18 are. So I mean, I might be wrong now. I mean, baking
19 cookies, for instance, yes, that's manufacturing food.
20 But I don't know if there's anything along this line
21 on -- on the main street.

22 DIRECTOR JOHN FORD: If that's a question,
23 there is another approved manufacturing use at the other
24 end of town.

25 CHAIR ESTELLE FENNEL: So -- and it's what,

1 for...

2 DIRECTOR JOHN FORD: It was originally for
3 manufacturing and -- and a dispensary. The dispensary
4 was not approved, just the manufacturing component was.

5 CHAIR ESTELLE FENNELL: Oh, that's the --
6 the -- that item that is on the very north end --

7 DIRECTOR JOHN FORD: Yes.

8 CHAIR ESTELLE FENNELL: -- off -- off the main
9 street. All right.

10 DIRECTOR JOHN FORD: Technically, yeah.

11 CHAIR ESTELLE FENNELL: Thank you. Yeah.

12 Well, let's -- I still don't see a huge amount
13 of discussion among the supervisors. I would like to
14 know --

15 Supervisor Bass, you have your hand up.

16 SUPERVISOR VIRGINIA BASS: Thank you, Madam
17 Chair.

18 Now, this is -- it's very frustrating that
19 their -- well, that the appellant is not on or a
20 representative. It -- it's kind of -- I think in some
21 ways it's put us in a really difficult place because --

22 CHAIR ESTELLE FENNELL: Uh-huh.

23 SUPERVISOR VIRGINIA BASS: -- we want to be
24 thorough, we want to do our work, we want to ask
25 questions, and they're not here. At the same time, it

1 almost feels like -- I'm trying to find the right word,
2 but it -- it's -- it just sounds like in some ways a
3 delay tactic. And that's frustrating for me.

4 So on the one hand I feel like saying, well,
5 let's just forge ahead. On the other hand, you know, I
6 hear that there are some questions, and then there's the
7 concern with -- yeah, the legal entity part. But it
8 really -- how do we guarantee if we put this off to a
9 date certain that we will have representation from the
10 actual appellants? I mean, I -- how long do we do this?
11 The -- because if people just don't show up, you know,
12 we can't keep putting things off forever.

13 DIRECTOR JOHN FORD: Yeah.

14 SUPERVISOR VIRGINIA BASS: So I -- I'm
15 frustrated because I don't know what their -- what the
16 answer is.

17 DIRECTOR JOHN FORD: Through -- through the
18 Chair, with permission.

19 CHAIR ESTELLE FENNEL: Please.

20 DIRECTOR JOHN FORD: So the -- the first issue
21 is -- is really one of the legal standing and addressing
22 that and then relative to whether or not the appellant
23 will participate in a hearing prior to formal action by
24 the -- the court, I -- I can't say.

25 And -- and so one of the decisions, dilemmas

1 the Board has is whether or not we want to put this off
2 long enough for the court to take action or to
3 recognize -- I think, as Ms. Duke pointed out, that the
4 applicant does have a right to due process in this
5 particular case. And normally litigation involving a
6 public hearing that has not happened within a certain
7 amount of time does not involve delaying it further.
8 Every time I've seen it occur, the Court says, "No,
9 County. You go hold that hearing now."

10 And -- and so this -- this does seem very, very
11 strange to me. And it's -- it's difficult -- I've --
12 I've never seen this from a legal perspective, this kind
13 of strategy play out.

14 SUPERVISOR VIRGINIA BASS: Well, and that leads
15 to my -- I guess my follow-up question is, as a legal
16 strategy -- and this might have been covered and perhaps
17 Ms. Jacks -- Jackson mentioned this in her comments and
18 I just missed it. But has there been -- has -- have we
19 looked to see if there's some kind of legal precedent
20 for this action? Hope -- Supervisor Wilson must have a
21 question -- or the answer. I don't know. But I'm
22 curious if we have that info.

23 DIRECTOR JOHN FORD: I'm -- I'm going to allow
24 Ms. Duke to respond to that because I -- I really have
25 not done that research.

1 CHAIR ESTELLE FENNELL: Counsel Duke.

2 NATALIE DUKE: Thank you.

3 I think that I need to defer to -- to -- to
4 Counsel Billingsley just because I am not supposed to be
5 advising the -- the Board on this issue.

6 CHAIR ESTELLE FENNELL: Oh, thank you -- thank
7 you very much for pointing that out, Natalie.

8 Counsel Billingsley.

9 JEFFERSON BILLINGSLEY: Chair, this -- as
10 Director Ford said, this is a -- a rather strange
11 situation because typically the court action would be to
12 force the County to have the hearing. Now we are, in
13 fact, having the hearing and one party is choosing not
14 to participate.

15 Perhaps the best solution is a continuance to
16 work out the matter with the Franchise Tax Board, and at
17 that point, if they still choose not to participate,
18 that's up to the Board to make the decision as to what
19 they want to do, whether they just proceed with what's
20 in the record or whether one of the parties chooses to
21 participate at that point.

22 CHAIR ESTELLE FENNELL: Yeah. It occurs to
23 me -- and I -- I just might -- again, we're in
24 unchartered territory, and I am not an attorney nor do I
25 play one on TV, but I think that the -- the question

1 occurs to me that, in terms of the rights of the
2 applicant to -- to move forward with due process, maybe
3 it can be something about a time certain for the
4 continuation that requires that the appellant make their
5 case, and -- and we leave it at that.

6 Your thoughts on that, Counsel Billingsley?

7 JEFFERSON BILLINGSLEY: I think that would be
8 my recommendation. Perhaps Director Ford has a date in
9 mind. I don't know what the timing is for the licensing
10 issue; so I -- I think I would defer to him on that.

11 I do think, since the hearing is closed, it
12 would have to be re-noticed again.

13 CHAIR ESTELLE FENNEL: Okay. Thank you.

14 Director Ford.

15 DIRECTOR JOHN FORD: Yeah. I -- I would -- in
16 order to maintain continuity in this is -- we do need to
17 absolutely re-notice it. The soonest we could get back
18 would be June 9th.

19 CHAIR ESTELLE FENNEL: Okay. And -- and with
20 regard to courts in general, the -- the judicial system
21 in particular, I suppose, Ms. Jackson did reference to
22 the 15th as the date of the court hearing.

23 Is there any sense in putting it after that?
24 Although, I don't know that anything would be decided on
25 that one day, but is there any value to doing that?

1 DIRECTOR JOHN FORD: Well, it -- it may give
2 greater insight in terms of what the appellant is going
3 to do to continue it to a date after that.

4 CHAIR ESTELLE FENNELL: Uh-huh.

5 DIRECTOR JOHN FORD: I -- I -- June 16th is
6 only a day after that, and I don't think we've got a
7 meeting on the 23rd; so that would take us all the way
8 out to July 7th.

9 CHAIR ESTELLE FENNELL: Do we want to say
10 June 16th?

11 DIRECTOR JOHN FORD: Yes.

12 CHAIR ESTELLE FENNELL: Okay. Any further
13 input from the Board on this item?

14 Supervisor Wilson.

15 SUPERVISOR MIKE WILSON: So I'm just wondering
16 about our obligation or potential not obligations in
17 relationship to legal costs to this. I mean, is -- is
18 there a way -- I mean, (should we be?) asking that the
19 applicant -- or can we ask that the applicant take on
20 any potential costs from legal action taken by the Board
21 on this -- on this permit?

22 DIRECTOR JOHN FORD: Through the Chair.

23 That is a requirement of the CMMLUO and the
24 CCLUO is that the applicant enter in and sign an
25 indemnification agreement, and I believe that has been

1 done.

2 SUPERVISOR MIKE WILSON: So -- and through the
3 Chair, the continuance of that, I mean, so -- so I
4 guess, you know -- I mean, I would like to hear from the
5 applicant how they feel about that potential lawsuit and
6 their -- and -- and their obligation and their potential
7 obligation of -- of -- of that and where they -- you
8 know, just I don't -- I -- I just want to hear from them
9 on that.

10 CHAIR ESTELLE FENNEL: Okay. So I have --
11 Joshua Allen had -- had his hand up -- I'm not -- we've
12 been keeping the discussion among the Board so --
13 Mr. Allen -- but Mr. Dillon also has his hand up. And I
14 do notice that Mr. Owens has joined us. He was not
15 available earlier. I will toss it to you to decide who
16 should answer Mis -- Supervisor Wilson's question.

17 Mr. Dillon.

18 TIMOTHY DILLON: Oh, sorry. I -- I think on
19 the litigation front, I'm gonna pretend that I'm the
20 most knowledgeable of that issue.

21 UNKNOWN MALE: You know, the last one.

22 TIMOTHY DILLON: In -- in particular --

23 UNKNOWN MALE: Yeah, so I -- I was trying to
24 look at that. Okay.

25 TIMOTHY DILLON: -- I do think -- I do think

1 Ms. Jackson has kind of put -- put the Board in a -- or
2 the supervisors in a -- in an unusual position, but from
3 the discussions -- the fact that the timing that the
4 appeal was filed before this hearing, at least from my
5 opinion -- and I'm -- I'm sure that Mr. Billingsley
6 will -- will follow up on this directly with you, it
7 does not prevent or somehow divest the supervisors from
8 jurisdiction.

9 As to this issue of the FTB status right now,
10 you know, first, I can only apologize that we thought it
11 should be taken care of by the time we got here. And
12 I -- I can hear some, you know, concern in the voices
13 that -- that that may affect or give an additional legal
14 ground for concern.

15 So the concept of -- of meeting back on
16 June 16th, while -- while unfortunate for all parties to
17 have to come back together, the time and the -- the
18 delay, you know, the applicant wants to wholeheartedly
19 make this proposal and this plan that its worked on for
20 years and have complete support from all the
21 supervisors.

22 And so I'm sure that Joe would agree and
23 probably Josh would agree too, you know, if there's any
24 sort of reluctance in this because of a technical legal
25 issue that takes away from the fact that we want the

1 Board to embrace this project and the work that -- that
2 staff and we have put into it, you know, if we -- we
3 have to come back June 16th, I, first and foremost,
4 apologize that I didn't catch this and get on it sooner
5 for the time and effort that people have put in today.
6 We will get that taken care of. It is a ministerial
7 issue at this point and just a timing issue.

8 And then I guess separately, Mr. Billingsley
9 can get up to speed or work with Ms. Duke to have a
10 comfort level that the timing of Ms. Jackson's filing of
11 the lawsuit does not prevent at all the supervisors
12 from -- from what they're doing today.

