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To: [Alexander, Jacquelyne](#)
Cc: [STEVEN KENT](#)
Subject: Submittals for Appeal of CDP at 3823 Santa Claus Lane- Hearing Date 11.1.2022
Date: Thursday, September 29, 2022 8:37:58 AM
Attachments: [Letter to Das Williams final edits 9.28.2022.pdf](#)

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Dear Jacquelyne,

Please include the attached letter in the Board's record on this matter, distribute to the Supervisors, and post to the Agenda when the Agenda for Nov. 1 is available.

Thank you for your note regarding the submittal of exhibits. We will deliver a thumb drive after we receive and respond to any staff report for the hearing, and after the County completes its responses to our still outstanding Public Records requests.

Thank you.

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Jana Zimmer

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Supervisor Das Williams
Board of Supervisors
County of Santa Barbara
105 E. Anapamu St.
Santa Barbara, CA. 93101

September 29, 2022

By e-mail

Re: Cannabis Dispensary at 3823 Santa Claus Lane- Appeal Date November 1, 2022

Supervisor Williams:

As you know, I am representing Dr. Steve Kent and Dr. Nancy Rikalo, in their appeal of the Planning Commission decision of September 7, 2022, approving a cannabis dispensary 3823 Santa Claus Lane. The Board of Supervisors will hear that appeal on Nov. 1, 2022. **You have not responded to my request to meet with you prior to the hearing.** However, you have already chosen to express your seriously *incorrect* understanding of the facts to your constituents, signaling your intentions when this matter comes to hearing. I am writing because I hope that when the facts are fully before you, you will lead the Board to act appropriately and grant our appeal.

I have reviewed the e-mail you sent on August 25, 2022, to the owner of Surf Happens, the youth-oriented surf camp *next door* to the proposed Radis/Roots dispensary site, and which you copied to others, such as the owner of the A-Frame Surf shop. Despite your e-mail, Mr. Holcombe spoke eloquently at the Planning Commission hearing of September 7 *against* the siting of a cannabis dispensary on the Lane, even though he stated that he has been friends with the applicants for years, specifically because of its unacceptable conflicts with youth and visitor-serving uses at this popular public beach area.

Because of the false statements you make in your e mail, (which I describe below) and which have been communicated to others, I have advised my clients not to attempt to communicate with you further, and I will explain here why I am deeply concerned that, unless remedial steps are taken immediately, they- and the hundreds of people who have shared their almost uniformly negative views about this dispensary, and have made their views known repeatedly over the last two years- cannot receive a fair hearing from the Board.

I propose the following remedies:

First, I am asking that you please review the history that I provide below, and then publicly retract your defamatory statements about my clients.

Second, I request, as I did in my letter to County Counsel of August 15, 2022 (and to which we have had no substantive response), that you, and each of your colleagues fully disclose in writing, and for the record, prior to the Board of Supervisors appeal hearing, all of your communications with the applicants, and any and all of their representatives, since January 1, 2020.¹

Third, I request that all parties and consultants testifying at the Board hearing do so under penalty of perjury. My clients submitted their Declarations to the Planning Commission under oath precisely because of your false public allegations that they had been untruthful.

I provided County Counsel with the form and format used by the Coastal Commission for ex parte disclosures when required under Pub. Res. Code Section 30324, on August 15, 2022. Since this property is a *key, visitor- serving site in the Coastal Commission's appeals jurisdiction, your Board's review warrants the highest level of transparency.*² As you will note, if you review our appeal, we contend that my clients were denied a fair hearing at the Planning Commission, in part because it is apparent that at least two Commissioners relied on information given to them *outside* the hearing, which was false, and which we were not given the opportunity to rebut.³ The Board of Supervisors needs to take extraordinary steps to assure that this does not happen again on this appeal.

A. Unless corrected, your recent public statements regarding your intentions on the dispensary site will prejudice the Board's review.

Over the last two years, you have consistently represented to your constituents **that unless a dispensary on Santa Claus Lane enjoyed community support, and provided community benefit, you would not vote for it.** [See, Appendix 1] You specifically reassured them that the County planning process **provided full discretion to deny a project in an inappropriate location.** But since the application was submitted, at every turn, P&D staff, the Subdivision Review Committee, the Board of Architectural review, and the Planning Commission have been told that there was no such discretion with regard to **the site selection.** [e.g., that this was not their "purview"]. For example, while P&D staff initially sought

¹ We are now reviewing evidence that the "selection" of Santa Claus Lane as a dispensary site was "effectively" decided by November of 2019, under Chapter 50, in disregard of the purpose of the Coastal Commission's modifications of the cannabis program LCPA in 2018. All of the documentary evidence relevant to our contentions on appeal which is or will be in the record will be submitted to the Clerk after we receive the staff report, and after the County completes its responses to our pending Public Records requests which seek all writings, on public or private devices. We know, too, that the Radis' lobbyist, Mr. Armendariz, arranged a lunch for you with his clients at their Toro Canyon home in August of 2022, a date which was evidently so important that you told him you had cancelled a meeting with the Environmental Defense Center to attend. The public needs to know exactly what they told you, so we can rebut any false statements. If you had agreed to meet with me, I would have encouraged you to report our conversation fully, as well.

² See, e.g. Pub. Res. Code Section 30320: **"the public interest and principles of fundamental fairness and due process of law require that [the commission] conduct its affairs in an open, objective, and impartial manner free of undue influence and the abuse of power and authority..."**

³ Commissioner Bridley's statement that she and I had several "conversations" was inaccurate and I have requested her to correct it. She met with my client but actually declined to meet with me to discuss our legal claims. [See, e mail of 9.22.2022]

appropriate traffic analysis (See, Application Incomplete letter, dated 12.21.2021), Public Works staff consistently rejected and refused to perform or commission that analysis. (See, Appendix 2).

The Planning Commission were never advised that the Coastal Act and the LCP specifically require analysis of *the increased intensity of use of the site* from the specific cannabis dispensary use, even if it is zoned appropriately. Pub. Res. Code Section 30106. This has been required by the Coastal Act, the Coastal Commission, and the courts, consistently **since 1980**. Instead, up to the end of the Planning Commission hearing, the decision makers were advised that this dispensary use represented a mere “change of tenant”. **This fundamental legal error infected the entire analysis of key Coastal Act issues: whether the increased traffic from the cannabis dispensary will cause safety, circulation and parking impacts which affect the public’s ability to access the beach, and the Coastal Trail, and which negatively impact the special character of Santa Claus Lane under Section 30253(d) and the LCP.** We have advised repeatedly that these are key issues in the coastal zone.⁴

In your e-mail of August 25, 2022, -which was directed to the owners of two of the important visitor-serving and youth- oriented businesses on the lane, you have seriously mischaracterized our insistence that the County perform the required analysis. You wrote that my client ‘maligned’ County staff, - *which they never did*, that you had reached a conclusion that we were not ‘truth tellers’, and it would be difficult to persuade your colleagues to deny the project, even if you were still “leaning” against it.⁵ Suddenly, the key issues, the fundamental incompatibility of the use with the surrounding Existing Developed Rural Neighborhoods (EDRN), and with surrounding visitor serving and recreational uses, under Coastal Act Section 30213, and with the special character of the Lane under Coastal Act Section 30253(d) were simply dismissed.⁶

Given your statements and your behavior in repeatedly attacking your own constituents from the dais when they disagree with you on issues related to cannabis, (See, e.g., your claim that residents suffering from ongoing odor impacts who file land use appeals pursuant to their rights have a “morally bankrupt” position [Board hearing of May 14, 2022] , your excoriation of a constituent over his own alleged water use, [Board hearing of January 29, 2019] your claimed reliance on a non-existent County Counsel “opinion” to assert that you were precluded by law from providing relief from odors caused by illegally expanded non-conforming cultivators⁷ [beginning January 29, 2019], you have a heavy burden to

⁴ Please review the Coastal Commission’s Guidance document on cannabis, as well as the many cases we cited where the Commission addressed the (in)compatibility of cannabis outlets with public access and recreation.

⁵ That e mail has no doubt been forwarded to all relevant decision makers, signaling your inaccurate “conclusion”.

⁶ We have also pointed out that staff and the County Counsel remained **mute** when they were specifically asked by Commissioner Parke on Sept. 7 whether there was anything in the law that would support a project denial and instead gave advice that would require the County to approve a use which is entirely inconsistent with the purpose of the C-1 zone district. See, Coastal Act Section 30213 and 30253(d); LCP policy 1-1; and Toro Plan 2.1

⁷ The opinion staff relied on was a Court of Appeal decision (Martin v. Superior Court), which was effectively **overruled** by the Legislature when they adopted Gov. Code Section **65858(f)**, (**See, AB 927**), and which I specifically told you about, in an in person meeting with you, Dennis Bozanich, and my spouse, a retired legal ethics professor, Nevertheless, you refused to entertain an urgency ordinance, or any specific relief for your constituents while you claimed to be working to “solve” the odor problems. It would be malpractice or an ethical violation, or both, for an attorney to knowingly rely on a decision that has been overruled. **But, the Board Letter of 7.9.2019 in which this legal assertion was made, was authored by Dennis Bozanich, your former “Cannabis Czar”, not County Counsel, and there is no indication that County Counsel reviewed or approved it.**

convince your constituents that you can be fair in this hearing. The public's lack of trust in your process has been exacerbated, now that you have *falsely* and publicly accused my client- and me- of being 'untruthful', and that you have evidently already formed opinions in reliance on easily disputable misrepresentations made by others- which we could rebut, if only the County had not failed and refused to timely release relevant writings under the Public Records Act.

