



SAVE OUR RURAL TOWN

SUPPLEMENT TO APPEAL SUBMITTED BY SAVE OUR RURAL TOWN OF THE “NOTICE OF EXEMPTION” ISSUED BY REGIONAL PLANNING FOR THE HUMIDOR BESS PROJECT

Save Our Rural Town respectfully submits this supplement to our Appeal that was filed on August 25, 2023 pursuant to the “Notice of Exemption” (NOE) for the Humidor Battery Energy Storage System project (BESS Project) that was issued by the Department of Regional Planning on August 16, 2023. Specifically, this supplement sets forth an additional reason why the Humidor BESS project is not exempt from the California Environmental Quality Act (CEQA) and therefore is not eligible for an NOE.

Regional Planning issued the NOE based on the presumption that the Humidor BESS is a “ministerial” project and therefore exempt from CEQA (citing CEQA Guidelines Section 15266); however, the Humidor BESS project (which is subject to the Acton Community Standards District) requires a Minor Conditional Use Permit because installation of the Humidor BESS facilities will require the removal of all native vegetation from more than 10% of the lot designated as Assessor Parcel Number 3056-004-058¹. Specifically, and as indicated in the attached map, construction of the Humidor BESS facilities will require the removal of at least 1.3 acres of native vegetation; because lot No. 3056-004-058 is only 9 acres in size, the removal of 1.3 acres of native vegetation constitutes 14% of the lot area. Therefore, a Minor Conditional Use Permit is required for the Humidor BESS project. Moreover, Appendix B of the preliminary hydrology report² suggests that significant additional grading will be required in the southeast corner of the project beyond the area where the BESS facilities will be installed because of the steeper slope on that portion of the property; this grading will remove even more native vegetation beyond the 14% lot area required for just the BESS facility installation.

Save Our Rural Town has evaluated the Site Plan that was ministerially approved for the Humidor Project by Regional Planning, and notes that the contractor who prepared the Site Plan (Stantec) reported that native vegetation would only be removed from 4.5% of the project; this conclusion is erroneous because Stantec calculated the 4.5% value based on the area of native vegetation removed from the “whole project” which spans two separate lots and does not reflect the area of vegetation that will be removed for each lot. The Acton CSD requires the vegetation removal calculation to be assessed based on individual lots (not on “whole projects”) and it specifically requires a Minor Conditional Use Permit on any “lot consisting of 1 acre or more” where the removal of native vegetation exceeds “10% of the lot area”.

Because the Humidor BESS Project will remove native vegetation exceeding 10% of the lot area of APN 3056-004-058, it must undergo the discretionary Minor Conditional Use Permit process; thus, it is not eligible for ministerial approval and by extension, it is not eligible for the CEQA exemption designation established by CEQA Guidelines Section 15266. Accordingly, the NOE is not valid and should never have been issued.

¹ The Acton Community Standards District is established in the County Zoning Code, and Section 22.302.060(B) states “On any lot consisting of one acre or greater, the removal or destruction of native vegetation exceeding 10 percent of the lot area within any 12-month period shall require a Minor Conditional Use Permit”

² [file:///C:/Users/Jacki/Downloads/humidor_prelim_hydr_rpt_20220421%20\(3\).pdf](file:///C:/Users/Jacki/Downloads/humidor_prelim_hydr_rpt_20220421%20(3).pdf).



0 94 188 Feet

Vegetation Removal on APN 3056-004-058

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