

Comments for Administrative Record  
File: Use Permit Application U\_2018\_0022 Statham

**Mendocino County**  
**NOV 12 2019**  
**Planning & Building Services**

Email to Brent Schultz & Trent Taylor (9-5-19)

Dear Brent & Trent,

I write on behalf of Hollis Lesur, who has endured a year of her neighbor's violation of zoning laws by conducting a large-scale automotive repair business, initially without even a business license and currently in the absence of a finalized building permit or County approval of a minor use permit.

In reviewing documents from my client, it appears that the County has been aware of this situation since at least June of 2017 but has taken no steps to enforce county laws. Apparently the County did not even investigate until August of 2018, when a complaint was lodged. It then took another seven weeks for the owner to file his application for a use permit. On October 22, 2018, planner Keith Gronendyke wrote the business owner a two-page letter detailing all this and indicating that PBS staff would likely determine that this cottage industry application fails to meet the criteria and further that the operation in a Class K accessory structure would be unlawful.

Inexplicably, that minor use application has been pending yet another year and will not be heard until sometime in October 2019. Meanwhile, unpermitted operations and business activities have continued over the past year, including the documented storage of 20-35 vehicles on the property, considerable customer-related traffic, including tow trucks, and noise, dust and pollution from these operations on a virtually daily basis. This, in addition to the environmental concerns about situating an enterprise that handles automotive fluids and which poses fire dangers smack dab in a residential neighborhood.

I am curious why no administrative citation has issued and no fines levied for these violations. My understanding is that the Code Enforcement Officer wields plenary powers under Section 1.08.020, et seq. of the Zoning Code and that "each and every day a violation of the provisions of the Code exists constitutes a separate and distinct offense and shall be subject to Citation," under section 1.08.060 at the rate of \$100 per day for a first violation. Further, only in cases where the violation clearly "does not create an immediate danger to health or safety" may the Officer cite but allow "a reasonable amount of time to correct or otherwise remedy the violation." I'm unaware of any timetable for compliance imposed on the business owner.

Given the obvious environmental hazards to this kind of operation in a developed residential zone, I'm troubled that the health and safety aspects seem to have gotten short shrift. Even assuming that the danger might not be "immediate," I remain nonplused about the lack of penalties over such a long period of time. Immediate issuance of a citation would have been in everyone's best interest, it seems, as it would have shed full light on this matter while allowing the business owner the ability to cure, to move, or to appeal the citation.

I am informed that Storer Feiler, a Senior Environmental Scientist with the Northcoast Regional Water Quality Board (CalEPA), when informed of the existing state of affairs, registered his own complaint and concerns with the County more than a year ago in August 2018. I note that my client has previously advanced some of these concerns to you in her email of February 2019 and by way of phone conversations with you. Finally, I've also conducted some of my own research on this aspect of the problem.

Vehicle garages open the door to many kinds of accidental toxic spills, including gasoline, solvents, oil, and antifreeze. Proper storage and disposal of these kinds of hazardous wastes is essential. Heavy metals often leak into automotive fluids of various kinds and also escape into the environment. At least eight of these have been found associated with automotive repair - arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver. My understanding is that a waste-product is classified as "Characteristic hazardous Waste by the EPA if it possesses just one of four features - Ignitability, Corrosivity, Reactivity and Toxicity. I believe this automotive repair business would qualify on all four counts.

If there is storage of old tires and batteries, as well as rags soaked with heavy distillates, that is a whole separate concern in terms of fires and combustability. Split or broken batteries also constitute environmental waste and must be handled accordingly. Flammables are supposed to be stored in a location other than the building where people normally work and in a manner approved by the fire and health departments.

My understanding is that a single gallon of used motor oil can contaminate up to a million gallons of water, not to mention long-term sustained harm to neighboring domestic wells and underlying aquifers. This is in addition to contaminants being introduced to the environment through volatilization of solvents regularly used in the handling of parts, engines, etc. These include a category known as "chlorinated solvents" that are highly toxic in small quantities and are resistant to degradation over time, including TCE, PCE/PERC, and CT solvents, as well as less toxic but troubling chemicals like Toluene and Xylene.

The situation is highly troubling situation and demands County attention. It has needed that for well over a year and the neglect is inexcusable given the potential risks and hazards. I see no evidence that the County has inspected the facility (PBS and/or Public Health), nor has the County made appropriate demands on the owner to take needed precautionary steps, including the installation of secondary containment steps around storage tanks. It seems that a single site visit was made and some pictures taken. Then, nothing.

I would underscore that this is not a situation of a friendly neighbor fixing a car or two in his or her spare time in the nature of a true cottage industry. This operation can likely be relocated on or near Highway 1 between Mendocino and Fort Bragg or within the Fort Bragg City Limits. There is, for example, an empty site of a closed gas station on Main

Street in Fort Bragg, right near an auto parts shop. Changing the location should not adversely affect the business itself.

As you are well aware (and as reflected in the 2018 Gronendyke correspondence, section 20.452.020 restricts cottage industry to a business that is “clearly incidental and subordinate” to surrounding residential use and does not “change or disturb” the overall “residential or rural character of the premises or its surrounding.” Further, any equipment is not supposed to “create noise, vibration, glare, fumes, odors, smoke...in excess of those customarily generated by single family residential uses in the neighborhood.” I find it quite hard to comprehend how this business could even begin to comply with these standards in an RR-10 zone, yet there has been no County enforcement.

Please provide a comprehensive response to my client and demonstrate that the County is both willing and able to act assertively and in a timely manner. Thank you.

Rod Jones

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