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Humboldt County Planning Commission
Public hearing
Application of the Emerald Triangle
Group (Item G.1. on the agenda)
December 5, 2019

1 CHAIR ROBERT MORRIS: And with that we
2 will move along on our agenda, and I believe it's
3 the next item on the agenda, is the Public
4 Hearing item, and it is the Emerald Triangle
5 Group, LLC Company special permit, and it's in
6 the Garberville area. If staff could give us a
7 report on that, I'd appreciate it. Go ahead.

8 STEPHEN LUTHER: Good evening,
9 Commissioner, my name is Stephen Luther. I am
10 the assigned planner for Emerald Triangle Group,
11 LLC Co's special merit applications for
12 distribution and manufacturing at 829 Redwood
13 Drive, Garberville.

14 Project proposes to utilize existing
15 commercial buildings for non-volatile
16 manufacturing and distribution of cannabis
17 products. The project further proposed to
18 demolish an existing concrete building in the
19 middle of the lot and construct a new, 180-square
20 foot, fully contained metal building to house an
21 ethanol extraction unit. Specifically, the
22 applicant is requesting a special permit for
23 distribution, a special permit for manufacturing,
24 an exception to the loading zone size
25 requirement, and approval of the design review

1 study.

2 I want to note the project was first
3 noticed for the October 17th Zoning Administrator
4 hearing. The project was then re-noticed for the
5 Planning Commission hearing due to the
6 substantial number of public comments received in
7 opposition. This staff report will be
8 identifying those issues and addressing them.

9 The project site is a 0.12-acre parcel
10 located on downtown Garberville on the commercial
11 frontage of Redwood Drive. The two applications
12 were submitted in December 2016, and are being
13 processed under the commercial medial marijuana
14 land use ordinance, Ordinance 1.0. Public
15 comments were received, stating the project does
16 not comply with required setbacks. The project
17 is within 600 feet of churches. Although now
18 closed due to fire damage, the Presbyterian
19 church was also the site of a preschool.

20 Under the CMMLUO, the setbacks from
21 property lines and sensitive receptors apply only
22 to cultivation and processing operations. This
23 project is for distribution and manufacturing,
24 and therefore is not subject to those setback
25 requirements, nor is it subject to any CCLUO 2.0

1 setback requirements.

2 The site is currently developed with
3 three existing buildings. The first is a three-
4 story wood frame building. The first floor is a
5 commercial frontage, the second floor is office
6 space currently occupied by the Humboldt
7 Independent Newspaper, and the third floor is a
8 two-person residence. No changes are proposed
9 for the second-floor office or third-floor
10 residence. A two-story concrete building is in
11 the middle of the lot, and a two-story metal
12 building in the rear of the lot is currently used
13 as a 20-unit storage facility.

14 The concrete building was identified as
15 possibly having historical significance. An
16 investigation was conducted by Archaeological
17 Research and Supply Company in February 2019 and
18 found no historic significance that for the
19 purposes of CEQA would be considered a historic
20 landmark.

21 The applicant was proposing minor
22 interior improvements, including development of
23 an ADA accessible restroom to use the first floor
24 commercial frontage for non-volatile
25 manufacturing and distribution of cannabis. The

1 project will manufacture solventless extracts
2 utilizing the mechanical methods of water, ice,
3 screens, presses, centrifuges and steam
4 distillers. Distribution will involve the
5 weighing, packaging, labelling and loading of
6 cannabis. No trimming of cannabis will occur
7 onsite.

8 Public comments raised concerns about
9 odor and conditions require the applicant to
10 install a ventilation system for odor control.
11 The applicant has a conditional will serve letter
12 from the Garberville Sanitary District to provide
13 a water and wastewater services to the site. The
14 conditions of the GSD are included in Attachment
15 3 in the packet before the Commission tonight,
16 and these improvements have also been included as
17 conditions of approval.

18 The site will not be open to the
19 public, and it will be equipped with security
20 cameras and secure entry. The hours of operation
21 are Monday through Sunday, 7:00 a.m. to 7:00 p.m.
22 The operation may run up to 24 hours during peak
23 seasonal demand. The applicant has submitted a
24 neighborhood design survey, demonstrating the
25 proposed project conforms with neighborhood

1 character. That study is available in Attachment
2 3 of the packet before the Commission tonight.