But be clear: I am not requesting that you recuse in this matter. You undoubtedly know that the Board must act by a majority of its membership, and a majority must vote to grant the appeal. This is dictated both by the Government Code, and by your Board Procedures document, which dates back to 1991.⁸ And based on the comments at the Planning Commission, and on the fact that neither of the North County Supervisors have responded to my request to meet, either, it appears likely that your colleagues will follow your lead in this case.⁹ Therefore, we are not seeking your recusal, or anyone else's.¹⁰ You, and they, all still have a responsibility to all your constituents to act on the law and the evidence, and to be accountable, legally and politically, for your decisions.

Please review the following summary of your own actions and comments on this dispensary over the last two years, in context of our legal claims:

1. The Board erroneously preempted and **undermined** the CDP process by "effectively" designating Santa Claus Lane as a retail site in November, 2019. Your risible attempt, in your e- mail to Ms. Keet, to trade on then- Under Sheriff Barney Melekian's good name, and which **you** have now injected into this controversy, is doubly offensive because, on November 5, 2019, it was not Mr. Melekian, but then- Deputy CEO **Bozanich** who presented the Board of Supervisors with suggested amendments to Chapter 50 focused on the retail process. **At that hearing, you asked Mr. Bozanich what were the community plan areas, and Mr. Bozanich responded, that the Summerland/Toro Canyon locations "would effectively be Padaro/Santa Claus Lane". [BOS Item #5]** Padaro, of course is zoned residential. Thus, it appears that Santa Claus Lane was "effectively" selected before Mr. Melekian entered the picture, and before the community was given *any* notice or opportunity to comment. This occurred a year after the County accepted Coastal Commission modifications to their cannabis program which were specifically intended **to assure that the LCP, and not Chapter 50, would provide the standard of review for coastal development permits.**
2. During the Chapter 50 "siting" process, you failed to consider appropriate alternatives. The Board was *specifically* advised by Lisa Plowman, P&D Director, that the contention that there was no appropriately zoned site in Montecito was *incorrect*; that in fact there is such a site on Coast Village Road (at least one). [BOS Hearing, December 17,2019 Item #3¹¹]. The Board also eliminated an

⁸ Full disclosure: my name appears on that document because I drafted it in 1991, when I was serving as Chief Deputy County Counsel for land use. The Board requested the document, ironically, because well-funded developer applicants and their attorneys were abusing the process by providing reams of material for the record on the morning of Board hearings. The 4/5ths vote "rule" was the County's response to that practice.

⁹ The County is no doubt aware that the practice of "ward courtesy" , while not always illegal, can be politically unwise, if not irresponsible, especially where the 'lead' vote is acting out of bias, and is not based on defensible facts and law. See, e.g. *Arroyo Vista Partners v. County of Santa Barbara* 732 F. Supp. 1046 (C.D. Cal. 1990)

¹⁰ We do request that any Board member who has received a campaign contribution from the Radis timely return it so they can vote.

¹¹ Applicants' representative Armendariz was still denying this fact in 2022.

ostensibly feasible site in Summerland which, in fact, based on its website, provides *primarily* “on-line learning” (Montecito Academy) and therefore should not have been considered as a sensitive receptor under Section 35-144.¹² Thus, P&D’s accurate statement regarding the existence of a suitably property zoned C-1 site in Montecito was ignored, by you, and the Board went on to “choose” two adjacent sites on Santa Claus Lane to evaluate and compete against each other. No other alternative site has been considered. Unsurprisingly, one of the sites on Santa Claus Lane, (the Radis’ property) “won”. Despite the Coastal Commission’s clear direction in 2018 that the LCP, and not Chapter 50, must provide the standard of review, these Board errors in the Chapter 50 process have been driving the CDP process since that date.

Now, despite the status of Santa Claus Lane as a special community under Section 30253(d), and as reflected throughout the Toro Plan, as a center for public access and lower cost recreation under Section 30213, and despite its surf shop, surf camp, family restaurants, opportunities for biking and skateboarding, its proximity to the Carpinteria Marsh, its access to the California Coastal Trail, its orientation to family and youth beach uses, and its inconsistency with Coastal Act and LCP policy, you have P&D staff twisting themselves into pretzels to support a view that the surf school/camp next door to the applicant, which you know from its owner primarily serves 5-17 year olds, does not qualify as a “youth center”. That definition, alone, would render the property legally ineligible for cannabis retail. As a matter of fact, the on- the- ground conditions on the Lane described above dictate a finding of **inconsistency** with LCP policy, in any case.

3. Mr. Bozanich, having departed County employment in January, 2020, and making the circle complete, now represents the Radis/Roots project, for remuneration. We have obtained e-mails between you, and Maire Radis, where she thanks you for your statements and vote, following the August 18, **2020**, Board hearing, and expresses “understanding” of your statements- and your vote that day, when you voted *against* the Chapter 50 evaluation criteria, while claiming to be supporting a greater weight to be given to community benefit/compatibility.¹³ While the facts are slowly leaking out, it has not gone unnoticed that the County has delayed or refused to turn over documents under the Public Records Act, specifically pertaining to Mr. Bozanich,- on unsustainable grounds. Based on what we know now, and his comments to the Board in November, 2019, it appears that the “site selection” of Santa Claus Lane was a done deal before the Chapter 50 process even began.

¹² While your attention to your Summerland constituents’ objections is appreciated, we request at least the same consideration for the businesses and owners around Santa Claus lane, and the beach going public- making this a much more sensitive site in terms of Coastal Act conflicts. We pointed out at the Planning Commission that these are also environmental justice issues which should be considered under AB 1616 (Burke).

¹³ Based on our reading of FPPC advice letters, there is little doubt that had Mr. Bozanich been a high level State employee, including a District Director at the Coastal Commission, for example, and given his integral relationship to the cannabis program, both in the development of Chapter 50, and Article II amendments, and their relationship one to the other, and including his pre-determination of Santa Claus Lane as a dispensary site in December of 2019, just prior to his separation from county service, he would be subject to a **lifetime ban** on participation. Yet, in this instance, as a former high ranking **local** official, (he claims he was not among the designated employees “required to sit out”), he not only appears at public hearings for remuneration, he has already had extraordinary access to his former employers, the Supervisors,- even to the level of coordinating appeal hearings between Supervisors and staff, to be sure that his presumptive supporters on the Board are present to vote. [e.g. transmitting “data points” from the Second District office to P&D staff.] This conduct is exactly what ‘revolving door’ ordinances are intended to curtail.

4. **The public opposes any site on Santa Claus Lane.** During the community engagement process under Chapter 50, you received written and/or oral comment from dozens of constituents in the area. All were against a dispensary on Santa Claus Lane. **None** were in favor, with the exception of one of the commercial cannabis cultivators. You also received a petition from Mr. Morehart, with hundreds of signers, all against.¹⁴ Nevertheless, the applicant touted a petition they claimed they had submitted, which- they claimed- had 500 signatures, and which staff purported to rely on.

When we requested a copy of this alleged Petition, under the Public Records Act, the document we received would not open. We pressed on, to ascertain whether the “supporters” who allegedly signed the petition live in the Toro Community Plan area, or in Isla Vista, or in Lompoc.¹⁵ **Staff then admitted that they never were able to open the document, either.** Yet, it continues to be cited as evidence of community support. Only after they were also confronted with evidence that a community meeting they claimed had occurred at Rincon Catering, in fact never occurred, per the owner, and that Abe Powell, a true community hero, was not in fact on their Board of Directors, as they had represented on their website - did they partially correct their erroneous statements.

Despite the obstacles you have created, the overwhelming community opposition has never wavered. So, your recent “weakening” of resolve to support the community’s wishes is all the more mysterious. The only element that would benefit from this location are the Carpinteria growers who, unsurprisingly, supported the location at the Planning Commission, and also, unsurprisingly, donated heavily to your last campaign, and again as recently as February, 2022.

With regard to your own representations, please recall that on August 19, **2020**, you responded to an e- mail from a Sandyland resident, which expressed exactly the same concerns regarding traffic, and compatibility as we have expressed, as follows:

“The factor that must be considered and given the most weight in the decision is community input so I think it is very unlikely that a retail store would be approved with unanimous community opposition. As a reaction, staff is making it clear on the application that the County retains the discretion to not approve any dispensary in a zone.”¹⁶

Yet, despite these representations, and despite being informed, repeatedly, that the impacts of a *change in intensity of use* must be analyzed under Pub. Re. Code Section 30106, which is mirrored,

¹⁴Representatives of several nearby homeowners’ associations, -Padaro, Casa Blanca, Sandyland, Polo Condos, representing hundreds of residents, testified at the Planning Commission on September 7. The one resident of Carpinteria who suddenly appeared in support should be redirected to their own City Council, which has excluded dispensaries from the City altogether. In any event, based on AB 195 and other State initiated pressures, municipalities that ban retail entirely may soon be compelled to rethink their posture, whether their residents like it or not. There can be little doubt that your false allegations are *intended* to discourage continuing public participation from people opposing this dispensary.

