

July 29, 2024

To: Tennis Wick, Permit Sonoma

Cc: Wil Lyons, Planner, Permit Sonoma
Supervisor Susan Gorin, County of Sonoma
Scott Orr, Assistant Director, Permit Sonoma

Re: Request for a determination of "disapproval" under Sec. 65589.5(d)(4) of the California Government Code for the Rogal/Eldridge Renewal Builders Remedy application for the SDC property in the Sonoma Valley.

Sonoma Valley Next 100, a not-for-profit corporation representing the community in the Sonoma Valley, hereby requests that Permit Sonoma make an immediate determination of "disapproval" based on Section 65589.5 and Section 65589.5(d)(4) of the Housing Accountability Act (the Builders Remedy) with regard to the application filed by Eldridge Renewal LLC and the Rogal-Grupe partnership for the development of the former Sonoma Developmental Center (SDC).

We also request that, based on the requirements of Section 65589.5, said determination be supported by written findings based on the public record and that, to be effective under Section 65589.5, your determination be published concurrent with any finding of "completeness" re the application now under consideration.

Background

Section 65589.5 requires that (emphasis ours):

"(d) A local agency shall not disapprove a housing development project, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households including through the use of design review standards,unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

- (1) Jurisdiction has adopted a housing element (omitted as not relevant to this request).*
- (2) Impact on public health and safety (omitted as not relevant to this request).*
- (3) Denial required to comply with State or federal law .. (omitted as not relevant to this request).*
- (4) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project"***

While the Housing Accountability Act has made serious changes to the housing laws in California since 2019, in most cases it's provisions are mandatory and designed to streamline the approvals process, thereby encouraging new housing in locations where the opportunity arises.

However, the Housing Accountability Act (HAA) does, at the same time, in Section 65589.5(c) recognize the importance of "avoiding the premature and unnecessary development" of rural lands". In furtherance of those concerns, the HHA, in Section 65589.5(d), sets out only five circumstances under which a local agency should "disapprove" the application for a project that is not qualified under the Act. In making any determination under Section 65589.5(d), the local agency must provide written findings, and must base its decisions upon substantial evidence in the record as to the compliance of the property with one or more of the five categories specified in Section 65589.5(d).

The SDC property clearly fits the criteria in category (d)(4) of Section 65589.5 – "lands devoted to resource preservation and/or agriculture", or "lands with insufficient water or wastewater treatment facilities". As the home of both a key riparian environment and a significant wildlife corridor that stretches hundreds of miles from the mountains of Napa County to the Pacific Ocean, it is one of those urban/rural boundary properties with extraordinary sensitive environmental resources that is most at risk from misplaced urban development. It also has a long and well documented heritage of historic preservation and agricultural uses on the property, and it is bordered by several active farms on prime-agricultural lands. The property is also at the center of a rural area that has seen several large and devastating wildfires in recent years, and it suffers from severe evacuation problems due to its limited access via single lane roads and limited emergency services.

Based on these concerns, we urgently request the County of Sonoma, through Permit Sonoma, to act based on the provisions of Section 65589.5(d)(4) and "disapprove" the applications for Builders Remedy treatment (PRE23-0008 and PLP24-0005) presented by Rogal-Grupe partners and the Eldridge Renewal LLC for the SDC property in April 2023.

The rationale for this request – and that disapproval - is explained below.

1. The SDC property meets all of the criteria in Section 65589.5(d)(4) of the Government Code for "disapproval" of the Rogal/Eldridge Renewal Builders Remedy application.

A. Section 65589.5(d)(4), disapproval of an application under the Builder Remedy or SB 330 is provided for if development is proposed "on land zoned for agriculture or resource preservation surrounded on at least two sides by land being used for agricultural or resource preservation purposes".

The Enabling Legislation (Section 14670.10.5), the Specific Plan for the SDC, and the County's General Plan and zoning standards and criteria all make clear that, on the date in April 2023 when the SDC application was filed, the conditions for disapproval listed in Section 65589.5(d)(4) on the grounds of neighboring agriculture and resource-preservation were present on, or relative to, the SDC property.