3 The applicant is proposing to demolish
4 the concrete building and construct in its place
5 a single-story 12 by 15 foot metal building to
6 house an ethanol extraction unit. The storage
7 unit building will be renovated with a
8 refrigeration unit and be used to store cannabis
9 and cannabis products. Staff conducted
10 environmental review, and finds the project is
11 exempt from CEQA per Class 1 for existing
12 facilities, and Class 3, new construction of
13 small structures. The site is zoned Community
14 Commercial, with a design review combining zone,
15 C2D. The CMMLUO allows distribution and non-
16 volatile manufacturing in this zone with a
17 special permit.

18 Several public comments were received
19 stating that the proposed activity is not an
20 appropriate commercial use at this location. The
21 site does have a General Plan designation of
22 community general, commercial general, excuse me.
23 the use types that are allowed and not allowed do
24 not neatly align with the proposed commercial
25 cannabis activity. However, this designation is

1 intended to apply for lands that are suitable for
2 commercial development, and services that are
3 geared for regional needs. There is a regional
4 need in Southern Humboldt for services to
5 manufacture value-added products and distribute
6 them to market. The Planning Commission must
7 consider, whether the proposed use is consistent
8 with the CG land use designation.

9 Onsite parking consists of four spaces,
10 residential use in the rear of the lot. The
11 Commercial frontage of the site is accessed off
12 Redwood Drive. There are 13 on street parking
13 spaces on the block, one of which is designated
14 ADA. There will be five employees per work
15 shift, so the variable parking demand is five
16 spaces, and the site will note accommodate these
17 spaces off-street.

18 A review of historic imagery supports
19 the finding that the proposed use is a substitute
20 non-conforming use. This historic image dated
21 circa 1950 shows the building with a business
22 sign reading Beauty Shop. The evidence
23 demonstrates the premises was in use as a
24 commercial establishment prior to the 1965
25 adoption of the Zoning Code, and per Humboldt

1 County Code, no additional parking spaces are
2 required when existing uses are transferred to
3 new operators who will continue the use without
4 significant change.

5 The loading zone for distribution is
6 accessed in the rear of the lot by an alley off
7 Maple Lane. Public comments raised concerns
8 about the alley access. The applicant does have
9 deeded, non-exclusive easement access through
10 this alley. The proposed project will have a
11 designated loading zone of 15 feet by 34 feet at
12 the rear of the lot. There will be one to two
13 deliveries of product per day using up to two
14 vans that are about 18 feet in length.

15 The applicant has requested an
16 exception to the loading space size requirement,
17 which is typically 10 by 60. But due to the size
18 and scale of the business operation and the
19 vehicles used, the applicant does not require
20 that space. In addition, the applicant has a
21 lease agreement for two parking spaces at the
22 Hemp Connection parking lot, and the vans will be
23 parked at this site overnight.

24 Finally, public comments were received
25 about the potential for fire risk resulting from

1 the manufacturing activities onsite, specifically
2 the ethanol extraction. The project proposed to
3 use non-volatile manufacturing methods to extract
4 cannabis products. And in response to these
5 concerns, language was added in the conditions of
6 approval to clarify that no ethanol extraction
7 will be occurring in the three-story wood frame
8 building. Ethanol extraction is proposed to
9 occur in the new, fully-contained 180 square foot
10 metal building. The applicant proposed to use a
11 closed-loop extraction unit.

12 The building will be required to comply
13 with California building and companion codes.
14 The Operations plan states there will be between
15 55 to 110 gallons of ethanol in the metal
16 building, and the operation must file a hazardous
17 materials business plan for this. The new
18 building will require an H or high hazard
19 occupancy from the Building Division. This means
20 the walls of the building will need to have a
21 minimum blast proof fire rating of two hours.
22 The H occupancy further requires signoff from the
23 state fire marshal.

24 In response to these concerns about
25 fire, a condition of approval was added,

1 stipulating that no ethanol extraction is allowed
2 until the new building is permitted and received
3 final occupancy signoff. The project was
4 referred to the Garberville Fire District. The
5 response was denial, with the comment that the
6 District objects to volatile manufacturing.
7 Ethanol is considered a nonvolatile solvent under
8 county definitions. In addition, the applicant
9 will be required to obtain a Type 6 manufacturing
10 license from the manufactured cannabis safety
11 branch, and state regulations also define ethanol
12 as a non-volatile solvent.