13 CHAIR ESTELLE FENNEL: Thank you, Mr. Dillon.

14 Ryan, you had some input here?

15 DEPUTY CLERK RYAN SHARP: Yeah. Thank you.
16 Thank you, Chair Fennell.

17 I -- I just was going back in our Board
18 calendar, and we actually do have a meeting on
19 June 23rd.

20 CHAIR ESTELLE FENNEL: Oh. That might be more
21 manageable for everybody concerned, give you some time
22 to reflect on what happened on the 15th.

23 Thank you for that, Ryan. I appreciate it.

24 I -- I do want to say, first of all, we're
25 dealing with, again, something that has come out of the

1 blue at us, right, (where the?) appellant is -- is not
2 making the case, basically. That makes it very
3 difficult for us.

4 As I mentioned before, I've talked with all
5 sides of this, and I know that Mr. Bilandzija's been
6 very interested in -- in trying to make it work and --
7 and talking with the -- with the -- the people who --
8 who have their businesses next door and other members of
9 the community.

10 For me to -- what my difficulty is, I want to
11 make my vote based off facts, and I want all the facts,
12 and I'm not hearing all the facts right now. That's my
13 difficulty. Aside from the legal thing, I -- I want to
14 hear the full discussion. So that's -- that's where I
15 would -- I'd say I have a little bit of concern.

16 Mr. Allen, I -- I know you've wanted to talk.
17 I'm gonna let you go for it.

18 JOSHUA ALLEN: Thanks.

19 No, I just wanted to address Mr. Wilson's
20 question about the products, first and foremost, and the
21 use of the facility.

22 The -- the products that are gonna be made are
23 food -grade products, and it's gonna be made in small
24 batches, much like a restaurant or anything else that's
25 been there in the past making small products. And those

1 food-grade products will be available for other
2 potential industries, like the bakery down the street if
3 they wanted to buy some distillate and put it inside of
4 their -- their baked goods. That's the type of product
5 that we would be offering.

6 When -- now, when it comes to the public
7 process, I -- I -- again, I -- I -- I guess I'm
8 considered an expert in this, but essentially our
9 country is founded upon a constitutional republic of the
10 people, and that people -- republic means that we have
11 public hearings that essentially -- elected officials,
12 such as all of you, have just as much standing as a
13 judge. This is a quasi-judicial process.

14 And essentially the -- the -- the appellant
15 stepping out on this whole thing is the same thing as
16 them going to court and stepping out of court. They've
17 decided they don't want to participate anymore. They
18 haven't wanted to participate since the beginning. It's
19 complete disrespect to our local government and to our
20 governmental processes, which are 200-plus-year-old
21 traditions in our country.

22 And just because she's an attorney and these
23 people have money doesn't mean that they can overstep
24 your guys' responsibility to have a public hearing for
25 the public and to make this decision on behalf of

1 everybody else. A judge doesn't make those decisions.
2 Our elected officials make decisions. It goes to the
3 court based upon those decisions our elected officials
4 have made, whether or not it's at the local level, at
5 the legislature or the Congress. That's how the process
6 works.

7 And so you guys all need to make a decision on
8 what you would like to do. We have no problem with
9 moving later on to make sure all the paperwork is in
10 process, answer any further questions you might have.
11 But essentially, as I see it right now, she's walked out
12 on a court meeting.

13 CHAIR ESTELLE FENNEL: Thank you, Mr. Allen.

14 And any further questions or comments from the
15 Board?

16 Oh, Supervisor Wilson.

17 SUPERVISOR MIKE WILSON: I just want to
18 acknowledge the anxiety and the frustration of the
19 applicant with regards to the appellant's behavior in
20 this regard. And I -- and I do -- I do think that, you
21 know, if we are seeking the conversation or more
22 information, the appellant -- it's really up to them to
23 give us that conversation and give us that. And if
24 they're not doing that, then, you know, I -- I --
25 although I wouldn't have delivered that message in the

1 same way Mr. Allen did today, I would -- I -- I do --
2 the -- the -- the premise of it is -- is I think
3 something that we should be in -- considerate of.

4 And I -- I don't know. I mean, we -- we've
5 danced around what -- you know, we -- we've allowed or
6 what has happened is that the appellant has -- has
7 basically dropped a bomb into this situation or dropped
8 a -- you know, a -- an oil slick or whatever and just
9 now we're spinning our wheels and talking about that
10 instead of the issue, which just really is -- is really
11 unfortunate. And -- and we haven't really gotten to the
12 issues of the safety, the traffic, and all that other
13 stuff, which we still can talk about. We have the --
14 the things that have come in to us.

15 And from my perspective, I -- I'm -- I'm -- if
16 the applicant wants us to move forward with a decision
17 today and is willing to take that chance of the legal
18 processes and -- and -- and all that stuff, that's --
19 I'm willing to -- to do that, at least having that
20 process. Although, I will say that, even if the
21 applicant's gonna pay for legal counsel, you know, it
22 still is another distraction for our staff that, if we
23 can avoid by having at least one postponement here, then
24 that might actually simplify things for our just
25 internal processes.

1 That's just where I'm standing with this. I --
2 I just -- and again, I haven't even made a decision
3 "yes" or "no" because we haven't really had a
4 substantive discussion yet.

5 CHAIR ESTELLE FENNEL: Sorry. I -- I muted.
6 My dog was barking.

7 SUPERVISOR MIKE WILSON: Okay.

8 CHAIR ESTELLE FENNEL: If there's no one else
9 willing to take it, I'll take it upon myself to make a
10 motion that we continue this back to June 23rd whe --
11 and we would have to re -- republish it.

12 Is that correct, Director Ford? Republish --

13 DIRECTOR JOHN FORD: Yes, we will re-notice it.

14 CHAIR ESTELLE FENNEL: Okay. Re-notice it.
15 So that would be my motion.

16 SUPERVISOR MIKE WILSON: I'll second.

17 CHAIR ESTELLE FENNEL: Okay. We have a motion
18 and a second.

19 Any further discussion?

20 Okay. Ryan, let's have a roll call on this,
21 please.

22 DEPUTY CLERK RYAN SHARP: Yes, Chair Fennell.
23 Supervisor Bohn.

24 SUPERVISOR REX BOHN: I kinda like the idea of
25 being Judge Bohn, but yes.

1 DEPUTY CLERK RYAN SHARP: Supervisor Madrone?
2 SUPERVISOR STEVE MADRONE: Yes. Yes.
3 DEPUTY CLERK RYAN SHARP: Supervisor Bass.
4 SUPERVISOR VIRGINIA BASS: Yes.
5 DEPUTY CLERK RYAN SHARP: Supervisor Wilson?
6 SUPERVISOR MIKE WILSON: Yes.
7 DEPUTY CLERK RYAN SHARP: Supervisor Fennell?
8 CHAIR ESTELLE FENNEL: Yes.
9 DEPUTY CLERK RYAN SHARP: Passes 5-0.
10 CHAIR ESTELLE FENNEL: Thank you to everyone
11 for a difficult and challenging -- and see you all again
12 on the 23rd.
13 JOSHUA ALLEN: Thank you, Your Honor.
14 CHAIR ESTELLE FENNEL: Thank you. Thank you.
15 (Whereupon the audio concluded.)
16 --ooOoo--
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1 STATE OF CALIFORNIA)
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I, Shawna Hogan Cox, C.S.R. No. 14038, in and for the State of California, do hereby certify:

That the foregoing transcription was transcribed by me, that the transcription was recorded stenographically by me, was thereafter transcribed under my direction and supervision, and that the foregoing is a true record of same.

I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name this 4th day of June, 2020.



Certified Shorthand Reporter
for the State of California

[& - anxious]

&	3rd 23:5	active 16:1	alcohol 16:25 17:9
& 23:16	4	activities 6:17	17:23,25 18:1
1	4121188 1:24	35:2	alderpoint 16:2
1 3:9	4th 66:15	activity 6:6,20	allay 38:11
1.0 16:13 28:16	5	actual 17:11 52:10	allege 23:6
100 20:3	5-0 65:9	add 33:15 46:5	allen 2:13 14:23
10:00 7:8	50 7:15	48:9,14	15:5,14,16,19,20
11:00 2:2 3:2	500 8:19	adding 7:1	15:20 21:5 36:7
12 8:7	5:00 7:9	additional 16:15	42:8,9 44:7 49:4
13447 66:22	5th 9:17 22:24	58:13	57:11,13 60:16,18
14038 1:25 2:4	6	address 9:8 13:11	62:13 63:1 65:13
66:4	6.95 35:10	14:17,21,24 15:5	allen's 15:13
15th 23:23 55:22	6:00 7:8	15:16 45:12,13	alley 12:23
59:22	6th 23:18	60:19	alliance 28:5
16th 56:5,10 58:16	7	addressed 46:24	allison 2:15 21:18
59:3	7th 56:8	addresses 12:13	21:21 22:1,6,9,11
18 40:21	9	addressing 14:21	22:14,15 24:17,19
180 7:24 10:25	9 25:17 32:15	15:2,3,7 35:14	25:24 26:3,15
49:4	98 17:25	52:21	allison's 26:9
18th 23:4	9:00 7:9	adequate 35:7	27:20
19 1:8,15 2:1,3 3:2	9th 55:18	adjudicated 47:10	allow 1:12 3:13
36:16	a	administration	5:16 25:6 26:25
2	a.m. 2:2 3:2 7:8,9	42:10	53:23
2 1:14 5:11,15,16	able 7:17 15:5	administrative 5:2	allowed 17:19,20
8:22,25 9:5,12	36:23	37:8	18:5 63:5
2.0 16:15	absolutely 45:24	administrator	allowing 14:12
20-588 1:10 2:2	55:17	9:15	alterations 6:25
200 61:20	access 4:22 26:5	adopt 13:16	10:22
2016 13:4 29:16	accomplished	adverse 10:7	amazing 14:20
30:24	37:15	11:18	amendments
2020 1:8,15 2:1,3	acknowledge	advice 26:19 27:20	16:13
3:2 22:24 66:15	62:18	46:18	amount 11:10
23rd 56:7 59:19	acre 8:7	advising 54:5	18:9 31:3 51:12
64:10 65:12	act 10:13	affect 37:2 58:13	53:7
28 12:20	acted 5:4	ago 25:25 31:18	angeles 35:4 66:2
28th 13:4	action 7:18 45:23	36:13 40:15	answer 13:19
3	52:23 53:2,20	agree 58:22,23	14:17 23:17 52:16
30 17:21 43:5,6,8	54:11 56:20 66:12	agreement 56:25	53:21 57:16 62:10
350 17:20		ahead 13:22 26:13	anxiety 62:18
		26:23 27:20 49:10	anxious 49:20
		52:5	