¹⁵ This misleading representation of First District community support was repeated when a representative of a Veterans’ organization, who lives in Lompoc and appeared to support the Greenthumbs dispensary, also appeared at the Planning Commission to support the Radis’.

¹⁶ As we have demonstrated throughout this process the decision makers in the CDP process have been misled repeatedly about the scope of their discretion. See, Appendix 2.

exactly, in your LCP, **P&D staff -under pressure from the Public Works representative- reviewed the dispensary as “simply” a change of tenant, and effectively precluded the Planning Commission from considering the unique traffic and circulation impacts of a cannabis dispensary at this location.** Recall, here, that the Board made findings in adopting the cannabis PEIR in 2017 that the traffic impacts of cannabis *retail* were Class I, significant and unavoidable, and no mitigation measures were included in the ordinance. In this context, refusing to analyze the specific impacts of a dispensary- which per the ITE tables generates three times the traffic of other retail -is a fatal legal flaw.

Furthermore, the Planning Commission was specifically advised that they could **not** address inconsistency with the purposes of the C-1 zone, - which was framed as “neighborhood “compatibility”, and they were **not** told that **they could deny the dispensary based on inconsistency with key Coastal Act policies to protect lower cost visitor serving areas, under Section 30213, or to protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses under Section 30253(d).**¹⁷ There is no doubt that Santa Claus Lane is such a neighborhood, as identified throughout the Toro Plan.¹⁸

My client has brought these issues to your and the Board’s attention *repeatedly for over a year.* (See, e.g. e- mail Zimmer to **BOS 6/21/2021**):

“Please add the attached to your Board's record for Item 4. (I received the referenced e mail from Lisa Plowman after my original comment was posted today).

1. e mail exchange, 6.21.2021 Lisa Plowman P&D and Jana Zimmer

2. e mail exchange, Darcel Elliot and Jeff Wilson, et al., August 2020

Staff did not require an independent traffic study in determining the land use compatibility of cannabis retail with the unique Santa Claus Lane environment in your Chapter 50 process. Now, apparently, P&D does not intend to require any independent traffic study to support the approval of a CDP for retail at that location. It appears to us that a recommendation for approval is a foregone conclusion, regardless of the evidence, and that my client will be forced to expend their resources to provide the analysis that the County should be providing.

Your staff is well aware that cannabis retail is not 'just like other retail', especially not in an ocean front location where the dispensary traffic will compete for parking in a parking - deficient area, where it will interfere with safe pedestrian and bike access, and where it will reduce the opportunity for public access to the beach. Please consult the Coastal Commission Guidance document of April, 2019, which we have previously provided. The County cannot avoid consideration of the negative impacts of cannabis retail at the Santa Claus Lane site by refusing to study them. We think the only way to remediate the errors that have been

¹⁷ We raised this issue at the S-BAR meeting of September 10, 2021 but were ignored because of staff (Public Works) objections. All of the Chapter 3 policies of the Coastal Act are expressly incorporated into the LCP at Policy 1-1.

¹⁸ In fact, the County did not produce a single document in response to our Public Records request, or our direct request to the Board of Supervisors on June 21, 2021, asking for documentation of the evaluation of the site under Chapter 50.

committed thus far is to acknowledge the evidence, now, and to exercise your authority to direct the CEO to rescind the 'site designation' of April 30, 2021 for cannabis retail on Santa Claus Lane as it was based on misrepresentations of fact, and a complete failure on the part of your staff to analyze or consider neighborhood compatibility and consistency with the LCP."¹⁹

This was my third attempt to persuade the Board to correct their error in accepting Santa Claus Lane as the “winner” in the dispensary designation under Chapter 50. The first was in May of 2021, the second was my letter of June 8, 2021, and the fourth and fifth were my letters to CEO Miyasoto on July 5, 2021 and August 7, 2021.

5. On June 25, 2021, ostensibly in response to my appearance at the Board of Supervisors, **you** called me at home, *unsolicited*. During that call you asserted that **you were “98.5%” certain you would vote against the cannabis project.**²⁰ **You said the same thing- “98.5%” certain- again, unsolicited, to my client when you approached him at a County ceremony celebrating the ribbon cutting for the Streetscape project, which he attended as representative of the owners.** You indicated that you were refusing to consider rescinding the site designation, although you admitted you – or even the CEO- had full legal authority to do so, based on the applicant’s misrepresentations in that process. You stated that this would be throwing “Joan and Gregg” (Supervisors Hartmann and Hart) under the bus. You did not explain which bus. **You were unperturbed by the fact that my client would have to go through a year(s) long process, engage their own traffic experts, attorney and consultants, rally a very tired community, and incur tens of thousands of dollars in costs and fees to prove to you what you already knew.** We have proved it, “over and over”: the site is, was and always will be inappropriate and in conflict with key policies of the Coastal Act, including the mandate to protect public access and lower cost recreation under Section 30213,[which staff failed to analyze *at all*] and – another point we raised over a year ago- the duty to protect special communities under Section 30253(d), and which was simply ignored by both staff and the S-BAR, which was persuaded – by Public Works staff- that it was not in their purview.
6. **Your dissemination of false information.** Your former Deputy CEO Bozanich and the lobbyist who hired him have distributed incorrect information about me and my client, their motives, and the evidence that they have presented²¹. Most recently, [8.25.2022] after you agreed to meet with Mr. Armendariz and their clients at their home, **you** professed to “still be leaning” **against** the site, but you hastened to allege that “untruths” you attributed to my client, but which never were spoken by them, and criticism of P&D and County Counsel’s failure to analyze, or respond to our legal analysis, constituted “maligning” of staff. And you imply that the false allegations, name-calling and conclusions perpetrated by the Radis’ representatives will drive your colleagues on the

¹⁹ I also wrote you on June 21, 2021, to acknowledge that you had approached my client at the Streetscape ribbon cutting to tell him you were ‘on his side’, and to tell you that you had and have full authority to rescind the Chapter 50 designation at any time. You did nothing.

²⁰ Apart from the notable weirdness of the percentage you selected, this was concerning to me at the time, since it appeared that you were, knowingly or not, setting up an opportunity for the Radis’ to disqualify you.

²¹ These are in the record and will be duly submitted, filed and presented as Exhibits at the Board hearing of Nov. 1

Board²² to deny our appeal, which is based entirely on well-established principles of coastal land use law, and fact.²³

My client has invested their time and money on behalf of their community to provide the legal and factual analysis that P&D should have required the applicant to provide, - a year ago- and the very specific legal analysis that County Counsel was asked to provide to the Planning Commission, but did not do, - since, in this as in any other permit proceeding- the *applicant*, not the public has the burden of producing evidence and proving their entitlement to a permit. There was no attempt, at any level, to respond to our expert's reports on the critical issues we have raised. Now that it is clear we have the facts and the law on our side, you suddenly begin to openly accuse Dr. Kent, (and me, as his unnamed "representative"), of lying about the facts of this case. ("Untruthful with frequency") You do not cite to any specific statement they or I allegedly made.

It is particularly offensive that your communication of 8.25.2022 was addressed to the owner of Surf Happens, (and copied to the A-Frame Surf Shop). Surf Happens and A-Frame have repeatedly raised the alarm over the County hosting a dispensary on the visitor serving property immediately adjacent to Surf Happens. Instead of taking those concerns seriously, and after your office's communications with your P&D staff, suddenly the staff report to the Planning Commission included some newly developed "criteria" for determining what facilities are legitimately considered to be a youth center.²⁴ These criteria appear to have been written expressly to *exclude* Surf Happens from the definition, even though the evidence is *undisputed* that they serve "primarily" (if not exclusively) youth aged 5-17, which is entirely consistent with the definition of "youth center" in the Health and Safety Code. Our Public Records Act request seeking writings pertaining to that "process" of developing criteria is still pending.

Regardless, the undisputed facts pertaining to Surf Happens were known to you prior to you sending the 8.25.2022 e-mail, when Ms. Keet wrote you:

²² We have identified certain statements by Commissioner Ferrini, who expressed dismay at unspecified "attacks on staff" by the appellants. P&D staff maintained afterward (conv. JZ-Travis Sowards 9.7.2022) that they never discussed such "attacks" with the Commission, and no one testified to them. Where, then, -other than from the applicant's lobbyists- or perhaps, from your e mail of 8.25.2022,- might Commissioner Ferrini have obtained the false information which formed the basis of his incorrect conclusion? Since no one adequately disclosed their ex partes, and the County is not fully disclosing writings under the PRA, the public may never know.