13 In conclusion, staff's recommendation
14 is the Commission find the proposed project is
15 exempt from environmental review per Section
16 15301 and 13303, make all the required findings
17 for approval of the special permits, and adopt
18 the resolutions approving the special permits
19 subject to the condition of approval. And that
20 concludes staff presentation.

21 CHAIR ROBERT MORRIS: Thank you. Any
22 questions from the commissioners relative to the
23 staff report? Seeing none, we'll open it up to
24 the public comment. Anyone wishing to publicly
25 comment on this project, please approach the

1 podium at this time.

2 ALLISON JACKSON: Good evening,
3 Commissioners. Allison Jackson, I'm with the
4 Harland Law Firm, and I represent one of the
5 neighbors, neighboring properties, Craig Lehman.
6 I wrote a letter earlier, and I'm not going to go
7 through that letter gain. It was written much
8 before this last staff report.

9 But there are two issues I want to take
10 straight on. One is the proposition that this is
11 not subject to CEQA, because there is an existing
12 facility, new construction exemption, and the
13 other one with respect to ordinances, the
14 County's ordinances and sensitive receptors.
15 Under Title 14, 15031, the existing facility
16 exception is utterly inapplicable to this
17 situation. This is not a situation where you
18 have an existing distribution and manufacturing
19 facility that is renewing its permit, or someone
20 has purchased it. This is a new one that needs
21 to be specially permitted, and you may not
22 lawfully use those exemptions, period.

23 With respect to the ordinance
24 preclusions, one of the major problems here is
25 the location within the sensitive receptors. Now

1 with all due respect to staff, I disagree with
2 their assessment based on my readings of the
3 ordinances. Under Humboldt County Ordinance 314-
4 55.4 that regulates commercial cultivation and
5 manufacturing.

6 If you look at 314-55.4.2, it
7 explicitly finds that it applies to cannabis for
8 medicinal purposes. It's clear in the reading to
9 the statute, I mean, I can quote it exactly, but
10 it applies to medicinal cannabis. Now, under
11 314-55.4.6.4.13, that describes the sensitive
12 receptors, which are churches within 600 feet.
13 Now, if you follow along and go down to the other
14 ordinances, under 314-55.4.7, it describes
15 cannabis support facilities as being
16 distribution, distribution of medicinal cannabis,
17 and specifically precludes it in areas defined
18 with respect to sensitive receptors. It also
19 does that with respect to manufacturing under
20 314-55.4.8.2.

21 So I'm reading specifically from the
22 County's own ordinances, and given that there is
23 sensitive receptors within this -- within a 600-
24 feet range, there is no way that even if you do
25 apply CEQA, that you could get over that hump.

1 But in any event, between the failure to comply
2 with CEQA, this is not an existing facility that
3 has been in operation, and your own ordinances, I
4 don't see how this can be passed at all. Thank
5 you.

6 CHAIR ROBERT MORRIS: Thank you,
7 Speaker.

8 COMMISSIONER NOAH LEVY: Ms. Jackson,
9 could I ask you a quick follow-up? I didn't have
10 the relevant sections of the ordinance in front
11 of me, but were you citing from the first
12 ordinance or the second ordinance?

13 ALLISON JACKSON: I'm citing from the
14 ordinance that I copied this afternoon from the
15 County's own website.

16 COMMISSIONER NOAH LEVY: Okay, because
17 I think the issue is that this project is judged
18 by the standards of the ordinance that was in
19 effect when it applied, not the one that was
20 subsequently passed.

21 ALLISON JACKSON: It could, if you
22 wanted to try to apply, but I'm reading you what
23 the ordinance says now, and it's supposed to
24 apply. And in any event, you have got an
25 insurmountable problem with CEQA. This is not an

1 existing facility.

2 COMMISSIONER NOAH LEVY: Your letter
3 was -- definitely raised some really serious
4 concerns. Thank you.

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the foregoing transcript is a true and accurate record of the proceedings.