[anybody - bills]

<p>anybody 31:17 32:2,14 anymore 61:17 apologize 58:10 59:4 appeal 1:10 3:11 4:1,6 5:23 7:12 9:25,25 13:17 22:21 23:3 24:1 28:12 29:9 34:2,4 39:4,20,24 40:22 44:16 47:13,15 49:24 58:4 appealing 20:12 43:5 appearances 2:6 appellant 3:17 10:12 11:17 14:3 15:7 21:6 22:15 24:15 28:14 33:23 40:6,10 41:14,20 41:24 42:2,6 43:3 49:8 51:19 52:22 55:4 56:2 60:1 61:14 62:22 63:6 appellant's 14:22 26:13 62:19 appellants 52:10 appended 15:5 applicable 9:3 13:3,15 applicant 3:17,19 7:12 11:24 14:1,3 14:4 23:10 24:2 34:14 35:25 37:15 39:8 40:15 41:13 41:20 42:1 47:14 53:4 55:2 56:19 56:19,24 57:5 58:18 62:19 63:16</p>	<p>applicant's 34:20 63:21 application 4:6 5:22 12:5 13:10 19:4 applications 4:24 6:3 13:3 applied 11:23 30:24 apply 9:7 10:4 34:6 appreciate 15:17 38:4,21,25 59:23 appropriate 5:10 9:21,22 10:19 23:8 24:1 27:3 31:24 33:25 36:14 36:16 appropriately 34:11 36:12 approval 1:11 3:12 9:8 11:23 43:25 approve 4:2 5:5,6 5:10 13:18 43:24 approved 5:13 9:11,16 28:22 38:3 50:23 51:4 approving 39:20 approximately 12:20 area 4:4 5:20 6:9 7:15,16 8:21 10:20 areas 4:21 9:13 13:12 14:18 49:18 argument 10:6 44:19 arguments 40:10 arisen 29:21</p>	<p>art 7:13 aside 60:13 asking 56:18 assembly 8:19 asserts 10:12 assigned 6:2 assistant 14:24 assured 39:16 attempt 45:13 attend 44:12 attention 49:14 attorney 3:18 14:11 44:20 45:13 54:24 61:22 audio 8:11,15,23 9:13 11:16 29:20 33:16 34:8 65:15 automatic 17:4 available 13:19 14:23 21:1 38:10 57:15 61:1 avoid 63:23 aware 23:15 29:1 39:6</p> <p style="text-align: center;">b</p> <p>back 3:15 8:4 13:23 20:1 24:22 25:1 30:24 32:23 36:18 37:10,22,25 40:2 49:23 55:17 58:15,17 59:3,17 64:10 background 20:22 20:23 40:16 baked 61:4 bakery 61:2 baking 50:18 banks 8:23 barking 64:6 based 26:25 27:18 27:19 60:11 62:3</p>	<p>basic 50:8 basically 60:2 63:7 basis 23:19 bass 2:21 33:8,9 33:21 40:12,13 51:15,16,23 52:14 53:14 65:3,4 batches 60:24 bcc 18:25 bed 27:23 beginning 31:23 61:18 behalf 23:1 46:19 47:5 61:25 behavior 62:19 believe 14:5,18,19 15:14 17:20 19:13 34:10,10 35:6 37:2 39:7 50:17 56:25 belong 27:5 belongs 27:6 belt 26:4,4 benefits 18:17 best 54:15 better 38:23 45:22 49:5 beyond 10:15 26:9 bilandzija 2:11 14:5,7,9,9 15:24 27:11 49:15,20 bilandzija's 60:5 billingsley 2:20 32:25 33:1,7 35:24 36:3,10 39:1,2 45:14 46:2 46:16,17,21 54:4,8 54:9 55:6,7 58:5 59:8 bills 38:8</p>
--	--	--	--

[bit - churches]

<p>bit 27:19 37:12 41:23 44:10 60:15 bits 49:8 black 44:11 blew 31:18 blue 60:1 board 1:9 2:1 3:23 6:4 10:2 13:16,24 16:14 22:17,18,20 23:2,14,19 24:4,22 24:23,25 25:5,9 30:3 32:23 33:6 36:4 38:15,16 39:3,7,14,17,19,24 46:18 47:24 53:1 54:5,16,18 56:13 56:20 57:12 58:1 59:1,17 62:15 bohn 2:22 38:18 38:19 48:24,25 49:1 64:23,24,25 boils 19:6 bomb 63:7 bottom 21:24 22:2 22:5 boutique 11:3 brand 8:9 branded 7:13 bring 19:25 24:22 25:1 29:4 32:23 brought 16:10 21:11 50:12 budget 29:2 budgetary 18:21 buil 20:1 building 3:24 6:15 6:16,18,24 7:3,23 7:24,25 8:1,2,3,4 10:24 12:4,7,9,12 12:13,20 16:19 19:8,23 20:1</p>	<p>35:13,14,18 50:4 50:11 buildings 10:23 11:15,24 16:21 20:2 built 8:2 17:5 bully 42:22 bunch 16:3 bureaucracy 36:17 burnt 19:5 business 6:7 7:7 7:19 12:10 17:3 19:14,19 28:14 31:13 44:21,22 businesses 8:11 18:22 19:9 20:7 21:1 30:8,9 50:16 60:8 buy 61:3</p>	<p>8:24 10:10 11:6 11:23 17:24,25 18:15 23:9 26:23 27:14 28:24 30:10 car 8:23 care 37:7 45:4 58:11 59:6 careful 28:20 case 5:19 24:8 32:14 33:25 53:5 55:5 60:2 catch 59:4 categorical 11:16 23:8 cause 17:11 caused 16:16 ccluo 13:8,12 34:6 56:24 cdfa 18:25 ceqa 10:3,25 20:16 20:21 23:2,6,19 24:1 28:13 31:13 34:5,10 certain 39:22 46:8 49:18 52:9 53:6 55:3 certainly 15:9 certificate 37:3 certified 66:23 certify 66:5,11 chair 2:8 3:5,22 4:10,13 5:24,25 13:21 14:4,8 15:18 21:4,10,13 21:17,19,22 22:3,8 22:10,13 24:13,18 25:3,8,14,20 28:2 28:7 29:10,13 30:13,18,20 32:1,6 32:9,13,18,22 33:1 33:4,10,17,20</p>	<p>35:22 36:3,5 37:11 38:13 39:1 39:2,11 40:4,14,19 41:22 44:7 45:9 46:1,12,17,20 47:7 47:8,17,25 48:2,6 48:13,18,25 49:13 50:9,25 51:5,8,11 51:17,22 52:18,19 54:1,6,9,22 55:13 55:19 56:4,9,12,22 57:3,10 59:13,16 59:20 62:13 64:5 64:8,14,17,22 65:8 65:10,14 challenging 65:11 chance 63:17 change 7:4 10:19 11:12 changes 10:20 changing 37:9 43:17 chapter 35:10 character 11:7 characteristics 11:14 check 37:9 cheering 38:24 chevron 8:13 child 19:2 choice 11:4 choose 54:17 chooses 39:17 54:20 choosing 46:25 54:13 chris 3:25 church 8:17,19 19:1,4 churches 18:24</p>
	c		
	<p>c 1:14 5:11,15,16 8:22,25 9:5,12 c.s.r. 1:25 2:4 66:4 calendar 59:18 california 3:1 8:2 10:12 12:13 31:18 66:1,5,24 call 26:20 32:14 64:20 caller 2:18 25:21 25:22 28:3 29:11 29:12,13,14 30:13 30:14 32:5,16 calling 30:22 32:15 camera 21:24 22:2 44:10 candidly 37:5 cannabis 1:12 3:13 4:3,9 5:8 8:5</p>		

[circulation - counsel]

<p>circulation 19:16 19:19</p> <p>circumstances 39:14</p> <p>claim 10:3</p> <p>claims 11:17 28:13</p> <p>clarify 12:5 36:6 41:23 46:10</p> <p>clause 13:9</p> <p>clear 3:6 45:24</p> <p>cleared 37:9</p> <p>clearly 39:4</p> <p>clerk 2:14 21:13 25:14 32:6,11,18 59:15 64:22 65:1 65:3,5,7,9</p> <p>client 14:16 15:24 18:18</p> <p>client's 24:6</p> <p>cliff 3:25</p> <p>close 18:22 33:3</p> <p>closed 7:24 8:18 33:2 34:18 55:11</p> <p>closing 33:5</p> <p>clothing 8:9 11:11</p> <p>cmmluo 9:3 13:5 34:6,12 56:23</p> <p>co's 1:12</p> <p>coaching 16:3</p> <p>code 12:13 17:3,5 18:5 19:14,24 20:13 35:11,13,18 35:19 47:14</p> <p>codes 8:3 43:18</p> <p>coffee 8:13</p> <p>colleagues 37:13</p> <p>collective 22:18</p> <p>come 26:10 29:17 40:2 41:17 49:14 58:17 59:3,25 63:14</p>	<p>comes 18:23 19:1 42:5 61:6</p> <p>comfort 59:10</p> <p>coming 18:12</p> <p>comment 25:11,12 25:15,19 29:11 32:20 33:14,16</p> <p>commentary 14:25</p> <p>commenter 32:7 32:12</p> <p>comments 15:14 24:15,23,24 30:14 38:16 44:8 53:17 62:14</p> <p>commercial 5:7,8 8:8,21,24 10:10,22 11:5,13 13:1,4</p> <p>commission 1:11 3:12 9:16 27:4,10 42:24</p> <p>commission's 4:2 23:10,13</p> <p>commissioners 28:22</p> <p>communication 49:17</p> <p>community 4:21 8:21 16:1,6 21:1 29:6 30:9,10 60:9</p> <p>companies 36:22</p> <p>company 37:4,4,5 38:4</p> <p>compatibility 5:20 9:7</p> <p>compatible 9:13 50:13</p> <p>compete 18:14</p> <p>complaint 22:25 23:18</p>	<p>complete 58:20 61:19</p> <p>completed 39:15</p> <p>completely 16:20 16:22</p> <p>compliance 35:5</p> <p>comply 10:9 23:2 23:7</p> <p>component 51:4</p> <p>concept 58:15</p> <p>concern 14:18 26:22 33:24 41:11 52:7 58:12,14 60:15</p> <p>concerned 31:3 44:21 49:23 59:21</p> <p>concerns 11:21 12:10 14:21,22 15:4,7,8,16 16:19 34:4,25 38:3,11 49:21,25</p> <p>conclude 32:19</p> <p>concluded 65:15</p> <p>concrete 6:15 7:23 10:24</p> <p>condition 11:23 44:2 45:17</p> <p>conditions 9:8</p> <p>congress 62:5</p> <p>connection 8:10</p> <p>consent 22:23 24:5 27:1</p> <p>consenting 24:11</p> <p>considerate 63:3</p> <p>consideration 6:4 28:21 39:20</p> <p>considerations 34:9</p> <p>considered 61:8</p> <p>consistency 50:14</p>	<p>consistent 9:18 11:15</p> <p>constantly 18:21</p> <p>constitutional 61:9</p> <p>constraints 27:24</p> <p>construct 7:23 10:24</p> <p>constructed 35:14</p> <p>construction 11:1</p> <p>contact 3:18</p> <p>contacts 5:6</p> <p>contention 10:8</p> <p>continuance 46:23 48:15 54:15 57:3</p> <p>continuation 55:4</p> <p>continue 10:21 19:10 36:4 39:15 39:21 56:3 64:10</p> <p>continuity 55:16</p> <p>contractors 20:7</p> <p>control 11:25 12:1</p> <p>conversation 25:5 29:18 62:21,23</p> <p>conversion 27:5</p> <p>cookies 50:19</p> <p>corporate 36:21 43:22 44:3</p> <p>correct 39:8 50:6 50:7 64:12</p> <p>correctly 29:15</p> <p>costs 56:17,20</p> <p>counsel 46:15 21:22 24:13,21 26:10 32:25 33:7 34:1 34:20 35:24 36:6 36:9 38:13,20 39:1,11 46:2,2,15 47:7 48:7,10 54:1 54:4,8 55:6 63:21</p>
--	--	--	--