²³ We have requested to meet with all Board members to correct any misinformation they have been given. We have requested, but have not received, under the Public Records Act, any and all writings -including e mails, texts, records of telephone calls, whether on publicly provided or private devices, reflecting communications between and among you, your Board colleagues, your staff, their staff and/or applicants or representatives of the applicant that pertain to the Santa Claus lane site. Based on the history we have now discovered, we have expanded that request to include writings going back to January 1, 2020.

²⁴ We have explained elsewhere why these 'ad hoc' criteria were illegal. Staff has not produced a single document in response to the Public Records Act related to the circumstances surrounding their tardy development of these "criteria".

“For clarity: Surf Happens surf camps, which run 15 weeks of the year on Santa Claus Lane, are for ages 4-17. Our after-school program, for ages 8-15 brings kids to our shop year-round, skating up and down Santa Claus Lane and walking past the stores...

Separately, we offer lessons to all ages year-round.

It's disheartening to feel the county's neglect in acknowledging the reality of what takes place on Santa Claus Lane. I know there are other places this could be located away from such a family-oriented zone.”

Thus, while you agreed- outside of any public hearing or public process- to exclude all the potentially viable Summerland sites based on their proximity to the Montecito Academy- which, according to their website- offers primarily on-line learning²⁵, the facts are indisputable that Santa Claus Lane, compared to all the sites which you rejected under Chapter 50, is the worst possible site from the coastal policy perspective. Thus, your and the Board's actions prejudiced the consideration of appropriate sites for cannabis retail in the Toro/Summerland area. Please recall **that there is nothing in Chapter 50 or Article II that mandates the approval of a CDP of any site.** We are requesting, again, that you acknowledge your mistake.

7. **Credibility.** When hearing the case “de novo”, we expect the Board to consider the credibility of the parties based on their actual statements, not based on general and unfounded allegations- yours or by the applicant's lobbyists- that we are “lying”. **Be aware that precisely because of your attacks on them, my clients submitted their written Declarations to the Planning Commission under penalty of perjury. They provided direct lay and expert testimony.** They were required to sign their appeal form under penalty of perjury, as well. We expect that the applicants and their representatives will be required to submit their materials, and testify under penalty of perjury, at your hearing as well.

The Radis' were present at the Planning Commission hearing, failed to testify in their own behalf, and failed to dispute or explain their own prior assertion on a key point. Mr. Bozanich testified for them. We provided evidence that Maire Radis had e-mailed the County to assert that post-Streetscape, the parking deficiencies on the Lane would **not** be resolved, and she asked that businesses be compensated for the construction disturbance. At the hearing, the lobbyists asserted that the post-construction “problem” had disappeared. At least one Planning Commissioner based their decision on this new position. But the Radis' representatives' newly manufactured claim that all of the decades- long parking and traffic conflicts on Santa Claus Lane will miraculously disappear when the Streetscape improvements are completed is simply false. **The 2019 MND for the Streetscape project affirmed that the analysis and conclusions therein [page 46] did not and does not consider any new residential or commercial development.**

Mrs. Radis had claimed – before she ‘won’ the site designation contest- that she had already lost a tenant because of the impending improvements, and that impacts to their property would continue notwithstanding the “new” parking spaces on the west end of the Lane. She failed to testify to explain her change of position, which occurred after she entered into a partnership with Roots, to

²⁵ If a “primarily” on line school can be a sensitive receptor, so can a surf camp which actually receives children on its premises exclusively for 15 weeks a year.

receive a rental for her premises which is/was 2-3 times the per- square- foot rent for comparable commercial facilities on Santa Claus Lane.

It is also important that throughout the process, the Public Works representative (e.g. at SDRC and S-BAR) consistently contended that the Streetscape improvements were entirely irrelevant and should not be considered at all, while it was *undisputed* that after the improvements, the parking directly across from the dispensary would be reduced by twelve spaces. While that fact should not have been ignored, there is no evidence whatsoever that the ‘new’ or added spaces on the west end would in fact alleviate parking issues on the east (nearest the dispensary) going forward, especially since the true parking demand of the dispensary for customers as well as employees- and the conflicts between customer parking and beach goers was **never** analyzed.

The applicants presented no direct expert testimony of their own. They relied on outdated fragments of documents from ATE, and earlier hearsay statements from Public Works’ staff Will Robertson – which were entirely based on his own untenable legal theory that cannabis retail is the same as other retail, his incorrect legal assumption that the permit is not fully discretionary, [“just a land use permit”] that it would be *dangerous* to provide applicant’s analysis to us because the opponents would use it to attack the project, [See, Appendix 2- Robertson S-BAR testimony, e -mail 2.22.2022], and that therefore the County need not consider changes in intensity of use- and resulting traffic conflicts- as required in the coastal zone, a requirement which is expressed in the definition of development under Section 30106, and in case law, since 1980.²⁶] Finally, the only consistency finding presented to the Planning Commission addressed only “peak hour” trips, which are of marginal importance in this case. The evidence to support a finding of consistency with LCP policies does not exist.

B. As an elected official for almost twenty years, you know, or should know, that we have a right and a duty to identify inadequate analysis or legal errors made by County staff.

I am not going to enumerate here the insults leveled at my clients. I am confident -or was, prior to reading your 8.25.2022 e mail to Jenny Keet,- that the Board of Supervisors can distinguish between fact and fiction. The weaknesses of your position in this case must be apparent by now, even to you, because having failed to dissuade objections by misstating facts and law, you now (again) sink to attacking the objectors. As is common with *ad hominem attacks*, (arguments or reactions directed at a person rather than the position they are maintaining), it is impossible to fully respond. To be clear, however:

- 1. Your claim that my client (or their “representative”²⁷) is ‘intent on maligning people, again and again accusing staff of misdeeds’ is a reckless and deliberate falsehood. You should and do know better.**

²⁶ I offered, during that session, to meet with Mr. Robertson to explain these unique features of the Coastal Act but he declined. He then declined to provide us copies of submittals received from the applicant because he claimed we would use them to challenge the project.

²⁷ You might consider asking your lawyer whether a case for defamation can be made where you do not name your target, but all potentially interested parties in the community know their identity.

While you are certainly aware, as an elected official, that my clients have a right under the federal and state Constitutions to criticize you- and your staff in the performance of their duties, -and specifically in their analysis as planners and lawyers- (See, e.g. *Baca v. Moreno Valley Unified School District* 937 F. Supp. 719 (C.D. 1990)), - in fact, **no** “accusation of misdeeds” has occurred. To malign is to speak about someone in a spitefully critical manner.²⁸ You provide no specifics, but I will address two instances of our perceived “criticism” of staff which we are happy to acknowledge.

You specifically mention Barney Melekian, whose reputation remains impeccable. We never accused Under Sheriff Melekian of wrongdoing. In fact, it is obvious that, as described above, **UnderSheriff Melekian inherited the deeply flawed system you and Mr. Bozanich created.** We did advise, over a year ago that UnderSheriff Melekian had made a legal error in advising an outside attorney that, in effect, “no one would have to go to the Coastal Commission” to get a dispensary approved. Statements like that clearly could induce a false sense of security and inevitability in cannabis retail applicants. In fact, appeals to the Commission, especially where they implicate public access and environmental justice, derail projects all the time. Your County Counsel, to their credit, did respond to correct that misstatement and to confirm that the coastal development permit is appealable to the Coastal Commission. A mistake was made by County staff. It was identified by a member of the public. It was corrected. That is how government is supposed to work, but no longer does, apparently, in this County. However, County Counsel has *still* not stepped up to advise, in public, on the fundamental legal issues I raised in my letter to them of 8.15.2022. Dennis Bozanich wrote them to assert that their giving legal advice to the Planning Commission in public would be a gift of public funds. Thus, on September 7, Planning Commissioners remained sadly confused about the scope of their discretion.

For your information, we have also asserted, multiple times, and to no avail, that the Public Works staff person leading staff’s “review” of traffic impacts has repeatedly made incorrect statements of law, has asserted factual conclusions without analysis, and he has made incorrect representations on behalf of staff regarding the analysis necessary under the Coastal Act to evaluate the change in intensity of use proposed at the property. [See, Appendix 2]

You should be well aware, if you have read our appeal letters, that the County’s failure to analyze traffic and parking impacts and the resulting conflicts with public access and recreation, and lower cost visitor serving uses in this unique neighborhood (Coastal Act Sections 30212,30213, 30214, 30253(d) are **legal** failures that we have challenged repeatedly. You persist in behaving as though this property were not in the coastal zone, where standards are different, and in most cases, more rigorous than inland. Any criticism that we have of your staff’s analysis is not only within our rights to make, but in fact *must* be made in order to exhaust our administrative remedies- as your County Counsel must advise you.

²⁸ You might want to review the letters and e mails from Mr. Armendariz and Mr. Bozanich to see whether their demeaning descriptions of me and my client might actually fit this definition. Mr. Armendariz recently wrote my client asserting that there “will” be a dispensary on Santa Claus Lane in the next year. We don’t know where he gets his confidence, but we have reason to believe we have not been given all of his and Mr. Bozanich’s communications to you and the Board. Hence, our still pending Public Records Act requests.