Date: March 9, 2020



Sonya Ledanski Hyde

[0.12 - co's]

0	5	alley 8:6,8,10	building 2:18,20
0.12 3:9	5 1:15	allison 11:2,3	4:4,10,12,14 6:4,5
1	55 9:15	13:13,21	6:7 7:21 9:8,10,12
1 6:11	55.4 12:4	allowed 6:23,23	9:13,16,18,19,20
1.0. 3:14	6	10:1	10:2
10 8:17	6 10:9	allows 6:15	buildings 2:15 4:3
110 9:15	60 8:17	applicant 2:22	business 7:21 8:18
12 6:5	600 3:17 12:12,23	4:21 5:9,11,23 6:3	9:17
12151 15:12	7	8:8,15,19,20 9:10	c
13 7:12	7:00 5:21,21	10:8	c 15:1,1
13303 10:16	8	application 1:13	c2d 6:15
14 11:15	829 2:12	applications 2:11	california 9:13
15 6:5 8:11	9	3:11	cameras 5:20
15031 11:15	9 15:7	applied 13:19	cannabis 2:16
15301 10:16	a	applies 12:7,10	4:25 5:6,6 6:8,9
17th 3:3	a.m. 5:21	apply 3:21 7:1	6:25 9:4 10:10
18 8:14	access 8:8,9	12:25 13:22,24	12:7,10,15,16
180 2:19 9:9	accessed 7:11 8:6	appreciate 2:7	ccluo 3:25
1950 7:21	accessible 4:23	approach 10:25	centrifuges 5:3
1965 7:24	accommodate	appropriate 6:20	ceqa 4:19 6:11
2	7:16	approval 2:25	11:11 12:25 13:2
2.0 3:25	accurate 15:4	5:17 9:6,25 10:17	13:25
20 4:13	acre 3:9	10:19	certify 15:3
2016 3:12	activities 9:1	approving 10:18	cg 7:8
2019 1:15 4:17	activity 6:19,25	archaeological	chair 2:1 10:21
2020 15:7	ada 4:23 7:14	4:16	13:6
24 5:22	added 7:5 9:5,25	area 2:6	change 8:4
3	addition 8:20 10:8	areas 12:17	changes 4:8
3 5:15 6:2,12	additional 8:1	assessment 12:2	character 6:1
314 12:3	addressing 3:8	assigned 2:10	church 3:19
314-55.4.2 12:6	administrator 3:3	attachment 5:14	churches 3:17
314-55.4.6.4.13	adopt 10:17	6:1	12:12
12:11	adoption 7:25	available 6:1	circa 7:21
314-55.4.7 12:14	afternoon 13:14	b	citing 13:11,13
314-55.4.8.2.	agenda 1:14 2:2,3	based 12:2	clarify 9:6
12:20	agreement 8:21	beauty 7:22	class 6:11,12
34 8:11	ahead 2:7	believe 2:2	clear 12:8
	align 6:24	blast 9:21	closed 3:18 9:11
		block 7:13	cmmluo 3:20 6:15
		branch 10:11	co's 2:11

[code - finds]