At the time that the initial Builders Remedy application was filed in April 2023 (a matter of hours before Sonoma County approved its Housing Element and further access to Builders Remedy applications was terminated), the SDC property was held by the State of California as a single

large 920 ac. parcel. The property described in the application included the entire property, including all three of the Assessors Parcels that make up the SDC property (APs 054-090-001, 054-150-005, and 054-150-010). All are referenced in the development applications that apply to, and are now pending, for the property (PRE23-0008 and PLP24-0005). There had been no recorded subdivision of the property prior to the date of application in April of 2023 that would have separated off parcels for individual consideration.

Taken as a whole, therefore, it is clear from an examination of the layout of the property (see Attachment A, taken from the County's public record re the Specific Plan), that at the time the applicants' pre-SB 330 application was filed, it was (and is now) "surrounded on at least two sides by land being used for agricultural and resource preservation purposes", including:

a) Jack London Historic State Park to the west. The park is a 984 ac.+ designated park, open space, and resource conservation area on Sonoma Mountain which borders the west side of the property, and which clearly qualifies as "lands being used for resource preservation purposes" under Section 65589.5(d)(4). The park property also contains the historic Camp Via orchard property that has been in agriculture for almost a hundred years.

b) the 208 ac.+ Sonoma Valley Regional Park to the north and east. The Regional Park similarly qualifies as a designated parks, open space and resource conservation area under Section 65589.5 (d)(4). It's LIA (Land Intensive Agriculture) zoning has a Oak Woodland resource conservation overlay, and its boundary borders the north and east boundaries of the SDC property on the valley floor.

c) the 20.6 ac. Trestle Glen Vineyards, the 18 ac. Blooms Plant Nursery, and the 38 ac. Bucklin Old Hill Ranch to the south. All are properties which are in active agricultural cultivation, and all border the SDC property on the south side. All are also zoned LIA and have Resource Conservation (RC) and Oak Woodland zoning overlays.

d) the 48 acre BR Cohn/Vintage Wine Estates property, and the 677 acre Oakhill Farm properties to the east. Both are also in active agricultural uses, and both border the property on the east side.

Section 65589.5(c) also underlines the importance of agriculture by stating: *"The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas."*

Additionally, the zoning of the SDC property as a whole is based on the SDC Specific Plan which was approved in December 2022 and was in effect at the time of the application. The Plan contains numerous references to both property-wide resource protection and to agriculture. The Plan also sets policies for conservation of the broad and sensitive wildlife corridor that runs through the entire SDC property, and the riparian corridors of Sonoma Creek and Mill Creek which are the sensitive habitat for a broad variety of native species.

Though the Rogal/Eldridge Renewal application refers to the total site, the Specific Plan designates a "campus area" in which development may take place in the future on the SDC

property. It is clear from the record, however, that the campus area itself also meets the criteria under which a determination of "disapproval" is allowed under Section 65589.5(d)(4), as follows:

- a. It is surrounded on three sides (west, north and east - see attached map) by the wildlife corridor, parks and environmental resource area that is within the SDC property and that, under the Enabling Legislation, must be held for resource preservation purposes.
- b. It is surrounded on the south and east by active agricultural operations in the form of Bucklin Old Hill Ranch and the Bloom Plant Nursery.
- c. On the west, the SDC property abuts the orchard in Camp Via that is now a part of Jack London State Park.
- d. The entire easterly portion of the property that adjoins the campus was a farm in service to the SDC facilities for almost a hundred years until it was destroyed by wildfire in 2017. The area is still classified as prime farmland awaiting new management in the future.
- e. The campus has the same lack of water and wastewater services as is described below for the total site.

At the time of the pre-application, the campus itself was zoned to conform with the Specific Plan. The Specific Plan contains numerous areas that are scheduled for natural resource protection. Among them is the sensitive wildlife-corridor, which depends upon the campus area for the broad porosity and access needed by the migrating animals which have been proven to use the campus as part of the corridor. The Specific Plan sets policies for the conservation of both the wildlife corridor in both the campus area and the entire property, and for the riparian corridors on Sonoma Creek and Mill Creek which are the habitat environments within the campus area that support a broad variety of native species.