2. You assert that my clients have engaged in exaggerated fearmongering... and you “come to the conclusion that [you] cannot believe people that exaggerate and are untruthful with frequency.” Your statement is a reckless and deliberate falsehood.

It is distressing that you have apparently “come to a conclusion” based on falsehoods perpetrated by your supporters in the industry. You have not identified a single instance of exaggeration, let alone “untruthfulness” on the part of my clients. I do not represent, nor am I or my client responsible for every statement made by every member of the public in a hearing, but at the Planning Commission hearing of 9.7.2022, I did not hear any exaggeration from any of them, either. **Recall that because of past attacks on their truthfulness by the applicant’s representatives, my clients testified under penalty of perjury in their written Declarations, while the proponents and their representatives did not.**²⁹

My client has owned the Santa Claus Lane shopping center for over 20 years. He has devoted enormous energy and effort, both as owner and as President of the Owners’ Association into transforming an economically depressed, dilapidated and poorly used area to provide visitor serving and beach related amenities, to serve the public coming to Santa Claus Lane beach, as well as the nearby residential neighborhoods- consistent with the purpose of the C-1 zone. He actively supported the Toro Plan, and the change of zoning from Highway Commercial, to C-1, to better balance the needs of the commercial neighborhood with concerns of surrounding residential neighborhoods.³⁰

The pertinent facts *today* are: Dr. Kent closely followed the process of design and approval of the Streetscape improvements, now finally under construction. As such, he is in a unique position to testify to the expected conditions during and after construction.³¹ These improvements are intended to enhance the visitor- serving, lower cost recreational function of Santa Claus Lane, through the construction of the walkable Streetscape and of a bike lane which is intended to be part of the California Coastal Trail. Now, because the County has failed to make any accommodation for access during construction, his tenants- as predicted- are finding it infeasible to remain. The fact that you now dismiss Dr. Kent’s legitimate long-term interests -*which are entirely consistent with LCP policy*- and his concerns as “fear mongering”, and attack his veracity is inexcusable.

Despite staff’s embrace of the applicant’s misrepresentations as to future conditions, there is no evidence that after the Streetscape improvements are complete, existing parking issues (let alone conflicts due to the removal of 12 spaces from *directly* across the street from the dispensary site) will be

²⁹ Of course, declarations under penalty of perjury in this County are apparently of little use: witness the County’s abject failure to put a stop to the illegal expansion of nonconforming cannabis cultivation in 2019, when they were given the legal tools to do so.

³⁰ The proposed location of this dispensary, with an easy on and off ramp to a freeway serving 50,000 drivers a day, and enabled by apps such as “Weedmaps”, will effectively rezone the area back to Highway Commercial, -and without Coastal Commission review and certification- to the detriment of public beach access, and the existing developed rural neighborhoods.

³¹ Commissioner Bridley was evidently also given erroneous information, outside the hearing, and she asserted, incorrectly, that parking deficiencies at the appellants’ property were ‘worse’ than at the applicants.

resolved. Once again, *in fact*, the MND for the Streetscape project specifically states (at page 46) **that the MND does not purport to address traffic from any new commercial or residential use.** How then, knowing the baseline, does staff recommend approval of this new commercial use³² to the Planning Commission, and presumably to the Board, and without any analysis of trip generation rates specific to cannabis, or the unique location of this dispensary as the only one between Santa Barbara and Oxnard, - serving a portion of the 50,000 highway travelers per day that pass by? Where is the evidence that the future traffic issues are or will be addressed? And, how can they persist in presenting a rosy picture of the future, knowing that the undisputed evidence, based **on NSD counts – which Dr. Kent was compelled to commission because County staff consistently refused to do a traffic study- from summer 2021,**-- is that ATE actually *undercounted* existing traffic in 2019, prior to approval of the Streetscape project?

The entire thrust of my client's appeal is that a cannabis dispensary is an unsuitable use in this beach-adjacent visitor serving area, in an EDRN- which thanks to your prior failure to provide the same protection as your Board enacted for other areas,- remains unprotected from commercial cannabis related activities. And that it is an incompatible and inappropriate use where children, young people and families congregate. The County's Health Department agrees with this. The State agrees with this, and under Section 35-144, your Board has determined that cannabis dispensaries are prohibited within 750 feet of "youth centers". Now, staff is attempting to illegally redefine youth centers, specifically targeting the Surf Camp by inventing criteria to exclude them from the definition. We have pointed out that you need an ordinance amendment and certification by the Coastal Commission to do this. Again, the fact that we are in the Coastal zone is relevant: regardless of whether Surf Happens or SCL is categorically excluded as a "youth center"³³ there can be no doubt that both the County and the Coastal Commission, the ultimate arbiter of the LCP, can and must consider the (in)compatibility of cannabis related activities with visitor serving areas.³⁴

Finally, whether you care to accept this reality or not, there is substantial evidence in the record that cannabis dispensaries have been and can be targets for crime, in suburban as well as urban communities.³⁵ Reasonable people can disagree on the threat level in a particular location, and specifically here, where the immediately adjacent freeway off ramp and Weedmaps will invite thousands of non-local customers daily to stop by. But calling people liars and fearmongers because they express their concern is beyond the pale.

³² If cannabis **retail** is just the same as other retail, why did the PEIR find its **particular** traffic impacts to be Class I, significant and unavoidable? Why did the County adopt and why did the Coastal Commission certify an entire new zoning chapter, Section 35-144, to address the unique impacts of cannabis?

³³ You are well aware from e-mails from Jenny Keet that Surf Happens serves 5-17 year olds, and that they use the property directly adjacent to Radis for their programs. The Planning Commission saw the photos. We are still seeking documents under the Public Records Act that might shed light on your own involvement in creating the post hoc rationalizations on which staff now relies. If Montecito Academy is a school, Surf Happens is a youth center.

³⁴ You don't have to be a traffic engineer to figure this one out. See, *Jorgensen v. Beach 'N' Bay Realty, Inc.*, (1981) 177 Cal. Rptr. 882. "The correct rule on the necessity of expert testimony has been summarized by Bob Dylan: "You don't need a weatherman to know which way the wind blows."

³⁵ You may not recall that in 2012, the County amended its LCP to prohibit medical dispensaries in the coastal zone, based on the Sheriff's testimony. The politics have may have changed, but the risks have not disappeared.

Your constantly shifting agenda has been made manifest: you have gone from repeatedly assuring your constituents that you will *not* support a cannabis dispensary on SCL, where you know the community does not support it, to signaling your intention – to your north county colleagues- that you *will* vote to approve this dispensary. And you intend to “blame” my clients, and me, and members of the public who, against all odds, continue to stand up and tell the truth.

In summary, my clients have submitted legal and factual issues which we are required to raise. We haven’t “attacked” anyone. On the other hand, your e- mail to constituents of 8.25.2022- which has already served to undermine your land use hearing process- among other prejudicial statements you have made- has diminished the perceived integrity of your own staff. You still have a choice: acknowledge your own mistakes, respect the proven facts, the governing law, and common sense. Act with integrity. Make the motion to grant the appeal.

Jana Zimmer
Attorney for Appellants

cc: Joan Hartmann, Supervisor
Gregg Hart, Supervisor
Bob Nelson, Supervisor
Steve Lavagnino, Supervisor
Clerk of the Board

Appendix 1: Das Williams Communications
Appendix 2: Will Robertson Communications

Appendix 1

8/19/20 Email exchange: Das W/Kristi Barens

From: Williams, Das <DWilliams@countyofsb.org>

Sent: Wednesday, August 19, 2020 4:27 PM

To: Kristi Barens <kristi.barens@mbsfin.com>

Subject: Re: No to a Cannabis store on Santa Claus Lane

Thank you for your email. It has definitely helped further a gradual change in my opinion. Though I do not feel, even as a father of two small girls who lives in Carpinteria, that a cannabis dispensary is incompatible with a family friendly business district, it does matter that you and others feel this way.