<p>code 7:25 8:1 codes 9:13 combining 6:14 comment 10:5,24 10:25 comments 3:6,15 5:8 6:18 8:7,24 commercial 2:15 3:10,13 4:5,24 6:14,20,22,24 7:2 7:11,24 12:4 commission 1:11 3:5 5:15 6:2 7:6 10:14 commissioner 2:9 13:8,16 14:2 commissioners 10:22 11:3 community 6:13 6:22</p>	<p>consider 7:7 considered 4:19 10:7 consistent 7:7 consists 7:9 construct 2:19 6:4 construction 6:12 11:12 contained 2:20 9:9 continue 8:3 control 5:10 copied 13:14 county 1:11 8:1 10:8 12:3 county's 11:14 12:22 13:15 craig 11:5 cultivation 3:22 12:4 currently 4:2,6,12</p>	<p>design 2:25 5:24 6:14 designated 7:13 8:11 designation 6:21 6:25 7:8 developed 4:2 development 4:22 7:2 disagree 12:1 distillers 5:4 distribute 7:5 distribution 2:12 2:16,23 3:23 4:25 5:4 6:15 8:5 11:18 12:16,16 district 5:12 10:4 10:6 division 9:19 don't 13:4 downtown 3:10 drive 2:13 3:11 7:12 due 3:5,18 8:17 12:1</p>	<p>10:11 evening 2:8 11:2 event 13:1,24 evidence 7:22 exactly 12:9 exception 2:24 8:16 11:16 exclusive 8:9 excuse 6:22 exempt 6:11 10:15 exemption 11:12 exemptions 11:22 existing 2:14,18 4:3 6:11 8:2 11:11 11:15,18 13:2 14:1 explicitly 12:7 extract 9:3 extraction 2:21 6:6 9:2,6,8,11 10:1 extracts 5:1</p>
	<p>d</p>		<p>f</p>
<p>company 2:5 4:17 comply 3:16 9:12 13:1 concerns 5:8 8:7 9:5,24 14:4 concludes 10:20 conclusion 10:13 concrete 2:18 4:10 4:14 6:4 condition 9:25 10:19 conditional 5:11 conditions 5:9,14 5:17 9:5 conducted 4:16 6:9 conforming 7:20 conforms 5:25 connection 8:22</p>	<p>damage 3:18 date 15:7 dated 7:20 day 8:13 december 1:15 3:12 deeded 8:9 define 10:11 defined 12:17 definitely 14:3 definitions 10:8 deliveries 8:13 demand 5:23 7:15 demolish 2:18 6:3 demonstrates 7:23 demonstrating 5:24 denial 10:5 describes 12:11,14</p>	<p style="text-align: center;">e</p> <p>e 15:1 earlier 11:6 easement 8:9 effect 13:19 emerald 1:13 2:4 2:10 employees 7:14 entry 5:20 environmental 6:10 10:15 equipped 5:19 establishment 7:24 ethanol 2:21 6:6 9:2,6,8,15 10:1,7</p>	<p>f 15:1 facilities 6:12 12:15 facility 4:13 11:12 11:15,19 13:2 14:1 failure 13:1 february 4:17 feet 3:17 8:11,11 8:14 12:12,24 file 9:16 final 10:3 finally 8:24 find 10:14 finding 7:19 findings 10:16 finds 6:10 12:7</p>

[fire - non]

<p>fire 3:18 8:25 9:21 9:23,25 10:4 firm 11:4 first 3:2 4:3,4,23 13:11 five 7:14,15 floor 4:4,5,7,9,9 4:23 follow 12:13 13:9 foot 2:20 6:5 9:9 foregoing 15:4 found 4:18 four 7:9 frame 4:4 9:7 front 13:10 frontage 3:11 4:5 4:24 7:11 fully 2:20 9:9 further 2:17 9:22</p>	<p>hearing 1:12 2:4 3:4,5 hemp 8:22 high 9:18 historic 4:18,19 7:18,20 historical 4:15 hours 5:20,22 9:21 house 2:20 6:6 humboldt 1:11 4:6 7:4,25 12:3 hump 12:25 hyde 15:3,13</p>	<p>l</p> <p>labelling 5:5 land 3:14 7:8 landmark 4:20 lands 7:1 lane 8:7 language 9:5 law 11:4 lawfully 11:22 lease 8:21 ledanski 15:3,13 lehman 11:5 length 8:14 letter 5:11 11:6,7 14:2 levy 13:8,16 14:2 license 10:10 lines 3:21 llc 2:5,11 loading 2:24 5:5 8:5,11,16 located 3:10 location 6:20 11:25 look 12:6 loop 9:11 lot 2:19 4:11,12 7:10 8:6,12,22 luther 2:8,9</p>	<p>maple 8:7 march 15:7 marijuana 3:13 market 7:6 marshal 9:23 materials 9:17 mean 12:9 means 9:19 mechanical 5:2 medial 3:13 medicinal 12:8,10 12:16 merit 2:11 metal 2:20 4:11 6:5 9:10,15 methods 5:2 9:3 middle 2:19 4:11 minimum 9:21 minor 4:21 monday 5:21 morris 2:1 10:21 13:6 move 2:2</p>
<p>g</p> <p>g.1. 1:14 gain 11:7 gallons 9:15 garberville 2:6,13 3:10 5:12 10:4 geared 7:3 general 6:21,22,22 give 2:6 given 12:22 go 2:7 11:6 12:13 going 11:6 good 2:8 11:2 group 1:14 2:5,10 gsd 5:14</p>	<p>i</p> <p>ice 5:2 identified 4:14 identifying 3:8 image 7:20 imagery 7:18 improvements 4:22 5:16 inapplicable 11:16 included 5:14,16 including 4:22 independent 4:7 install 5:10 insurmountable 13:25 intended 7:1 interior 4:22 investigation 4:16 involve 5:4 issue 13:17 issues 3:8 11:9 item 1:14 2:3,4</p>	<p>m</p> <p>major 11:24 manufacture 5:1 7:5 manufactured 10:10 manufacturing 2:12,16,23 3:23 4:25 6:16 9:1,3 10:6,9 11:18 12:5 12:19</p>	<p>n</p> <p>n 15:1 name 2:9 neatly 6:24 need 7:4 9:20 needs 7:3 11:20 neighborhood 5:24,25 neighboring 11:5 neighbors 11:5 new 2:19 6:12 8:3 9:9,17 10:2 11:12 11:20 newspaper 4:7 noah 13:8,16 14:2 non 2:15 4:24 6:15 7:20 8:9 9:3 10:12</p>
<p>h</p> <p>h 9:18,22 harland 11:4 hazard 9:18 hazardous 9:16</p>	<p>j</p> <p>jackson 11:2,3 13:8,13,21 judged 13:17</p>		