[counsel - discussing]

<p>66:11 counsels 46:13 country 61:9,21 county 3:1 4:19 9:10 15:25 19:14 20:21 23:17 28:5 28:24 29:2 34:1,2 43:25 53:9 54:12 66:2 couple 15:14 33:23 37:22 50:1 50:3 course 27:13,21 28:12 47:3 court 23:22,22 24:3,7,10 26:18 27:21 34:3 40:8 42:18,20,25,25 45:20 47:10,12 52:24 53:2,8 54:11 55:22 61:16 61:16 62:3,12 courts 41:2 55:20 cover 4:7 covered 53:16 covid 36:16 cox 1:25 2:3 66:4 cream 11:4,7 create 6:22 created 12:25 creates 19:15 culture 44:23 curious 33:15 41:5 53:22 current 37:7 currently 6:14 23:21 24:3 25:15 32:11 37:5 38:10 45:21 customer 11:12 12:19</p>	<p>customers 7:20 cuts 8:12,15,23 9:13 11:16 29:20 33:16 34:8</p> <hr/> <p style="text-align: center;">d</p> <hr/> <p>d 1:14 damage 8:18 danced 63:5 date 23:4,23 39:22 52:9 55:8,22 56:3 day 7:7,10 12:20 28:4 38:9 42:23 55:25 56:6 66:15 days 31:4,5,18 36:17 43:5,6,8 deal 43:19 dealing 59:25 decade 42:11 decades 18:11 20:18 december 9:17 13:4 23:4,13 28:23 decide 23:24 57:15 decided 55:24 61:17 decision 4:2 46:16 54:18 61:25 62:7 63:16 64:2 decisions 52:25 62:1,2,3 declaratory 23:1 defend 23:16 defer 54:3 55:10 definitely 32:24 defunct 19:9 delapp 2:17 28:4,5 28:9 delay 47:21 52:3 58:18</p>	<p>delayed 47:11 delaying 45:23 47:23 53:7 delivered 62:25 deliveries 7:10 delivery 12:16 31:10 demand 12:15 demolish 7:22 10:23 deny 28:12 29:9 39:25 denying 39:16,20 department 3:24 14:1 22:19 27:2 30:4 35:10 46:19 47:6 department's 28:20 depending 39:17 depressed 18:10 depression 18:13 deputy 2:14 21:13 25:14 32:6,11,18 59:15 64:22 65:1 65:3,5,7,9 design 7:12 designation 5:16 designed 12:12 desks 7:1 detail 10:1 14:22 34:8 detailed 15:6 determinations 26:24 determine 34:21 determined 24:7 developed 6:14 28:17 development 19:18,19 20:24</p>	<p>devoted 6:19,21 different 11:11 35:3 38:22 43:16 50:15 difficult 51:21 53:11 60:3 65:11 difficulty 60:10,13 dilemmas 52:25 dillon 2:12 14:10 14:11 15:18 36:6 36:8 37:20 38:14 57:13,17,18,22,25 59:13 dillon's 38:21 direction 40:1 46:8 66:9 directly 45:15 58:6 director 2:9 3:15 3:21,22 4:10,12,17 9:10 14:2 21:8,11 22:19 25:2,3 33:13,19,20 35:22 39:12,13 41:10,19 45:3,9,10 50:6,7 50:22 51:2,7,10 52:13,17,20 53:23 54:10 55:8,14,15 56:1,5,11,22 64:12 64:13 disappointing 30:6 disclosure 25:24 26:2 42:1 disconnected 32:19 discontinue 12:22 discuss 30:1 discussed 42:3 discussing 29:3,22</p>
--	---	--	--

[discussion - excuse]

<p>discussion 9:24 33:6 46:11 50:2 51:13 57:12 60:14 64:4,19</p> <p>discussions 42:4 58:3</p> <p>disingenuous 29:25</p> <p>dispensary 51:3,3</p> <p>display 7:14</p> <p>displays 7:14</p> <p>disrespect 61:19</p> <p>distillate 61:3</p> <p>distilled 6:23</p> <p>distiller 6:11</p> <p>distraction 63:22</p> <p>distribution 1:13 3:13 4:3,9,18 5:14 6:5,20 8:6,25 9:4 9:11 13:7,14 18:8</p> <p>district 1:14 12:3</p> <p>disturbing 40:8 42:13</p> <p>divest 58:7</p> <p>documentary 15:23</p> <p>documentation 15:6 36:14 43:23 44:3</p> <p>documents 14:15</p> <p>dog 64:6</p> <p>doing 30:10 42:22 42:23 55:25 59:12 62:24</p> <p>domino 20:9</p> <p>door 16:22 19:7,12 31:6,15 60:8</p> <p>doors 31:15</p> <p>downtown 3:14 4:4 8:8 31:11,13</p>	<p>dph 18:25</p> <p>drinks 17:17</p> <p>drive 6:19 8:9</p> <p>drop 31:10</p> <p>dropped 63:7,7</p> <p>drug 31:7</p> <p>drunk 17:16</p> <p>due 8:18 11:12 22:17 27:1 43:6 47:15 53:4 55:2</p> <p>duke 2:24 45:14 46:3,18 47:5,7,8 53:3,24 54:1,2 59:9</p> <hr/> <p style="text-align: center;">e</p> <hr/> <p>earlier 3:5 31:1 49:17 57:15</p> <p>east 8:16</p> <p>economic 18:12 19:21 20:24 29:5</p> <p>economy 18:10 20:7,19,20</p> <p>effect 22:25 23:8 24:2 47:11</p> <p>effective 45:18</p> <p>effects 11:18 20:9</p> <p>efficiently 29:8</p> <p>effort 59:5</p> <p>eight 7:7</p> <p>either 31:8 36:7 40:23 46:13</p> <p>elected 61:11 62:2 62:3</p> <p>elementary 16:3,4</p> <p>embrace 59:1</p> <p>emerald 1:11 3:12 6:2 14:11</p> <p>emergency 43:9 43:11</p> <p>employ 30:8</p>	<p>employees 7:6 12:16 20:4 31:14</p> <p>employer 18:19</p> <p>enclosed 11:24</p> <p>encountered 41:6</p> <p>engaged 23:13</p> <p>engineered 12:7</p> <p>ensure 9:6</p> <p>enter 56:24</p> <p>entertain 44:25 48:15</p> <p>entire 16:21 17:23</p> <p>entirely 11:15</p> <p>entitled 47:14</p> <p>entitlement 39:23 45:21</p> <p>entitlement's 45:25</p> <p>entity 23:11 24:3 34:14,17,22 36:1 39:22 45:19,21,25 47:2 52:7</p> <p>entryways 7:2</p> <p>environment 10:21</p> <p>environmental 10:7,13 20:22 35:9</p> <p>equipment 6:13 11:5,7</p> <p>especially 18:12</p> <p>esq 2:12,15,20,24</p> <p>essentially 16:18 17:8,22 18:23 19:6 20:11,15 42:12,14,21,22 43:2,12,21 44:2 46:25 61:8,11,14 62:11</p> <p>established 34:17 39:23</p>	<p>estelle 2:8 3:5 4:10 4:13 5:24 13:21 14:4,8 15:18 21:4 21:10,17,19,22 22:3,8,10,13 24:13 24:18 25:8,20,23 28:2,7 29:10,13 30:13,18,20 32:1,9 32:13,22 33:4,17 35:22 36:5 37:11 38:13 39:1,11 40:4 41:22 44:7 45:9 46:1,12,20 47:7,17,25 48:2,6 48:13,18,25 49:13 50:9,25 51:5,8,11 51:22 52:19 54:1 54:6,22 55:13,19 56:4,9,12 57:10 59:13,20 62:13 64:5,8,14,17 65:8 65:10,14</p> <p>ethanol 6:24 7:25 11:19 12:6,8,11 15:4 17:16 35:16</p> <p>evaporate 17:10</p> <p>everybody 17:17 18:19 31:19 38:5 42:22 59:21 62:1</p> <p>everything's 24:9 38:21</p> <p>evidence 10:6 11:20</p> <p>evoke 6:6</p> <p>exactly 41:13 42:20</p> <p>example 6:10</p> <p>excellent 16:8</p> <p>exception 13:11</p> <p>excuse 4:10</p>
--	---	--	---

[exemption - frame]