The motion did pass, so there will be an application process that may select an applicant at one location or another, but that is only the first step. There would remain a discretionary decision by staff, and if appealed, by the board, to allow the permit for the one selected to be approved. The factor that must be considered and given the most weight in the decision is community input so I think it is very unlikely that a retail store would be approved with unanimous community opposition. As a reaction, staff is making it clear on the application that the County retains the discretion to not approve any dispensary in a zone.

~~~~~

**8/18/20 Email exchange Das W/Maire Radis**

**From:** maire radis <maireradis@gmail.com>

**Sent:** Tuesday, August 18, 2020 4:35 PM

**TO:** Williams, Das

**Subject:** RE: Dispensary location on Santa Claus Lane

Hi Das, Fantastic job today, we completely understand your vote and look forward to moving ahead with our application. Cheers & best

**On Aug 4, 2020, at 8:53 AM, Williams, Das <DWilliams@countyofsb.org> wrote:**

Yes, that is a false interpretation of our process. Darcel and I will detail it for you, but while the selection process will choose one place in either Summerland or Santa Claus lane, "community benefit" is weighted as 70% if the criteria.

**On Jul 31, 2020, at 8:16 AM, maire radis <maireradis@gmail.com> wrote:**

**Hi Das & Staff,**

My son Will contacted you recently about the cannabis dispensary permit coming available in our area as we have a soon-to-be-vacant retail space on Santa Claus Lane. We would have no problem renting to a dispensary but apparently we are in the minority of the residents and property owners near us. The following letter was sent to all Santa Claus Lane property owners yesterday and I am wondering if it is true that there is a Santa Barbara County plan which would "mandate the presence of a cannabis selling store on Santa Claus Lane." I have highlighted that in the letter below. My understanding is that the County would ALLOW a dispensary, not MANDATE one, there's a big difference. If it's not true I would like to let people know.

Thank you so much, Maire

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**8/19/20 Email exchange Das/Peter Seaman [Sand Point]**

**From:** "Williams, Das" <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>

**Date:** August 19, 2020 at 3:57:33 PM MDT

**To:** Peter Seaman <[filmbysea@aol.com](mailto:filmbysea@aol.com)>

**Subject:** Re: No pot shop on Santa Claus Lane!

Thank you for your email. It has definitely helped further a gradual change in my opinion. Though I do not feel, as a father of two small girls that go to SC Lane all the time, that a cannabis dispensary is incompatible with a family friendly business district, it does matter that you and others feel this way. At the hearing yesterday I announced that, unless the applicants can radically change public opinion (which I doubt at this point will happen), that I will not support a dispensary in either Summerland or Santa Claus Lane. Thought the vote was largely procedural, I voted against it just to add some emphasis on the statement.

The motion did pass, so there will be a selection process that will choose an applicant at one location or another, but that is only the first step. There would remain a discretionary decision by staff, and if appealed by the board, to allow the permit for the one selected to be approved. As a reaction, staff is making it clear on the application that the County retains the discretion to not approve any dispensary in a zone.

Again, I cannot see approving one if my constituents remain against it.

On Aug 17, 2020, at 6:58 AM, Peter Seaman <[filmbysea@aol.com](mailto:filmbysea@aol.com)> wrote:

To: SB County Board of Supervisors

My wife and I, long time residents of Sand Point Rd, are horrified to learn that nearby Santa Claus Lane is even being considered for a retail cannabis outlet. This is a terribly ill-conceived idea for a street that already suffers from dangerously overcrowded traffic conditions, in combination with large numbers of

beachgoers. Adding a new and unsuitable commercial business is a recipe for disaster. Do not approve this!

We travel Santa Claus Lane daily and have for over 25 years. We've watched as the street has become wildly popular with families, surfers, and restaurant goers while the parking problems and lack of a sidewalk have yet to be solved. Cars heading toward the 101 South entrance are speeding up, kids and pets are trying to cross to the beach, confused travelers hunt and peck for parking spaces. It is already a frightening gauntlet that has to be run. Into this mix, you'd add a steady stream of pot shoppers, employees and security personnel? How ludicrous is that?

Sand Point Rd, like many other places, has recently welcomed many family members seeking refuge during the covid crisis. Our daughter and 1 year old granddaughter are among them. With many other neighborhood parents and kids, they walk to Santa Claus Lane often. And we hold our breath every time they do. Please DO NOT worsen this already chaotic and dangerous environment by adding a pot shop. The mix could be deadly.

Sincerely,

Peter and Margaret Seaman Sand Point Road Carpinteria, CA 93013 895-886-6327

----- Original Message -----

From: "Williams, Das" <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>

To: Surf Happens <[info@surfhappens.com](mailto:info@surfhappens.com)>

Cc: Sam Holcombe <[aframesam@yahoo.com](mailto:aframesam@yahoo.com)>, STEVEN KENT <[rikalokent@cox.net](mailto:rikalokent@cox.net)>, "McShirley, Kadie" <[kmcshirley@countyofsb.org](mailto:kmcshirley@countyofsb.org)>, "Elliott, Darcel" <[delliott@countyofsb.org](mailto:delliott@countyofsb.org)>

Date: August 25, 2022 at 7:16 PM

Subject: RE: Your surf camp - cannabis store on Santa Claus Lane

Good afternoon Jenny, I want to start by saying that I highly value your business and what it does for the community, and that has figured strongly into my thought process about the project. I have delayed responding to you because I find Steve's communications to you and to others so inaccurate that I had to take some time to gather my thoughts before writing an email about it. Some examples:

1. Steve's email to you leaves the impression that we are reluctant to help and that we only did so because he "pressed." He did not press, in fact he was very polite and perhaps even deferential in the actual meeting, we offered to get him better information. Our meeting was August 4<sup>th</sup>, Darcel's email to Steve is 4 days later. Hardly us dragging our feet trying to provide information.
2. His email to Darcel that he sent you completely inaccurately quotes me. I was advocating that, instead of relying on any hearsay, that I will be asking local law enforcement for any statistics or experiences with local dispensaries. I do not yet have any of those and have therefore not reached any conclusions about it.
3. In a Public Information Act request to the County last week, this was written by a representative of Mr. Kent's (who by the way was not in the meeting, likely

exacerbating the inaccuracy of what was written) “We know that there is a clear bias on the current Board in favor of approving any and all sites identified in the Chapter 50 process. Supervisor Williams told my client that the other Supervisors would not vote against this project because they all have had to accept retail cannabis in their districts.” I did not say that. I said that getting to 3 votes might be in fact difficult for a variety of reasons, not the least being that the Board established this framework in the first place. And my Chief of Staff, Darcel, encouraged the group to meet with my colleagues to showcase their concerns because they are hearing their own concerns from their communities that have cannabis retail stores going in that did not get appealed.

For my part I voted for this framework because I believe the dispensary model is more accountable than delivery operations, which the state has prevented us from banning. I do not find staff’s conclusion as to whether you are a sensitive receptor as crazy as you do, because surf schools were not an entity that seems to be included in the state’s definition of a “youth center,” according to the state code that Darcel sent Steve. The Board still has the discretion to say yes or no to the project and we can consider how it would affect your clientele.

For my part on this project, I continue to be open to turning it down because of the worries that you and some of your colleagues have, but the kind of communications I see out there from Steve and his representatives are not helping me reach that conclusion. They seem intent on maligning people, again and again accusing the County staff of misdeeds. That would mean that the most reputable local law enforcement veteran, Barney Melekian, who was serving at the CEO’s office before being interim Police Chief in Santa Barbara, and set up the framework and process for much of this somehow had it out for Santa Claus Lane. I do not find that credible. All the exaggerated fearmongering adds to this and I come to the conclusion that I cannot believe people that exaggerate and are untruthful with frequency.

So I will review anything you give me, and continue to lean against the project but I will no longer be committing a significant amount of my or my staff’s time to this. Steve has taught me how quickly our help can be turned into lies as proof that I’m not willing to consider the negatives of this project, even if I don’t believe every argument being used is valid. I intend my feedback to be helpful as you move through this process but it is clearly not being seen that way. I am sure you will find these tactics are not helpful in convincing my colleagues either.

P.S. Another concern I heard on the 4<sup>th</sup> was Granite employees parking on SC Lane so I have asked CalTrans to make a request for them to remove themselves and to look for lease opportunities on Via Real. I will continue to work on measures regarding the need for parking and for business in the area and will be happy to correspond on that subject.