[nonvolatile - review]

<p>nonvolatile 10:7 note 3:2 7:16 noticed 3:3,4 number 3:6</p>	<p>passed 13:4,20 peak 5:22 period 11:22 permit 2:5,22,23 6:17 11:19 permits 10:17,18 permitted 10:2 11:21 person 4:8 place 6:4 plan 6:21 9:14,17 planner 2:10 planning 1:11 3:5 7:6 please 10:25 podium 11:1 possibly 4:15 potential 8:25 precludes 12:17 preclusions 11:24 premises 7:23 presbyterian 3:18 preschool 3:19 presentation 10:20 presses 5:3 prior 7:24 problem 13:25 problems 11:24 proceedings 15:5 processed 3:13 processing 3:22 product 8:13 products 2:17 6:9 7:5 9:4 project 2:14,17 3:2,4,9,15,16,23 5:1,25 6:10 8:10 9:2 10:3,14,25 13:17</p>	<p>proof 9:21 properties 11:5 property 3:21 proposed 2:17 4:8 5:25 6:19,24 7:7 7:19 8:10 9:2,8,10 10:14 proposes 2:14 proposing 4:21 6:3 proposition 11:10 provide 5:12 public 1:12 2:3 3:6 3:14 5:8,19 6:18 8:7,24 10:24 publicly 10:24 purchased 11:20 purposes 4:19 12:8</p>	<p>recommendation 10:13 record 15:5 redwood 2:12 3:11 7:12 referred 10:4 refrigeration 6:8 regional 7:3,3 regulates 12:4 regulations 10:11 relative 10:22 relevant 13:10 renewing 11:19 renovated 6:7 report 2:7 3:7 10:23 11:8 represent 11:4 requested 8:15 requesting 2:22 require 5:9 8:19 9:18 required 3:16 8:2 9:12 10:9,16 requirement 2:25 8:16 requirements 3:25 4:1 requires 9:22 research 4:17 residence 4:8,10 residential 7:10 resolutions 10:18 respect 11:13,23 12:1,18,19 response 9:4,24 10:5 restroom 4:23 resulting 8:25 review 2:25 6:10 6:14 7:18 10:15</p>
<p>o</p>			
<p>o 15:1 objects 10:6 obtain 10:9 occupancy 9:19,22 10:3 occupied 4:6 occur 5:6 9:9 occurring 9:7 october 3:3 odor 5:9,10 office 4:5,9 okay 13:16 onsite 5:7 7:9 9:1 open 5:18 10:23 operation 5:20,22 8:18 9:16 13:3 operations 3:22 9:14 operators 8:3 opposition 3:7 ordinance 3:14,14 11:23 12:3 13:10 13:12,12,14,18,23 ordinances 11:13 11:14 12:3,14,22 13:3 overnight 8:23</p>			
<p>P</p>			
<p>p.m. 5:21 packaging 5:5 packet 5:15 6:2 parcel 3:9 parked 8:23 parking 7:9,12,15 8:1,21,22</p>		<p>q</p> <p>questions 10:22 quick 13:9 quote 12:9</p>	
		<p>r</p> <p>r 15:1 raised 5:8 8:7 14:3 range 12:24 rating 9:21 reading 7:22 12:8 12:21 13:22 readings 12:2 really 14:3 rear 4:12 7:10 8:6 8:12 received 3:6,15 6:18 8:24 10:2 receptors 3:21 11:14,25 12:12,18 12:23</p>	