<p>exemption 10:4,13 10:18 11:1,16 exemptions 23:8 exercised 35:13 exist 34:23 35:5 36:23 45:21 existed 13:10 existing 7:23 10:4 10:13,18,23 11:15 exit 49:7 expansion 7:2 10:5,15 expected 36:18 40:24 experience 42:12 expert 61:8 expired 39:7 explain 22:22 explosions 31:21 explosive 17:9,15 express 34:8 extensive 26:4 extinguishers 17:4 extract 18:3,3 extraction 6:21,24 7:25 12:11 41:13 extremely 18:14 20:25,25 42:13</p>	<p>facts 5:22 60:11,11 60:12 failing 23:3 failure 23:2,7,9,25 34:14 faith 14:19 falls 10:25 family 16:1 far 25:24,25 44:15 44:17 farm 29:19 faster 38:7 fatherly 26:19 features 16:23 february 22:23 23:4 feel 31:23 45:22 47:20 52:4 57:5 feels 52:1 fees 36:15 feet 8:19 fence 19:15 fennell 2:8 3:5,22 4:10,13 5:24,25 13:21 14:4,8 15:18 21:4,10,13 21:17,19,22 22:3,8 22:10,13 24:13,18 25:3,8,14,20 28:2 28:7 29:10,13 30:13,18,20 32:1,6 32:9,13,18,22 33:4 33:17,20 35:22 36:5,9 37:11 38:13 39:1,11 40:4,19 41:22 44:7 45:9 46:1,12 46:20 47:7,8,17,25 48:2,6,13,18,25 49:13 50:9,25 51:5,8,11,22 52:19</p>	<p>54:1,6,22 55:13,19 56:4,9,12 57:10 59:13,16,20 62:13 64:5,8,14,17,22 65:7,8,10,14 filed 23:1,17 33:24 36:12,14,15 41:16 42:25,25 49:24 58:4 filing 59:10 filings 37:6 filtration 11:25 16:15 financial 43:23 find 30:5 38:23 44:11 49:21 52:1 findings 13:17 40:2 finish 34:2 fire 8:3,18 12:3,11 12:13 17:4,5,11 19:15 35:13,18 first 6:17 10:3 20:2 25:1,21 46:10,14 52:20 58:10 59:3,24 60:20 fit 4:9 five 7:6 12:15 31:4 fix 19:20 flam 17:12 flame 17:12 flammable 17:9 floor 6:18,19 7:3,4 7:11 focusing 19:19 42:11 follow 27:9,20,23 53:15 58:6 following 7:12</p>	<p>follows 40:22 food 11:5 50:19 60:23 61:1 foot 7:15,24 10:25 footprint 16:20 50:5 force 54:12 ford 2:9 3:15,21 3:22,23 4:11,12,17 9:10 14:2 21:7,8 21:11 25:2,3 33:13,13,19,20 35:23 39:12,12,13 41:10,19 45:9,10 50:6,7,22 51:2,7 51:10 52:13,17,20 53:23 54:10 55:8 55:14,15 56:1,5,11 56:22 64:12,13 ford's 45:3 foregoing 66:6,9 foremost 59:3 60:20 forever 52:12 forge 52:5 forget 42:19 formal 52:23 format 28:10 forth 49:23 forum 26:5 29:23 30:4 forward 20:12 26:8,15 29:7 30:11 36:23 37:14 39:5 40:7 45:8 55:2 63:16 found 9:17,20 42:13 founded 61:9 frame 6:15 12:4</p>
f			
<p>facade 10:11 face 38:8,8 facilities 10:4,14 10:18 facility 6:16 12:22 18:5,8 19:2 60:21 facing 29:1,2 fact 5:15 14:21 35:6 40:3 54:13 58:3,25 factories 6:6</p>			

[franchise - heck]

<p>franchise 39:7 54:16 frankly 14:19 41:8 friday 7:8 frivolous 29:25 front 20:1 40:16 57:19 frontage 8:8 fronting 6:18 frustrated 52:15 frustrating 44:10 51:18 52:3 frustration 62:18 ftb 37:5 58:9 full 25:24 26:2 41:25 60:14 fully 39:9 function 37:8 38:9 funds 29:4 further 44:8 45:15 47:18 48:8,9,12 53:7 56:12 62:10 62:14 64:19 66:11</p>	<p>58:13 59:21 62:23 62:23 given 35:6 gives 37:11 giving 42:15 global 4:7 29:1 go 3:10,21 13:22 13:23 14:1,2 21:5 26:12,23 27:20 28:3 34:8 38:8,18 38:22 40:7 44:11 46:13,13 49:10 50:2 53:9 60:17 god 8:19 goes 30:11 40:23 62:2 going 4:1,24 16:19 18:11 19:11,23 24:5,10,22 25:4 26:18 27:21 29:15 29:23 30:8 33:5 33:14 35:2 37:18 41:11 43:14,16 44:9 49:3 53:23 56:2 59:17 61:16</p>	<p>gotten 63:11 governed 13:9 government 42:11 43:13 61:19 governmental 61:20 governor's 22:24 grade 11:5 60:23 61:1 grant 26:13 34:18 34:22 granting 39:23 great 15:2 22:20 greater 56:2 grocery 8:13 ground 41:17 58:14 group 1:12 5:3 6:3 group's 3:12 growers 28:5 guarantee 52:8 guess 39:2 53:15 57:4 59:8 61:7 guys 14:7 21:2 29:15 61:24 62:7</p>	<p>hard 14:16 hardware 8:23 hardwired 35:17 harm 16:6 hash 6:11,23 31:11 31:17 34:25 hate 26:14 hazard 19:15 hazardous 17:2 35:8 hazmat 17:21 hcca 28:15 health 35:10,10 healthy 11:4 hear 14:7,8 18:20 18:20 21:18,18,19 22:21 23:3,25 24:4,23 26:12 28:6 30:19 33:12 35:25 38:20 39:4 40:9,9 42:15 46:2 47:23 48:7 49:4 49:11 52:6 57:4,8 58:12 60:14</p>
<p>g</p>			
<p>gallon 17:21 gallons 17:20 garberl 4:4 garberville 3:14 4:4 8:8 11:3 12:3 18:11 19:18 20:2 30:7 31:12,14 50:17 gas 8:14 17:10,12 general 7:20 55:20 generate 12:20 generated 11:10 germane 46:9 getti 8:13 getting 28:10 give 5:21 39:20 40:1 46:18 56:1</p>	<p>gonna 3:10 16:6 16:24 17:3,5 18:3 18:7,10,13,13,17 19:10,24,25 20:3,4 20:5,6,8 22:22 27:16 29:4 43:15 45:13 57:19 60:17 60:22,23 63:21 good 14:10,10,18 15:11 18:18 22:11 22:13 26:17 28:4 36:19 37:10 38:4 38:22 goods 61:4 gotta 44:6</p>	<p>h</p> <p>half 6:19,21 hand 32:20 48:3 51:15 52:4,5 57:11,13 handicraft 18:4 hands 25:18 happen 36:11,22 41:15 happened 41:18 50:14 53:6 59:22 63:6 happening 31:7 happens 31:6 happy 36:8</p>	<p>heard 35:2 38:22 41:4 42:3 43:8 44:15,17 46:22 48:9 hearing 1:9 2:2 3:7,11 4:15 5:3 9:16 23:11,13,23 31:20 33:3,5,15 34:19 43:4 44:19 47:3,11 49:8 52:23 53:6,9 54:12,13 55:11,22 58:4 60:12 61:24 hearings 61:11 heavy 6:7 heck 31:15</p>

[heed - judicial]

<p>heed 26:11 hello 14:7 29:12 29:14 30:17,18 32:4,16,16 hemp 8:10 hi 15:20 30:21 higher 17:6 highly 26:11 hired 23:16 historic 20:2 hit 21:23 hogan 1:25 2:3 66:4 hold 16:25,25 43:12 44:4 53:9 home 8:17 38:24 honor 65:13 hope 8:19 30:11 53:20 hoped 38:6 hopefully 3:18 hour 7:7 17:6 hours 7:7 house 7:24 huge 31:9,19 51:12 huh 51:22 56:4 humboldt 3:1 8:9 15:25 20:21 28:5 28:24 29:1</p>	<p>implemented 35:9 important 5:12 6:3 18:14 20:25 34:17 inadvertently 36:11,22 inclination 46:8 inclined 39:19,24 44:16 include 6:25 7:13 11:2 12:19 16:14 included 15:12 including 8:11 15:22 23:7,25 indemnification 56:25 indicated 49:16 indicative 6:12 individual 22:18 industrial 6:6 9:22 27:7 industries 61:2 industry 4:9,20 12:1 28:24 29:5 info 53:22 information 3:16 15:12 34:20 41:8 62:22 injunction 47:12 input 25:7,9 38:25 56:13 59:14</p>	<p>intent 5:5 28:16 40:2 interact 30:3,3 interactions 41:20 interest 43:23 interested 45:2 60:6 66:13 interesting 40:20 48:23 internal 63:25 interpretation 27:2 involve 47:2 53:7 involved 16:2 involves 6:20 involving 6:6 53:5 issue 10:3,6,8 13:2 16:11 19:16 20:13 20:14 30:24,25 31:8,9,13,19 36:20 37:24 39:3,6,10 42:3 45:12,20 47:2 49:2 52:20 54:5 55:10 57:20 58:9,25 59:7,7 63:10 issued 44:3 47:12 issues 9:9 10:1 14:25 15:1 16:9 16:16 17:11 19:16 23:25 24:1 43:13 44:23 45:4 46:22 46:24 48:17 63:12 issuing 39:16 it'll 19:24 26:8 item 1:10 2:2 3:9 24:25 25:13,15 30:15 32:3,12 38:16 44:8 45:16 48:21 51:6 56:13</p>	<p>items 5:4 14:20</p> <hr/> <p style="text-align: center;">j</p> <p>ja 21:22 jacks 53:17 jackson 2:15 21:8 21:17,18,21 22:1,6 22:9,11,14,15 24:14,17,21 25:25 26:3 42:13 43:10 53:17 55:21 58:1 jackson's 59:10 jefferson 2:20 33:1 36:3 39:2 46:17,21 54:9 55:7 job 1:24 14:20 15:2,11 16:8 jobs 18:9,16,17 joe 2:11 14:7,9,9 15:10,22 18:18 28:14 31:10 58:22 john 2:9 3:22,23 4:12,17 14:2 21:8 21:11 25:3 33:12 33:20 39:13 41:19 45:10 50:7,22 51:2,7,10 52:13,17 52:20 53:23 55:15 56:1,5,11,22 64:13</p>
<p>i</p>			
<p>ice 6:11 11:4,7 icon 21:24 idea 41:18 64:24 identified 10:1 identify 5:9 images 6:6 impacts 10:8 11:20,22 12:14 35:16</p>	<p>inside 7:16 61:3 insight 56:2 install 11:24 12:1 installing 7:1 instance 15:3 38:2 50:19 insurance 8:12 30:22 intended 6:8</p>		<p>johnson 3:25 joined 57:14 joining 3:24 josh 14:23 58:23 joshua 2:13 15:20 15:20 42:9 57:11 60:18 65:13 judge 61:13 62:1 64:25 judicial 42:19 55:20 61:13</p>