**From:** Surf Happens <[info@surfhappens.com](mailto:info@surfhappens.com)>

**Sent:** Friday, August 12, 2022 7:51 AM

**To:** Elliott, Darcel <[delliott@countyofsb.org](mailto:delliott@countyofsb.org)>; Williams, Das <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>; McShirley, Kadie <[kmcshirley@countyofsb.org](mailto:kmcshirley@countyofsb.org)>

**Cc:** Sam Holcombe <[aframesam@yahoo.com](mailto:aframesam@yahoo.com)>; STEVEN KENT <[rikalokent@cox.net](mailto:rikalokent@cox.net)>

**Subject:** Re: Your surf camp - cannabis store on Santa Claus Lane

To all involved,

For clarity: Surf Happens surf camps, which run 15 weeks of the year on Santa Claus Lane, are for **ages 4-17**. Our after-school program, for **ages 8-15** brings kids to our shop year-round, skating up and down Santa Claus Lane and walking past the stores...

Separately, we offer lessons to all ages year-round.

It's disheartening to feel the county's neglect in acknowledging the reality of what takes place on Santa Claus Lane. I know there are other places this could be located away from such a family-oriented zone.

Aloha,



Jenny Keet

Surf Happens

3825 Santa Claus Lane, Carpinteria 93013

p: 805.966.3613 | e:[info@surfhappens.com](mailto:info@surfhappens.com) | w:[www.SurfHappens.com](http://www.SurfHappens.com)

**11/21/22 Email exchange Das W/Margaret Baker**

**From:** "Williams, Das" <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>  
**Date:** November 24, 2021 at 5:22:52 PM PST  
**To:** Margaret Baker <[mbaker1234@gmail.com](mailto:mbaker1234@gmail.com)>  
**Subject:** **Re: Please don't allow Santa Clause lane**

Thank you. **I definitely lean against the siting,** not because I think there will be a problem that arises from it, but because so few people seem to support it and I don't think it is of great moral importance to have it there. Happy Thanksgiving!

**From:** Margaret Baker <[mbaker1234@gmail.com](mailto:mbaker1234@gmail.com)>  
**Sent:** Wednesday, November 24, 2021 2:26:33 PM  
**To:** Williams, Das <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>  
**Subject:** Re: Please don't allow Santa Clause lane

Don't put cannabis at Santa Claus lane

12/20/20 Email Exchange Darcel Elliott/Jeffrey Wilson re: Traffic/Parking Study

**From:** [Elliott, Darcel](#)  
**To:** [Wilson, Jeffrey](#); [Melekian, Barney](#)  
**Cc:** [Yee, Steven H - CEO](#)  
**Subject:** RE: Is there a good Santa Claus?  
**Date:** Tuesday, December 22, 2020 11:29:23 AM  
**Attachments:** [image001.png](#)

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Thanks for the additional info Jeff!

**From:** Wilson, Jeffrey  
**Sent:** Monday, December 21, 2020 2:21 PM  
**To:** Melekian, Barney ; Elliott, Darcel  
**Cc:** Yee, Steven H - CEO  
**Subject:** RE: Is there a good Santa Claus?

Hi Darcel,

In regards to zoning requirements for permits through P&D, the Department would want to ensure that the retail location has adequate parking.

Parking Analysis

- If the cannabis retail store is going into a location that has a similar occupancy, then more than likely the site already has sufficient parking and a parking analysis would not be needed.
- If the cannabis retail store is going into a site that had a lower occupancy or parking requirements, than a parking analysis may need to be completed to determine that there is sufficient or adequate parking on site for the cannabis retail store.

Traffic Study

- This would be dependent on the site and what is being proposed for development.
- If the cannabis retail store is going into an existing commercial development and is not proposing any new development, in most cases a traffic study would not be required.
- If the cannabis retail store is proposing new development or additions to existing development, a traffic study may need to be completed based on site specific information.



**Jeff Wilson**  
**Assistant Director**  
Planning & Development  
123 E. Anapamu St.  
Santa Barbara, CA 93101  
805-568-2085  
<http://www.countyofsb.org/plndev/home.sbc>

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**From:** Melekian, Barney <[bMelekian@countyofsb.org](mailto:bMelekian@countyofsb.org)>  
**Sent:** Monday, December 21, 2020 2:01 PM  
**To:** Elliott, Darcel <[delliott@countyofsb.org](mailto:delliott@countyofsb.org)>; Wilson, Jeffrey <[jewilson@co.santa-barbara.ca.us](mailto:jewilson@co.santa-barbara.ca.us)>  
**Cc:** Yee, Steven H - CEO <[shyee@countyofsb.org](mailto:shyee@countyofsb.org)>  
**Subject:** RE: Is there a good Santa Claus?  
A study is not required, but might be necessary.

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**From:** Elliott, Darcel <[delliott@countyofsb.org](mailto:delliott@countyofsb.org)>  
**Sent:** Monday, December 21, 2020 1:58 PM  
**To:** Wilson, Jeffrey <[jewilson@co.santa-barbara.ca.us](mailto:jewilson@co.santa-barbara.ca.us)>  
**Cc:** Melekian, Barney <[bMelekian@countyofsb.org](mailto:bMelekian@countyofsb.org)>; Yee, Steven H - CEO <[shyee@countyofsb.org](mailto:shyee@countyofsb.org)>  
**Subject:** RE: Is there a good Santa Claus?  
Sorry Jeff, one more thing – would a parking or traffic study be required for the cannabis retail store?



**From:** Melekian, Barney  
**Sent:** Mon, 29 Jun 2020 17:36:58 -0700  
**To:** DePinto, Gina; Ellestad, Reese  
**Cc:** Wilson, Jeffrey; Lehr, Kathryn; Yee, Steven H - CEO  
**Subject:** FW: Santa Clause Lane/Toro Canyon CPA

I will forward you the detailed answers, but the short version is that it is a suitable location and we don't need to go through the Coastal Commission.

Barney

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**From:** Lesa Slaughter <Lesa@slaughterlawgroup.com>  
**Sent:** Monday, June 29, 2020 2:33 PM  
**To:** Melekian, Barney <bMelekian@countyofsb.org>; Seawards, Travis <tseawards@co.santa-barbara.ca.us>  
**Cc:** Lesa Slaughter <Lesa@slaughterlawgroup.com>; Daniela Hinojosa <daniela@slaughterlawgroup.com>  
**Subject:** Santa Clause Lane/Toro Canyon CPA

**Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.**

Dear Travis and Barney,

I hope this finds you well! Regarding the opening of retail cannabis licensing and zoning, (all of which I understand are moving to the community for feedback and may change), I have a question regarding the Santa Clause Lane/Toro Canyon CPA.

When looking at the Community Engagement PowerPoint for the Santa Clause Lane/Toro Canyon map, it appears that the address of 3825 Santa Clause Lane, zone commercial, is an area qualifying for cannabis retail. Would you be able to confirm that?

Second, will retail in this area require Coastal Commission approval as well?

Thanks in advance for your assistance! Lesa

Lesla Slaughter, Esq.

**SLG**  
**SLAUGHTER LAW GROUP. PC**  
o: 818-710-0952 c: 310-270-5539 f: 818-449-0945  
4881 Topanga Canyon Blvd., Suite 238

5/16/22 Email Das W. to constituents

**From:** Williams, Das <DWilliams@countyofsb.org>

**Sent:** Monday, May 16, 2022 10:16 AM

**To:** STEVEN KENT <rikalokent@cox.net>; kaye padaro.org <kaye@padaro.org>; Jim Mannoia <polocondospresident@gmail.com>

**Cc:** Tamara De Matteo <tamdmtt@gmail.com>; Abby Turin <at@kallosturin.com>; Robyn Geddes <robyn\_geddes@hotmail.com>; Jeremy Norris <jnorris@mcn.org>; Lynette Hall <montecitmom@mac.com>; Catherine Lee <cleerdg@juno.com>; Penny & Jim Angelotti <pennyangelotti@gmail.com>; Mark Brickley <mpaulsb3@gmail.com>; Ted Fickel <fickelte@lavc.edu>; Chris and Jenny Keet <info@surfhappens.com>; Gina <gina@rowanboutique.com>; Gina Chadbourne <gchadbourne@gmail.com>; Marc Borowitz <marc@eventsbyrincon.com>; Ryan Reed <ryan@coastsupplyco.com>; Sam Holcombe <aframesam@yahoo.com>; Sep Wolf <sep@erfolgproperties.com>; Thais Marlier <thaiskitchen@icloud.com>; Will Padaro <will@padarobeachgrill.com>; Cindy Scheid <cindys.mlco@gmail.com>; Donna Punj <donna.punj@gmail.com>; Jeff Barens <jeffbarens@beachinsantabarbara.com>; Karen Hartman <khartmancpa@comcast.net>; Kristi Barens <kristi.barens@mbsfin.com>; Madeleine Mueller <missco1@msn.com>; Mike McColm <mrmmccolm@gmail.com>; Patricia Thompson Perry <pthompson2175@cox.net>; Barbara Stoops <bls100@cox.net>; Lucy Hromadka <hromer1@me.com>; Pat French <pat@santafe.com>; Nanci Robertson <surflane1@yahoo.com>; Dale Donohoe <ddonohoe@intertexcompanies.com>; Gordon E. <gkrischer@omm.com>; Steve Starkey <sstarkey@imagemovers.com>; Liu, Linda <liliu@countyofsb.org>; Harmon, Nereyda <nmontano@countyofsb.org>; Walsh, Cassidy <walshc@countyofsb.org>; Plowman, Lisa <lplowman@countyofsb.org>; Elliott, Darcel <delliott@countyofsb.org>

**Subject:** RE: Cannabis store proposal on Santa Claus Lane

I want to thank Jim for starting this thread. As I have shared with you, even if they were nonconforming, I believe Island Breeze discontinued their operation long enough that they should have lost their nonconforming status. While that is not the thrust of our attempts to litigate against them (I wanted it to be) the County has been involved in legal action against them. They are one of the final operations that have not yet made it under the cap. Either they will not make the cap and will have to cease operations, or they will make the cap and I am sure you will appeal their permit so that I have an opportunity to hold them accountable. I do not think you are “spitting against the wind” and the moment of truth is near, and I appreciate your work on the issue.

On Padaro, I don't think I agree that a dispensary will create all the problems some of you have contacted me about, but I think the question is what the community benefit will be of the operation. This is a component of the ordinance that I insisted upon and I feel strongly about it. There should be a substantial community benefit and I do not see what it is.

I am legally required to look at all evidence before making up my mind on land-use issues that could be appealed, so I cannot say that I have conclusively decided against it. However, I do not yet see why I would vote to approve a retail use that so many in the area oppose.

#### 8/12/22 Emails to Das W from and re surf shops at SCL

----- Original Message ----- From: Surf Happens <[info@surfhappens.com](mailto:info@surfhappens.com)>  