Additionally the Sonoma State Home Historic District (SSHHD) is already recognized and established in the campus area. It has also been "determined to be a historic site" by Permit Sonoma in its most recent "completeness" review comments for the project application. The SSHHD has, at its core, a historic resource landscape that permeates throughout the campus area, and that qualifies for "agricultural or resource preservation purposes" under Section 65589.5. While the term "resource preservation" is not defined in Section 65589.5, there is no basis to conclude that preservation of Historic Resources would not be encompassed within the boundary of that term.

Based on the above, the campus area of the SDC site also meets the criteria under which a project application can be "disapproved" under Section 65589.5(d)(4).

B. The SDC property also "does not have adequate water or wastewater facilities to serve the project".

It is clear, from the agency comments in the public record and from the on-going "completeness" reviews of both the ongoing SDC and Hanna applications, that the service agencies of the area do not have adequate water or wastewater facilities to serve the project as proposed, as follows:

1. The Valley of the Moon Water District (VOMWD) has notified the applicant for the SDC property that:
 - a. The SDC property is not presently within the service boundary of the VOMWD, and service to a development at SDC would require an annexation that was not in place at the time of the application,

- b. VOMWD does not have a sufficient supply of potable water in its annual allocation from Sonoma Water that is delivered via the Sonoma Valley aqueduct to serve the development proposed at SDC, and it will be the responsibility of the applicant to develop any necessary potable water supply from surface water and groundwater sources on-site to serve its own needs,
 - c. There are no serviceable groundwater or surface water facilities on the project site. There is also no basis on which to find that any such facilities, if established on-site or off-site, would be adequate to satisfy both the water requirements of the project and the water requirements of the remainder of the property, including the providing of the associated water needed to preserve and maintain the preserved lands outside of the scope of the project.
2. The project site also does not have adequate wastewater facilities. The Sonoma Valley County Sanitation District (SVCSD) has notified the applicant that it's downstream collection facilities are in a poor state of repair, and that they would need to be substantially repaired or replaced in order to serve a development of the scale proposed on the SDC site. No such plan for development or expansion of that work is under way, or was available at the time the application was filed.

Additionally, materials in the public record for other nearby projects (like the Hanna application, now pending and located two miles south of the SDC site), also confirm the wastewater infrastructure problems that exist downstream in the Districts collection and transmission systems. Statements by SVCSD indicate that "the final phase of the ongoing replacement and upsizing of the Districts trunk sewer, Phase 5B, must be completed before any new connections can be permitted" (Sonoma Water letter, July 1, 2024)

These comments indicate that the SDC property in fact "does not have adequate wastewater facilities to serve the project" and that it did not have adequate facilities as of the date of filing of the Builders Remedy application.

All of the detailed information needed to support the assertions above is already part of the public record at Permit Sonoma, and there is no need to replicate it here. Taken together, however, the available information indicates that, at the time of filing, the property clearly did not "have adequate water or wastewater facilities to serve the project" as required in Section 65589.5(d)(4).

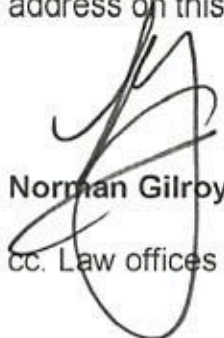
Conclusion.

Based on the information above, it is apparent that the SDC property meets the criteria for "disapproval" under Section 65589.5(d)(4) for both of the listed categories. The proposed project therefore does not qualify for processing under SB 330 and the Builders Remedy, and any future evaluation or applications should instead proceed under Permit Sonoma's normal scheduling, processing, CEQA and public comment procedures.

We ask that the request by Eldridge Renewal LLC for approval of a Builders Remedy application for the SDC property be "disapproved" under Section 65589.5 of the Government Code, and that Permit Sonoma immediately document findings to that effect.

Continuing to proceed as if the application should be evaluated pursuant to SB 330 and Builders Remedy procedures, when it clearly does not qualify for such treatment, would be inefficient and a waste of the resources of both the County and the applicants.

Thank you for providing us with the opportunity to file these comments and requests regarding this important project in the Sonoma Valley. If you have questions, please contact us at the address on this email, or at (707) 337 7525.