[july - marijuana]

<p>july 56:8 june 23:23 55:18 56:5,10 58:16 59:3,19 64:10 66:15 jurisdiction 22:21 22:23 23:22,24 24:4,11 41:2,6 45:12 47:10 58:8</p>	<p>59:2 60:5,16 62:21,24 63:4,5,8 63:21 knowledgeable 57:20 known 31:6</p>	<p>license 18:25 43:24 licensed 16:12 19:2 licenses 43:20,20 licensing 16:12 20:14 45:5 55:9 light 9:22 27:7 limited 7:19 23:7 23:25 line 50:20 lined 49:6 link 26:23 liquid 17:12 liquor 16:24 17:18 listened 14:14 listening 49:3 literally 17:16 litigation 26:15 45:17 47:10 53:5 57:19 little 21:24 22:2 27:19 41:23 44:10 44:10 60:15 live 24:20 living 18:17 30:9 llc 1:12 lo 5:19 local 20:7,7 42:11 47:14 49:16 61:19 62:4 located 8:7 location 6:8 9:20 9:20 10:17 11:9 13:1 42:4 locations 4:21,22 long 3:6 15:25 19:17 37:16 52:10 53:2 longer 36:23 41:2</p>	<p>look 16:16 18:12 57:24 looked 53:19 looking 16:12 19:17 loop 7:24 los 35:3 66:2 lot 8:15 12:21 16:23,25 18:6 19:25 20:5 42:4 49:5 luther 2:10 3:25 4:5 5:21,25 15:2 luther's 14:14 34:7</p>
<p>k</p>	<p>lab 31:11,17 34:25 35:3 lack 11:12 land 5:7,8 8:24 9:7 9:19 10:10 13:5 26:24 law 20:14,17 27:18 lawsuit 29:22,25 33:24 41:16 57:5 59:11 lead 27:9 leads 53:14 learned 37:21 leave 55:5 left 22:12 legal 23:11,12 24:2 24:6 26:3 34:14 36:1,1 37:24 39:22 40:10 41:4 42:20 44:19 45:4 45:18,24 49:12 52:7,21 53:12,15 53:19 56:17,20 58:13,24 60:13 63:17,21 legislature 62:5 lehman 22:16 49:24 lehman's 23:1 letter 15:6 level 35:9 59:10 62:4</p>	<p>m</p>	<p>machine 6:11 17:22,24 18:2 madam 33:9 40:13 51:16 madrone 2:25 65:1,2 main 16:19 18:4 41:11 50:17,21 51:8 maintain 55:16 major 26:8 making 60:2,25 male 2:18 29:12 29:14 57:21,23 manageable 59:21 manley 23:16 manufacturing 1:13 3:14 4:3,8,18 5:14 6:5 7:18 9:1 9:5,12 11:6 12:4,6 13:7,14 50:16,19 50:23 51:3,4 march 23:18 marijuana 5:7 13:5</p>

[marked - oh]

<p>marked 8:20 market 18:15 master's 42:10 materials 17:3 35:8,12 matter 22:16 23:17,21 26:13 27:15,15,24 39:25 54:16 matters 24:6 mean 10:14 36:22 40:23 44:15,15 45:1 46:5,7 47:22 47:24 48:5 50:18 50:18 52:10 56:17 56:18 57:3,4 61:23 63:4 means 6:22 26:9 43:12 61:10 measures 35:15 mechanical 6:22 mechanism 5:10 medical 5:7 13:5 meet 12:12 19:24 20:17 29:20 43:17 meeting 3:6,8 21:14 29:17 40:14 44:12 56:7 58:15 59:18 62:12 meetings 38:5 member 28:15 49:15 members 3:23 11:21 22:18 38:16 47:24 60:8 mentioned 9:10 31:1 53:17 60:4 merchandise 7:13 mercy 26:7 mere 23:23</p>	<p>merits 9:24 message 62:25 met 9:18 42:4 metal 6:16 7:24 mic 21:15,16 22:5 24:20 miclette 2:19 8:12 30:17,19,21,22,22 middle 31:11 41:17 mike 2:23 44:14 46:4 47:22 48:1,4 48:11,14 56:15 57:2 62:17 64:7 64:16 65:6 mind 55:9 mini 12:21 ministerial 59:6 minor 6:25 8:23 10:22 11:14 miranda's 11:2 mis 57:16 missed 53:18 mitigate 35:15 mixed 18:7 modifications 11:14 moment 44:6 monday 7:8 money 19:25 20:6 26:14 61:23 moose 23:16 mor 22:13 morning 3:25 5:25 14:10 22:11 morris 27:10 motel 8:15 31:7 mother 26:7 motion 64:10,15 64:17</p>	<p>mouse 22:4 move 9:24 26:8,15 29:7 37:14 39:5 41:4 45:7,15 46:8 55:2 63:16 moved 3:9 moving 62:9 mute 24:19 muted 64:5</p> <p style="text-align: center;">n</p> <p>name 14:10 22:14 66:14 name's 15:20 natalie 2:24 47:8 54:2,7 natalynn 28:7 natalynne 2:17 28:4,4,9 29:10 nature 9:6 10:20 26:7 nearby 44:21 nearly 28:18 need 16:22 17:11 19:25 20:3,4 28:25 29:3 43:11 54:3 55:16 62:7 needs 6:9 28:24 30:8,9 negativity 44:18 neighboring 12:10 31:25 neighbors 49:16 neither 21:10 66:11 neutral 38:23 never 26:22 37:4 40:20 41:4,6 53:12 new 7:25 8:19 11:1 12:7 28:10 47:2 50:4</p>	<p>news 31:17 nimby 16:11 nimbyism 19:11 20:13 nobody's 49:10 non 1:13 3:14 nonflammable 9:1 nonvolatile 12:5 normally 5:1 40:22 53:5 north 8:11 51:6 nother 31:8 notice 5:5 13:12 55:17 57:14 64:13 64:14 noticed 9:14,15 55:12 notification 31:25 number 9:11 numbers 32:15</p> <p style="text-align: center;">o</p> <p>objecting 12:3 obligation 56:16 57:6,7 obligations 56:16 observe 7:17 obtain 15:10 37:3 obviously 14:16 33:23 38:9 46:24 occur 5:17 6:17 11:20 53:8 occurs 54:22 55:1 odd 40:25 odor 11:19,22,25 12:1 13:11 15:4 offering 61:5 office 7:3 31:14 officials 61:11 62:2,3 oh 22:11 30:21 33:4 38:18 42:19</p>
---	--	--	--

[oh - potential]

<p>47:19,19 48:4 51:5 54:6 57:18 59:20 62:16 oil 63:8 okay 14:4 22:9 24:21,22 25:8 27:14 28:9 32:13 32:22 38:22 46:12 46:20 48:13 50:11 55:13,19 56:12 57:10,24 64:7,14 64:17,20 old 20:3 61:20 once 7:16 17:15 37:24 online 3:17 ooooo 3:3 65:16 open 4:15 7:20 25:10 opened 19:13 operate 6:8 operating 19:2 35:5 operation 6:13 8:6 9:8 19:3,7,10 opinion 58:5 opportunity 14:13 28:1 42:15 oppose 20:16 option 39:19 45:3 options 39:18 44:1 order 4:19 19:21 20:4,16 22:24 34:18 38:11 47:13 55:16 ordinance 5:8,9 8:24 10:10 13:5 16:13 23:9 28:16 28:17,18 ordinances 23:3</p>	<p>originally 9:14 51:2 oughta 24:17 outcome 66:13 outset 6:4 outsiders 16:5 oversight 28:19 overstep 61:23 overstepping 42:14 overview 9:25 owens 57:14 owner 28:15 44:21 owners 12:10 owns 16:1</p> <hr/> <p style="text-align: center;">p</p> <hr/> <p>p.m. 7:8,9 packaging 6:20 page 37:10 paid 4:22 18:19 36:13,15,25 37:1 pandemic 43:10 44:5 panel 21:12 paperwork 34:15 36:16 62:9 par 45:23 parcel 8:7 parking 11:19 12:15,17,23 31:9 part 44:12 45:5,23 52:7 participants 22:5 participate 47:1 52:23 54:14,17,21 61:17,18 particular 5:19 15:16,23 16:10 26:5 33:25 38:2 53:5 55:21 57:22</p>	<p>particularly 5:3 parties 54:20 58:16 partitions 6:25 party 38:24 54:13 66:12 passed 13:8 passes 20:10 65:9 pause 37:12 pay 38:8 63:21 payment 36:25 pays 18:20 pending 23:21 24:9 people 20:16 25:16,17 26:6,22 27:8,13 30:8 49:23 52:11 59:5 60:7 61:10,10,23 percent 17:25 permission 3:13 52:18 permit 5:18 9:2,6 9:6 26:25 30:23 34:18,22 39:16,17 39:21,25 43:22,25 44:2 45:18 56:21 permits 1:12 4:2 4:25 5:1,2,9 8:22 8:25 9:1,4 13:18 16:13 permitted 9:19 10:17 11:8 13:1 27:24 31:22 35:4 permitting 20:14 person 20:12 37:9 43:5 perspective 40:5 53:12 63:15 phone 30:2</p>	<p>physical 10:20 picked 36:12 pictured 6:10 pieces 49:9 place 7:23 10:24 20:5 22:25 27:8 35:7,15 51:21 plan 7:11 15:3 17:3,21,21 58:19 planner 6:2 15:21 planning 1:11 3:12,24 4:1 5:4 9:16 22:19 23:10 23:13 27:2,4,10 28:20,22 30:4 42:24 46:19 47:6 planning's 27:19 play 53:13 54:25 playing 44:23 please 28:3 44:12 52:19 64:21 plus 61:20 point 5:1,12 14:1 15:9 17:15 21:2 24:5,9 25:9 40:7 45:24 47:1,15 54:17,21 59:7 pointed 53:3 pointing 54:7 polls 45:2 por 33:2 portion 33:2 position 37:14 58:2 possibility 11:17 possible 48:16 postponement 63:23 postponing 45:3 potential 9:9 11:22 12:14 35:15</p>
--	--	---	--