To: Darcel <[delliott@countyofsb.org](mailto:delliott@countyofsb.org)>, Das <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>, Kadie <[kmcshirley@countyofsb.org](mailto:kmcshirley@countyofsb.org)>  
Cc: Sam Holcombe <[aframesam@yahoo.com](mailto:aframesam@yahoo.com)>, STEVEN KENT <[rikalokent@cox.net](mailto:rikalokent@cox.net)>  
Date: August 12, 2022 at 10:51 AM  
Subject: Re: Your surf camp - cannabis store on Santa Claus Lane

To all involved,

For clarity: Surf Happens surf camps, which run 15 weeks of the year on Santa Claus Lane, are for **ages 4-17**. Our after-school program, for **ages 8-15** brings kids to our shop year-round, skating up and down Santa Claus Lane and walking past the stores...

Separately, we offer lessons to all ages year-round.

It's disheartening to feel the county's neglect in acknowledging the reality of what takes place on Santa Claus Lane. I know there are other places this could be located away from such a family-oriented zone.

Aloha,



Jenny Keet  
Surf Happens  
3825 Santa Claus Lane, Carpinteria 93013  
p: 805.966.3613 | e:[info@surfhappens.com](mailto:info@surfhappens.com) | w:[www.SurfHappens.com](http://www.SurfHappens.com)

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From: sam holcombe <[aframesam@yahoo.com](mailto:aframesam@yahoo.com)>  
To: Kent and Rikalo <[rikalokent@cox.net](mailto:rikalokent@cox.net)>  
Date: July 20, 2022 at 8:28 PM  
Subject: Camp Numbers

Hi Dr Kent,

Per our conversation here are those numbers we were talking about:

In 2020 We did 10 weeks of Surf Camp and we averaged 19 kids a day

In 2019 We did 12 weeks of Surf Camp and we averaged 38 kids a day

In 2018 We did 12 weeks of Surf Camp and we averaged 41 kids a day

In 2017 We did 12 weeks of Surf Camp and we averaged 38 kids a day

I also looked back at my records and it looks like we took the camp over in 2008.

Zero [campers over age 18] Our campers are between age 5 and 13. At 14 we let them be CIT's (counselors in training) and then at 15 is start paying them to work.

Hope that info helps out!

See you soon.

Sam Holcombe

A-Frame Surf Shop

Ocean Adventures Summer Beach Camp

**8/2/22 Email to DW, Kent re "youth center" definition from P&D**

From: "Elliott, Darcel" <[delliott@countyofsb.org](mailto:delliott@countyofsb.org)>

To: "Williams, Das" <[DWilliams@countyofsb.org](mailto:DWilliams@countyofsb.org)>, "McShirley, Kadie" <[kmcshirley@countyofsb.org](mailto:kmcshirley@countyofsb.org)>, STEVEN KENT <[rikalokent@cox.net](mailto:rikalokent@cox.net)> Date: August 8, 2022 at 11:47 PM

Subject: Re: follow up of our meeting on Santa Claus Lane

Hi Steve -

Thanks for following up. I haven't been able to find what I was looking for in the cannabis state code but it turns out staff was using the Health and Safety Code.

Below is their assessment, which will be included in the staff report regarding the appeal:

The two existing surf camps are private commercial businesses.

The surf schools do not meet the definition of a youth center, which is considered a sensitive receptor in the Coastal Zoning Ordinance.

According to the State of California Health and Safety Code Section (11353.1), a “youth center” means any public or private facility that is primarily used to host recreational or social activities for minors.

The Surf Happens and A-Frame surf school websites indicate that the programs serve customers of all ages. Staff finds that these surf schools are not considered sensitive receptors with regard to the allowed cannabis uses in a C-1 Zone and there is no setback requirement for private commercial businesses.

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## APPENDIX 2: Timeline: Will Robertson

**8/24/21 Incomplete letter** from P&D Senior Planner Nereyda Harmon requested applicant provide the following traffic/transportation related items:

3. Traffic Study. "Please provide a Traffic Study to demonstrate that the project will not result in an inconsistency with the Toro Canyon Plan's Circulation policies."
4. Site Transportation Demand Management Plan (STDMP). "Please provide a STDMP that includes lot location, total number of employees, hours of operation, lot access and transportation routes, and trip origins and destinations."
5. Employees. Please provide information including how many employees are proposed and clarify whether these will be part-time or full-time. How many of these employees are drivers? How many of these employees are security?"

### **9/10/21 SBAR Meeting [conceptual review]**

SBAR COMMENTS as reflected in minutes:

- Need to coordinate parking and street frontage with Public Works and Santa Claus Lane Streetscape project.
- Applicant to work with eastern neighbor regarding existing wall across property line.
- .Driveway entry appears too narrow and could create circulation conflict

### **9-15-21 SDRC via ZOOM**

**PW/Transportation; Will Robertson- stated** "no comments or concerns", no need to consider PW when he realized that Planner was requesting applicant provide traffic study, and the SBAR requested further parking/traffic study Robertson stated:

***"why is SBAR asking [for parking/traffic study]; if engineering said 'no' we [Public Works] say 'No'. cannabis is "just another commercial use" "this is dangerous to require a parking study generally we***

***don't micromanage change of tenants- does generate more traffic- editorialize why was traffic study requested: "wrong move to make"-***

During the SDRC mtg, Jana Zimmer spoke , offered to meet with him, he said he'd prefer to speak with planner; he kept repeating how a traffic study was not only not necessary but dangerous precedent- SBAR could speak with Public Works Director.

### **2-18-22 SBAR meeting [second conceptual]**

**While reviewing previous requests, Ed DeVicente commented that:**

***"Traffic report has been conceptually approved, supplemental info is being reviewed by Transportation"***

Jana Zimmer emailed the Planner, Nereyda Harmon, with the request:

*"I understand at today's SBAR meeting mention was made of an addendum to a traffic study submitted by the applicant and being reviewed by Public Works. Please provide that addendum and any writing/comments pertaining to it or responses to it by any county department. You may consider this a Public records request if necessary". [e mail dated ]*

Planner Harmon forwarded the request early the following week on 2-22-22, to David Villalobos, Planning Hearing Support Supervisor]. Villalobos immediately forwarded the request to Will Robertson, and to Lael Wageneck, Public Works staff. [e mail dated ]

Robertson responded *"I do not believe that this has been formally submitted to the Planner. Please direct all requests to Nereyda to eliminate confusion on this project. Once a formal submittal is made, I believe Mrs. Zimmer is able to obtain a copy. Otherwise since this project is sensitive in nature, a formal PRR through County Counsel should be required. I will defer to P&D on how they would like to handle it"*

Villalobos immediately responded, pointing out: *"Hi Will, if you follow the below document string you will see that Rey actually forwarded it to me; I sent to PW because your department would have the documents in your possession. If Rey had had them, she would have just sent them to me and we would have responded to Ms. Zimmer directly. Though we can ask Ms. Zimmer to submit her request via the*

*online portal [she often doesn't] I don't believe we can make her. Her email request [below] I believe is legally sufficient".*

Will Robertson responded:

*"My concern is that it has not been a formal submittal to the County through the planner. It is in draft form and they were looking for my feedback on whether it met standards. **I do not feel comfortable sharing this with Mrs Zimmer without the applicants approval since we know she is going to use it to challenge the project.** [emphasis added]*

*I will **not** be providing the document to Mrs Zimmer until the applicant agrees it is ok to share. We do not generally share draft documents with the public but this may be different. Again I defer to P&D and County Counsel. If Rey would like to ask the applicant for a copy and share it, that I can support."*

David Villalobos responded that "You may want to reach out to your Counsel and ask in advance how to handle it.

Several minutes later, Robertson forwarded the Traffic study to Planner Harmon, cc'ing Travis Sowards, stating: "Travis/Rey, here is the item. **I do not want to get involved with this considering its just an LUP that shouldn't be taking up this much of my time. Do as you need to with this one. I am uneasy sharing a draft report without the applicant's knowledge.-**

Robertson then immediately sent an email to the applicant's representative, Ed de Vicente, advising: "Mrs. Zimmer has already requested a copy to review. I will leave the matter up to you and P&D staff on how you want to handle this.

-Will

De Vicente responded:

Will, thank you this is the correct course of action. We have not yet formally submitted the package but will soon, that is what interested parties should review or we will have no control of what versions are out there.

Regards,  
Ed de Vicente



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On 3-14-22 Planner Cassidy Walsh sent an email to Will Robertson advising him she was getting ready to take the project to the Zoning Administrator and asking *“Can you please prepare a departmental letter for this project when you have a moment.”*

On 3-14-22 Robertson responded ***“I won’t have conditions on this since it’s simply a change of use. Are you looking for a “no condition” letter?”*** Walsh responded “Yes, if you are able to provide a no condition letter that would be great”.

On 5-11-22 Planner Walsh again wrote to Robertson, advising that the [Roots] project would be going to the Zoning Administrator on May 23rd and “we are hoping you can attend to answer any traffic related questions; this project has a great deal of public involvement and we expect traffic/parking to be the number one concern to come up.

[Robertson did not attend the Zoning Administrator hearing, or the Planning Commission hearing]