[risk - zoning]

<p>risk 8:25 robert 2:1 10:21 13:6 run 5:22</p>	<p>size 2:24 8:16,17 small 6:13 solvent 10:7,12 solventless 5:1 sonya 15:3,13 southern 7:4 space 4:6 8:16,20 spaces 7:9,13,16 7:17 8:1,21 speaker 13:7 special 2:5,11,22 2:23 6:17 10:17 10:18 specially 11:21 specifically 2:21 9:1 12:17,21 square 2:19 9:9 staff 2:6 3:7 6:9 10:20,23 11:8 12:1 staff's 10:13 standards 13:18 state 9:23 10:11 states 9:14 stating 3:15 6:19 statute 12:9 steam 5:3 stephen 2:8,9 stipulating 10:1 storage 4:13 6:6 store 6:8 story 4:4,10,11 6:5 9:7 straight 11:10 street 7:12,17 structures 6:13 study 3:1 6:1 subject 3:24,25 10:19 11:11 submitted 3:12 5:23</p>	<p>subsequently 13:20 substantial 3:6 substitute 7:19 suitable 7:1 sunday 5:21 supply 4:17 support 12:15 supports 7:18 supposed 13:23 survey 5:24 system 5:10</p>	<p>use 3:14 4:23 6:20 6:23 7:7,8,10,19 7:20,23 8:3 9:3,10 11:22 uses 8:2 utilize 2:14 utilizing 5:2 utterly 11:16</p>
<p>s</p>	<p>t</p>	<p>v</p>	
<p>safety 10:10 sanitary 5:12 says 13:23 scale 8:18 screens 5:3 seasonal 5:23 second 4:5,9 13:12 section 10:15 sections 13:10 secure 5:20 security 5:19 see 13:4 seeing 10:23 sensitive 3:21 11:14,25 12:11,18 12:23 serious 14:3 serve 5:11 services 5:13 7:2,4 setback 3:24 4:1 setbacks 3:16,20 shift 7:15 shop 7:22 shows 7:21 sign 7:22 signature 15:12 significance 4:15 4:18 significant 8:4 signoff 9:22 10:3 single 6:5 site 3:9,19 4:2 5:13 5:18 6:13,21 7:11 7:16 8:23 situation 11:17,17</p>	<p>t 15:1,1 take 11:9 thank 10:21 13:4,6 14:4 think 13:17 third 4:7,9 three 4:3,3 9:7 time 11:1 title 11:15 tonight 5:15 6:2 transcript 15:4 transferred 8:2 triangle 1:13 2:4 2:10 trimming 5:6 true 15:4 try 13:22 two 3:11 4:8,10,11 8:12,13,21 9:21 11:9 type 10:9 types 6:23 typically 8:17</p>	<p>value 7:5 vans 8:14,22 variable 7:15 vehicles 8:19 ventilation 5:10 volatile 2:15 4:24 6:16 9:3 10:6,12</p>	
	<p>u</p>	<p>w</p>	
	<p>unit 2:21 4:13 6:6 6:7,8 9:11</p>	<p>walls 9:20 want 3:2 11:9 wanted 13:22 wastewater 5:13 water 5:2,13 way 12:24 website 13:15 weighing 5:5 wishing 10:24 wood 4:4 9:7 work 7:14 written 11:7 wrote 11:6</p>	
		<p>z</p>	
		<p>zone 2:24 6:14,16 8:5,11 zoned 6:13 zoning 3:3 7:25</p>	