[potential - recommendation]

<p>38:12 41:12 56:16 56:20 57:5,6 61:2 practice 12:1 36:21 precedent 53:19 predisposed 44:24 preferred 4:20 preliminary 39:3 premise 63:2 presbyterian 8:17 preschool 8:18 present 4:5 14:13 14:17 presentation 13:23 14:15 34:7 34:7 40:6 presenting 4:1 press 6:11 presses 6:21 pretend 57:19 pretty 3:8 18:21 26:17 prevailed 26:16 prevent 58:7 59:11 previous 9:19 primary 35:20 principally 8:22 8:25 10:16 prior 11:2 52:23 priority 4:19 probably 13:22 45:16 49:5 58:23 problem 62:8 problems 16:11 18:21 19:20 43:16 49:10 proceed 36:23 54:19 process 4:14 7:18 27:1 31:23 33:25</p>	<p>34:2,16 35:25 36:2 38:1 39:5 42:14,18,20 43:6 46:10 47:3,13,15 53:4 55:2 61:7,13 62:5,10 63:20 processed 5:1 18:2 34:11,16 37:1 38:6 processes 61:20 63:18,25 product 6:20 18:4 18:6,6,7,9 61:4 products 6:22 8:5 11:6 31:10 60:20 60:22,23,25 61:1 project 6:17 7:5 7:11,14,22 8:7,20 8:21 9:4,14,17 10:5,7,9,14,15,21 11:10,18,22 12:19 12:24 13:3,15 15:21 16:5,8,12,18 19:22 20:9 28:12 28:18,23 29:4,8 30:11 31:6,22 40:15 43:7,14,17 49:13 59:1 projects 11:23 13:9 15:22 16:15 20:17 proper 27:8 properties 1:10 3:11 8:12 31:25 property 5:16 proponent 43:7 proposal 10:23 58:19 proposed 6:7 7:11 9:21 10:11,19</p>	<p>proposes 7:22 proposing 10:21 proprietary 18:8 protected 19:2 protection 18:24 protocol 38:20 provide 14:24 18:10,16 25:7,9 provided 11:20 28:13 provisions 10:9 34:12 35:7 pta 16:2 public 3:11 5:3 7:20 11:21 13:12 15:8,10 25:7,9,11 25:12,15 30:3 31:16 32:12,20 33:3,5,14,16 34:19 42:10,11,12,14,15 42:17 53:6 61:6 61:11,24,25 pull 22:3,4 pulled 5:2 purpose 5:18 12:8 pursue 47:20 push 25:17 pushed 31:24 put 20:12 27:22 35:15 43:12 45:17 51:21 52:8 53:1 58:1,1 59:2,5 61:3 putting 52:12 55:23 puzzled 41:23</p>	<p>53:15,21 54:25 57:16 60:20 questioned 9:21 questions 13:20,24 21:3 24:24 25:6 25:10 32:24 33:11 36:4 38:15 44:8 46:6,9 50:3 51:25 52:6 62:10,14 queue 25:16 32:10 32:21 quite 37:18 40:15 41:8</p>
			r
			<p>raised 11:21 12:10 15:7,8 25:18 26:21 32:21 33:23 34:13 rated 15:23 raw 18:6 reached 41:14 really 3:5 5:19 16:10 19:18 20:13 24:4 30:1,6 34:3 39:18,25 41:3,3,19 44:17,23,24 45:11 46:25 48:23 51:21 52:8,21 53:24 62:22 63:10,10,11 64:3 realtor 19:7,11 rear 12:21 recall 48:7 received 12:2 receptors 13:6,13 recession 29:1 recognize 53:3 recommend 26:11 39:14,21 recommendation 55:8</p>
		q	
		<p>quality 10:13 quasi 61:13 question 4:25 34:19 37:16 41:5 41:10 50:12,22</p>	

[recommending - screen]

<p>recommending 13:16 record 4:15 26:17 54:20 66:10 recorded 66:7 rectified 44:4 recyclable 18:1 redwood 1:10 3:11 6:18 8:9,12 reestablished 45:19 reference 55:21 referral 12:2 reflect 59:22 reflected 5:13 refrigeration 8:5 regard 35:24 55:20 62:20 regarding 22:25 23:2 regards 62:19 regulation 9:3 28:19 43:18 regulations 13:2 13:10,15 35:5,18 rehabilitated 19:23 reiterate 24:10 reject 13:17 rejected 23:19 related 5:3 24:16 34:4,5 35:1 36:16 36:17 66:12 relationship 46:6 56:17 relative 34:25 35:7 35:16 52:22 relief 23:1 reluctance 58:24 remind 25:17</p>	<p>removed 8:1 remy 23:16 rented 45:25 repainted 19:24 repair 8:23 repeatedly 27:12 replaced 16:20 reply 41:15 report 5:14 10:2 34:8 reporter 66:23 reporter's 1:8 2:1 reporting 35:11 represent 22:15 representation 52:9 representative 14:6 51:20 representing 3:19 14:11 represents 10:5 republic 61:9,10 republish 64:11 64:12 request 26:11,13 require 13:6,13 35:11 required 12:18 17:2 requirement 11:25 56:23 requirements 9:18 requires 11:24 43:21 55:4 requiring 43:3 rescue 11:3 research 39:9 53:25 residence 7:4 resident 8:15 15:25</p>	<p>residential 13:12 resolution 13:17 resolve 23:18 respect 22:17,20 47:9 respond 33:22 35:21 53:24 responded 10:1 12:5 response 12:2 41:24 42:6 responsibility 61:24 rest 13:23 37:12 restaurant 60:24 restoration 20:23 restraining 47:13 result 3:7 7:4 10:7 10:20 12:23,24 resulting 12:15 results 11:14 retail 12:18 27:5 retained 25:24 26:1 retainer 26:1 retrofitted 8:4 retrofitting 20:4 returned 26:1 reviewed 14:15 reviewing 14:20 revise 39:8 revised 7:12 revived 37:24,25 revives 37:3 revivor 37:3 rex 2:22 38:19 48:24 49:1 64:24 ridiculous 31:12 right 3:10 20:11 24:22 27:23 30:10 31:6 43:19 44:4</p>	<p>46:12 47:17 48:22 50:3 51:9 52:1 53:4 58:9 60:1,12 62:11 rights 24:6 55:1 ripe 34:3 risk 12:11 roadway 19:13 roll 64:20 roof 17:4,5 rosin 6:10 rubber 27:16 rules 17:19 27:15 run 36:20 rundown 5:22 ryan 2:14 21:13 25:12,14,20 32:4,6 32:11,18 59:14,15 59:23 64:20,22 65:1,3,5,7,9</p>
			s
			<p>safe 16:18,22 31:20,20,20 safety 16:23 31:16 31:16 35:11 46:6 63:12 saturday 7:9 saw 21:14 sawatzky 2:16 25:23,23 saying 20:21 31:19 39:8 42:7 43:3 52:4 says 22:6 53:8 scale 6:8 scares 31:15 scheduled 3:7 school 16:3,4 sciences 20:22 screen 6:1 21:9,25 22:2</p>

[sealed - status]

<p>sealed 17:22,23 18:2 second 7:3 10:5 28:17 45:16 64:16 64:18 secondary 18:8 20:6 secured 7:2,16 see 7:17 16:10 17:13,14 21:9,21 21:23 22:4,5 24:16 26:14,15 29:3 31:5 35:1 41:9 45:7 49:1 51:12 53:19 62:11 65:11 seeing 4:16 seeking 62:21 seen 20:18 31:17 40:21 53:8,12 seller's 43:22 send 5:5 sense 55:23 sensitive 13:6,13 separated 16:21 separately 59:8 servant 42:12 serve 6:9 services 4:23 set 30:5 setbacks 13:6,13 seven 12:16 share 6:1 sharp 2:14 21:13 25:14 32:6,11,18 59:15 64:22 65:1 65:3,5,7,9 sharpest 26:3 shawna 1:25 2:3 66:4</p>	<p>shell 8:14 shelter 22:25 shift 7:6 12:16 shifts 7:7 shop 11:4,8 shortfall 29:2 shorthand 66:23 show 28:11 36:18 52:11 showing 15:22 shows 37:5 shut 19:12 sic 32:21 side 24:15 29:16 29:19,21 38:23 46:25 sides 42:2 49:2 60:5 sign 56:24 signature 66:22 significant 14:22 14:24 signing 24:12 similar 11:6,13 simplify 63:24 simply 5:6 23:12 23:19 site 6:14 7:21 8:7 8:20 10:16 11:2 35:12 situation 54:11 63:7 six 22:24 31:5 size 8:1 skilled 26:9 slick 63:8 small 11:1 18:4 35:14 50:10 60:23 60:25 smaller 6:8</p>	<p>smart 27:8 41:4 smoothie 11:4 solution 54:15 solutions 49:21 somebody 17:14 31:1 soon 42:23 sooner 59:4 soonest 55:17 sorry 4:13 43:10 48:6 57:18 64:5 sort 58:24 sorted 46:23 soul 26:7 sounds 27:21 48:16 49:9 52:2 south 8:11 southern 31:18 space 7:3 10:22 spaces 12:17,17 spark 17:11 speak 28:1,13,14 32:2,8 41:19 45:14 47:5 48:20 special 1:12 4:2,25 5:1,9,18 9:1,5,6 13:18 specific 14:25 specifically 12:7 16:11 20:20 38:1 specifics 4:5 speed 59:9 spent 19:25 20:6 spill 17:14 spinning 63:9 spins 17:24 spits 18:2 spoken 42:1 49:14 sprinter 6:12 7:10 square 7:15,24 10:25</p>	<p>staff 5:13 10:1,2 12:4 13:16 14:17 14:19 15:6 25:6 25:10 27:2,7,25 34:8 40:1 59:2 63:22 staff's 34:9 stage 3:20 stainless 7:1 stamp 27:16 stand 8:13 21:5 standard 11:22 12:1 standards 17:6,6 standing 36:19 37:10,13 38:4 42:21 52:21 61:12 64:1 standpoint 45:17 stands 50:3 stars 8:20 start 16:5 19:22 21:15 22:7 29:21 29:25 47:3 started 37:23,25 starts 35:8 37:21 state 17:3,10,19 18:15,23,24 20:14 20:17,19 24:8 34:16 35:8 36:14 36:24 38:6 43:9 43:11,18,20,20,21 44:4 66:1,5,24 statement 41:24 49:18 stating 13:9 stations 8:14 status 23:12 36:1 37:6 39:9 45:19 47:2 58:9</p>
--	---	---	---