Norman Gilroy, on behalf of Sonoma Valley Next 100.

cc. Law offices of Soluri Meserve, Sacramento CA

Attachments:

- A. Environmental and Agricultural Resources near SDC.
- B. Environmental and Agricultural Resources adjacent to SDC campus

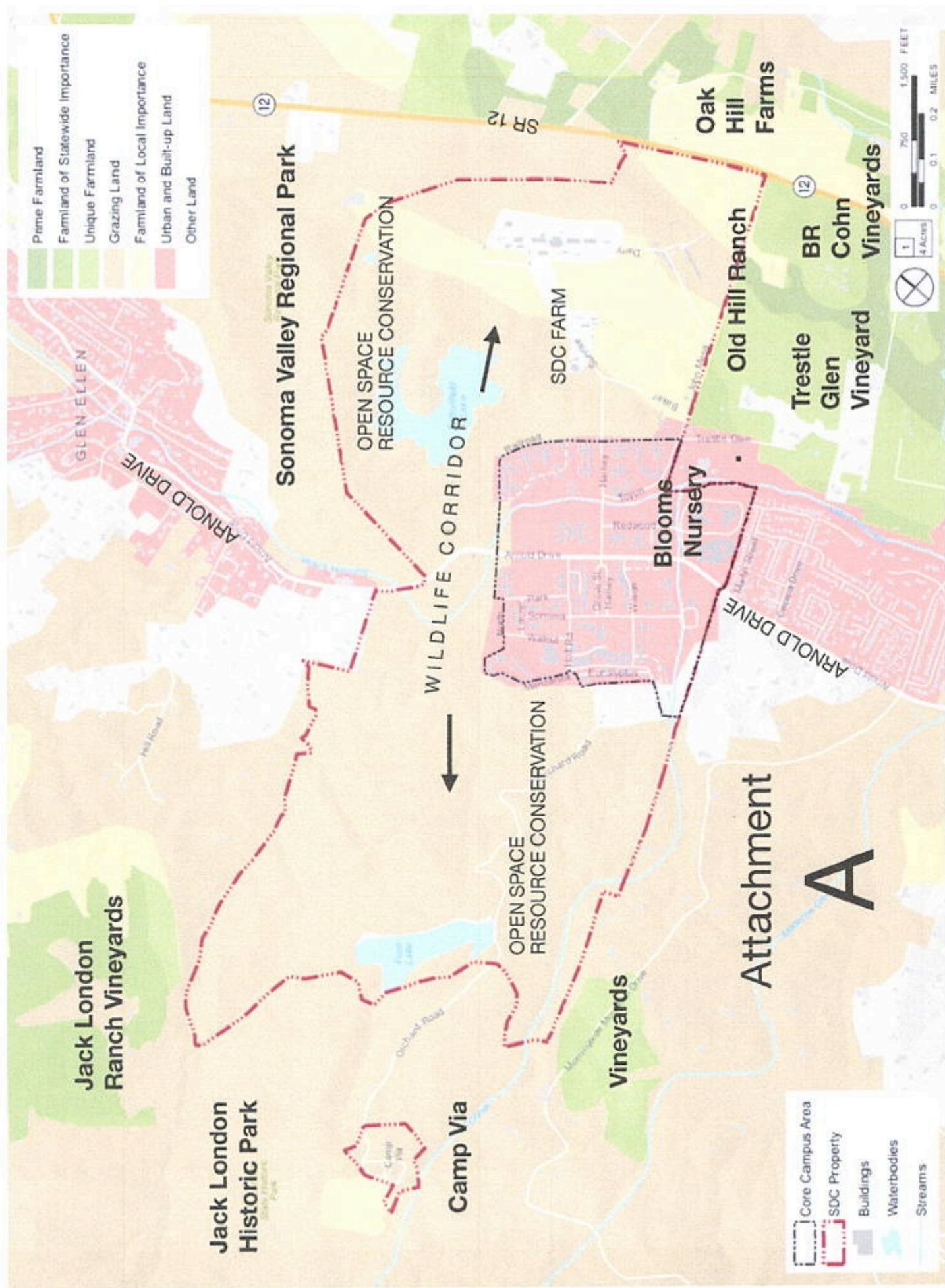


Figure 2.2-2: Preserved Open Space

