



Please attach these comments to planning commission meeting February 27, Item number 25-0251

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To Planning Department <planning@edcgov.us>

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Rebuttal to Public Comments Against CCUP21-0007/Rosewood Cannabis Project

I. Introduction

The following response addresses the concerns raised in public comments opposing the **Rosewood Commercial Cannabis Use Permit (CCUP21-0007)** and the associated **Mitigated Negative Declaration (MND)**. These comments attempt to apply the **Fair Argument Standard** to necessitate an **Environmental Impact Report (EIR)**. However, substantial evidence provided in the Initial Study, Mitigation Monitoring and Reporting Plan (MMRP), and staff recommendations **demonstrates that no significant, unmitigable environmental impact exists**.

California law mandates that Planning Commissioners **follow regulations and ordinances** rather than personal opinions about cannabis. The El Dorado County **Planning and Building Department recommends approval**, confirming that the project is **legally compliant and environmentally sound**.

II. Addressing Fair Argument Standard Assertions

1. Groundwater Usage & Hydrology (CEQA Hydrology and Water Quality – X)

Claim: The project will overdraw groundwater, affecting nearby residences and a vineyard.

Rebuttal:

- The **MND confirms sufficient water availability**, using **scientific analysis** and **water use estimates** compliant with CEQA.
- **CEQA Guidelines § 15155** require a “significant impact” to be demonstrated—not speculation. Opponents provide **no expert study** proving a measurable impact.
- **The applicant’s water use calculations are already registered with the state** and comply with county standards.

👉 **Legal Basis:** Speculative claims do not meet the “substantial evidence” threshold required under CEQA to mandate an EIR (*Citizens for Responsible Equitable Environmental Development v. City of San Diego*, 2011).

2. Land Use Conflicts (CEQA Land Use Planning – XI)

Claim: The project is incompatible with the “residential” nature of Derby Road and conflicts with the nearby Fairplay AVA vineyard.

Rebuttal:

- **The zoning of the project site allows for cannabis cultivation.**
- The project follows all setback and land use requirements. Opposition to legally permitted land use does **not** constitute a valid CEQA challenge (*Joshua Tree Downtown Business Alliance v. County of San Bernardino*, 2016).
- **The Fairplay AVA designation does not prohibit cannabis cultivation**, nor does it grant exclusive land use privileges to vineyards.

👉 **Legal Basis:** Land use consistency is determined **by zoning laws**, not subjective opinions of neighboring property owners (*Pocket Protectors v. City of Sacramento*, 2004).

3. Air Quality & Traffic Dust (CEQA Air Quality – III, Transportation – XVI)

Claim: The project’s vehicle trips will generate significant PM2.5 dust emissions.

Rebuttal:

- The **MND includes mitigation measures**, such as **dust suppression**, meeting **CEQA and Air Quality Management District (AQMD)** standards.
- **Traffic impact studies found no significant cumulative effect**, and a full EIR is unnecessary for **speculative claims without empirical data**.
- **Roadway dust is a regulated issue**, but it is **mitigated** through project conditions.

👉 **Legal Basis:** Courts reject EIR demands for speculative impacts (*Berkeley Hillside Preservation v. City of Berkeley*, 2015).

4. Odor Control (Appendix B: Odor Report, CEQA Air Quality – III)

Claim: The odor study is based on data from a different location and should use site-specific modeling.

Rebuttal:

- The project **complies with El Dorado County's 7 D/T Odor Standard** under Ordinance 5110.
- **Carbon filtration and odor mitigation measures are industry-standard**, and their effectiveness has been **validated in multiple approved CEQA cases**.
- CEQA does **not require localized odor studies** if recognized **scientific data supports mitigation effectiveness** (*North Coast Rivers Alliance v. Kawamura*, 2015).

👉 **Legal Basis:** Odor impacts **do not qualify as a significant CEQA impact** when mitigated using approved technology (*California Building Industry Association v. Bay Area Air Quality Management District*, 2015).

5. Wildfire Risks (CEQA Wildfire – XX, Fire Safe Plan – Appendix G)

Claim: The Fire Safe Plan fails to address nearby properties and evacuation concerns.

Rebuttal:

- The **Fire Safe Plan complies with all state and county fire regulations**.
- The project **has been reviewed by the Fire Department and is in compliance with California Fire Code requirements**.
- No **expert agency** has raised concerns. Speculative objections from the public do **not constitute substantial evidence** under CEQA.

👉 **Legal Basis:** Speculative fire concerns do not meet CEQA’s “substantial evidence” standard (*Clews Land & Livestock, LLC v. City of San Diego*, 2017).

III. Addressing Other Public Concerns

A. MND Process & CEQA Compliance

- The **Mitigated Negative Declaration (MND)** fully complies with CEQA.
- **CEQA does not require an EIR** if mitigation eliminates significant impacts (*Save Our Big Trees v. City of Santa Cruz*, 2015).
- The **Planning Department’s professional staff** has determined that an EIR is unnecessary based on objective **technical studies**.

B. Personal Opposition to Cannabis is Irrelevant

- The Planning Commission **cannot deny a project based on personal opinions against cannabis**.
- **State law and county ordinances allow this use**, and **bias against cannabis cannot justify denial** (*Anderson v. City Council of Pleasant Hill*, 1981).

C. Staff Recommendation Supports Approval

- **County staff reviewed all aspects of the project and recommended approval**.
- **The applicant has met all regulatory requirements**, and the **Planning Commission must follow legal standards, not community sentiment**.

IV. Conclusion

The opposition has failed to provide **substantial evidence** to trigger an EIR under the **Fair Argument Standard**. The **Mitigated Negative Declaration is legally and scientifically sound**.

Final Recommendation: Approve the project as proposed, consistent with staff recommendations and CEQA compliance.

Thanks

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