[stay - things]

<p>stay 44:9,12 stayed 49:24 steam 6:11 steamed 6:23 steel 7:1 stenographically 66:8 stephen 2:10 5:25 13:21 14:14 46:18 stepping 61:15,16 steve 2:25 65:2 stevie 3:25 4:5 5:21,24 16:7 stevie's 34:6 stick 4:14 stimulus 29:5 storage 6:16 8:3 12:21 35:7,16 store 8:5,9,13 11:3 11:11 16:1,24 31:2 stored 12:6,8 35:12 storefront 8:10 stores 8:23 stories 35:1,3 story 6:15,15,16 6:18 8:3 12:9 50:10 strange 53:11 54:10 strategy 53:13,16 straw 45:2 street 7:14 8:14 16:24 50:17,21 51:9 61:2 strong 49:25 structure 8:1 10:25 structures 11:1</p>	<p>stuff 20:24 43:24 63:13,18 subject 38:3 submission 19:4 submit 43:22 submitted 13:4 14:15 subscribed 66:14 subsequently 9:15 13:8 substantial 10:6 11:18,19 29:17 substantive 46:11 64:4 sued 40:21 suggest 25:4 suggested 27:7 33:14 suggestion 27:21 sunday 7:9 supervision 66:9 supervisor 2:21,22 2:23,25 33:8,9,21 36:9 38:18,19 40:12,13,19 44:13 44:14 46:1,4 47:20,22 48:1,4,11 48:14,18,20,24,25 49:1 51:15,16,23 52:14 53:14,20 56:14,15 57:2,16 62:16,17 64:7,16 64:23,24 65:1,2,3 65:4,5,6,7 supervisors 1:9 2:2 3:23 6:1 16:14 30:4 38:2 44:9 51:13 58:2,7,21 59:11 support 4:19 15:11 28:11 30:11</p>	<p>58:20 supportive 46:22 suppose 55:21 supposed 54:4 sure 3:19 18:19 41:11 42:5 43:15 49:18 58:5,22 62:9 surrounding 5:20 6:9 9:7 suspended 37:4,6 37:17 system 11:25 55:20</p> <hr/> <p style="text-align: center;">t</p> <hr/> <p>tables 7:17 tactic 52:3 take 25:21 26:17 36:8 38:20 40:1 53:2 56:7,19 63:17 64:9,9 taken 17:25 36:17 37:7 45:4 56:20 58:11 59:6 takes 17:13 38:5 58:25 talk 32:24 41:17 60:16 63:13 talkative 48:22 talked 26:22 31:10 60:4 talking 60:7 63:9 tax 36:25 37:6 39:7 54:16 taxes 36:25 teacher 16:4 team 38:24 49:12 49:15 technical 58:24 technically 51:10</p>	<p>tell 27:25 37:21 43:19 telling 38:21 temporary 47:12 ten 18:16 tend 6:5 term 19:17 26:23 terms 34:4,24 35:13 36:1 37:13 50:13 55:1 56:2 territory 54:24 testimony 33:2 44:19 thank 3:22 4:16,17 13:19,21 14:12 15:17,18 16:7 21:4 24:12,13 25:3,20 28:1,2,9 29:9,10 30:12,13 32:1,13,22 33:4,7 33:9,17,17,20 35:22 36:5,9 38:13 39:11 40:13 44:7,14 47:8,17 48:18 51:11,16 54:2,6,6 55:13 59:13,15,16,23 62:13 65:10,13,14 65:14 thanks 60:18 thereof 66:13 thing 16:21 17:8 18:16 19:1 27:24 30:10 40:11,20 41:25 60:13 61:15 61:15 things 16:22 26:5 26:17 33:15,23 34:13 35:17,20 36:12,21 38:6 42:20 43:2 45:11</p>
--	--	--	--

[things - vulnerable]

<p>46:7,23 50:1 52:12 63:14,24 think 13:22 14:25 15:1,4 27:16 29:24,24 30:7,9 33:13 34:6,21,24 35:20 38:23 39:4 40:23 42:25 44:16 45:10 46:21 47:22 47:23 49:5 51:20 53:3 54:3,25 55:7 55:10,11 56:6 57:18,25,25 62:20 63:2 thinks 26:18 42:17 third 7:4 8:3 10:8 13:2 40:5,11 tho 35:16 thorough 51:24 thought 49:2 58:10 thoughtfully 29:7 thoughts 4:7 38:12 55:6 three 6:15,18 12:9 17:6 23:23 28:15 28:19 43:14 thrift 11:3 throwing 45:6 tim 14:11 time 13:10 15:15 15:25 17:13,23 19:3 23:4,10 24:1 25:10 30:12 38:5 39:9 42:15 43:21 51:25 53:7,8 55:3 58:11,17 59:5,21 times 43:11 timing 41:25 55:9 58:3 59:7,10</p>	<p>timothy 2:12 14:10 36:8 37:20 57:18,22,25 today 10:2 22:21 22:23 23:11,14 28:11 29:3 40:2 59:5,12 63:1,17 told 26:9 41:1 49:10 tool 26:3,4,4 top 18:9 42:17 43:9 topic 26:12 toss 3:15 57:15 tourists 7:15,16 town 19:21 50:24 track 26:17 traditions 61:21 traffic 6:7 11:10 11:12,19 12:19,23 12:24 15:1,2 19:15,19 31:1,3,4 31:4 44:22 63:12 transcribed 1:25 2:3 66:7,8 transcript 1:8 2:1 transcription 66:6 66:7 triangle 1:11 3:12 6:3 14:12 tried 15:10 23:18 31:24 trips 12:20 truck 6:7 true 41:3 66:10 try 14:17 41:17 trying 16:5 19:20 42:22 43:17 52:1 57:23 60:6 tuesday 1:15 2:3 3:2</p>	<p>turbines 6:23 turn 15:15 turned 36:24 tv 54:25 twelve 12:17 two 6:15,16 7:7,9 7:10 8:3 12:16 25:16 27:8,9 31:14,15,15 39:18 50:10,10 type 5:10 9:22 11:4,7 18:4 21:1 28:23 29:3,8 31:3 31:4,13 44:21,22 61:4 types 4:20 6:5,12 typical 12:18 typically 5:2 37:2 37:24 38:8 54:11</p>	<p>urge 28:12 use 4:3 5:8,8,10 7:3,19 8:24 9:21 9:22 10:5,10,15,19 10:22 11:8,13,13 11:13 12:18,22 13:1,5 20:16 26:24 27:5 44:2 50:23 60:21 uses 4:18,19,20 5:14,17 8:22 9:5,7 9:12,19,19 11:2 usually 48:22 utilities 4:22</p>
v			
<p>vacant 8:10,15 value 18:9 55:25 van 6:12 vans 7:10 vehicles 12:16 verifying 13:20 viable 19:21 video 21:15 22:5,7 view 10:11 viewing 7:15,16 violations 23:6 34:5,10 virginia 2:21 33:9 40:13 51:16,23 52:14 53:14 65:4 voices 58:12 vol 41:12 volatile 1:13 3:14 12:3 41:12 vote 60:11 voted 27:11,13 votes 9:17,20 voting 27:11 vulnerable 49:9</p>			
u			
<p>uh 51:22 56:4 unchartered 54:24 uncommon 36:20 understand 20:24 29:15 42:2 understanding 25:25 34:15 35:11 unfortunate 58:16 63:11 unfortunately 36:15 38:7 40:24 unit 7:25 8:5 12:11 unknown 2:18 29:12,14 57:21,23 unmute 21:14,16 unmuted 32:7 unpermitted 35:1 unregulated 35:2 unusual 58:2 uphold 39:24 44:16</p>			

[wage - zoning]

<p>w</p> <p>wage 18:17 30:9 waiting 37:8 waive 22:22 24:5 walk 8:4 walked 62:11 wall 6:25 walls 17:7 want 4:6 25:6 26:6 26:19 32:24 34:19 34:22 36:25 40:9 40:14,16 41:17 43:7 44:24 46:2 47:20,23 50:2 51:23,24,24 53:1 54:19 56:9 57:8 58:25 59:24 60:10 60:11,13 61:17 62:17 wanted 4:25 40:9 42:9 46:5,10 47:9 47:15,19 48:7,8 60:16,19 61:3,18 wants 32:14 46:13 58:18 63:16 war 44:23 washing 17:21,23 wasting 26:14 watching 3:16 water 6:11 watershed 20:23 way 5:4 6:10 26:5 37:25 40:23 56:7 56:18 63:1 66:12 ways 51:21 52:2 we've 20:18 28:16 43:14 46:22 56:6 57:11 63:4,5 web 37:9 website 36:18</p>	<p>week 31:5,5 weeks 22:24 23:24 36:13 37:18,22 weigh 34:1 welcome 5:24 25:22 28:8 29:13 30:16,20 32:16 47:7 went 22:25 33:13 42:24 43:1 48:8 what'd 24:18 we 64:10 wheels 63:9 whereof 66:14 wholeheartedly 58:18 willing 29:16,19 29:21 63:17,19 64:9 wilson 2:23 44:13 44:14 46:1,4 47:20,22 48:1,4,11 48:14,19 53:20 56:14,15 57:2 62:16,17 64:7,16 65:5,6 wilson's 57:16 60:19 win 26:18 windows 7:13 wish 27:9 48:20 witness 66:14 wondering 56:15 wood 6:15 12:4 wooden 12:9 word 52:1 work 7:1,17 16:7 18:21 20:22 51:24 54:16 59:1,9 60:6 worked 14:16,18 58:19</p>	<p>workers 28:25 29:4 working 14:20 15:21 17:14 20:8 works 62:6 world 29:1 worry 49:7 write 43:20 wrong 50:18</p> <hr/> <p style="text-align: center;">y</p> <p>yeah 14:9 45:10 47:25 48:24 51:10 51:11 52:7,13 54:22 55:15 57:23 59:15 year 19:9 61:20 years 19:5 20:3 25:25 28:15,19 40:21 43:15 58:20</p> <hr/> <p style="text-align: center;">z</p> <p>zone 5:11,15 8:22 8:25 9:5,12,23 27:6 50:14 zoned 5:15 8:21 zones 5:17 zoning 1:14 5:16 9:15,18</p>
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