

March 27, 2019

**VIA E-MAIL**

Honorable Mayor Teresa Barrett  
and Councilmembers Healy, King, Fischer, and McDonnell  
City of Petaluma  
11 English Court  
Petaluma, CA 94952

**Re: Safeway Fuel Center Project—Bias of City Decision-Makers and Staff**

Dear Mayor Barrett and Councilmembers Healy, King, Fischer, and McDonnell:

We write on behalf of our client, Safeway Inc. (“Safeway”), regarding the proposed Safeway Fuel Center Project (the “Project”) at 335 S. Mc Dowell Boulevard (the “Property”) in the City of Petaluma (the “City”). As addressed in our prior correspondence, dated January 24, 2019, January 28, 2019, and March 3, 2019, City decision-makers and Staff have demonstrated bias against Safeway and the Project on numerous occasions. Since our earlier letters, Safeway has discovered even more evidence of such bias and certain City decision-makers have publicly reaffirmed their personal animus against the Project. As the City Council plans to again hear the appeal of the Project (the “Appeal”) on April 1, 2019, Safeway would like to again bring these concerns to the fore so that these members can take the only lawful options available: recuse themselves or deny the Appeal. This letter is a cumulative summary of the evidence of bias obtained by Safeway to date, with the referenced documents and communications attached as exhibits hereto.<sup>1</sup>

**A. Procedural Due Process Compels that Safeway is Entitled to a Fair and Unbiased Proceeding.**

The biases displayed by City decision-makers and Staff bear directly on Safeway’s due process rights. In accordance with principles of procedural due process, Safeway, as the applicant in a quasi-judicial proceeding, is entitled to reasonable notice and opportunity to be heard, including the right to a fair hearing before unbiased and disinterested decision-makers. (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612 and *Nasha LLC v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 483.) When acting in an adjudicatory capacity, such as the Appeal, “the city council must be ‘neutral and unbiased.’” (*Woody’s Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1021.)

It is well established that a decision-maker who has preconceived views of the outcome of the proceeding without regard for the evidence is not an impartial and unbiased decision-maker.

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<sup>1</sup> We have not addressed this letter to Councilmembers Kearney and Miller because they have recused themselves from any further action related to the Project. Unless otherwise noted, emphasis in quotations is supplied and citations are omitted.

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(*Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547; *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90 [“Just as in a judicial proceeding, due process in an administrative hearing also demands an appearance of fairness and the absence of even a probability of outside influence on the adjudication.”] (emphasis in the original).) “Biased decision makers are constitutionally impermissible and even the probability of unfairness is to be avoided.” (*Applebaum v. Board of Directors* (1980) 104 Cal.App.3d 648, 657.)

In lay terms, if a Councilmember is to vote on a land use item such as the Safeway gas station, that member cannot make up their mind ahead of time and/or publicly voice their disapproval of the Project prior to a vote on the matter at a formally-noticed public hearing. As discussed more thoroughly later in this letter, this guidance applies to comments made during a Councilmember’s campaign as well.

#### **B. Biased Decision-Makers Cannot Act on the Appeal.**

The statements made by City decision-makers and Staff regarding Safeway and the Project clearly exceed “an unacceptable probability of actual bias,” the minimum legal standard for disqualification. (*Nasha L.L.C. v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 483). As such, these biased decision-makers cannot lawfully act to uphold the Appeal. “An individual member ordinarily cannot vote on a matter in which that member is interested. If the member does, the action taken by the body of which he or she is a member is invalidated.” (*Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1170, 1173 [court overturns project denial based on involvement of decision-maker who expressed his opposition to the project prior to the public hearing].) Such a decision-maker must be disqualified from further participation in the matter. (*Mennig v. City Council* (1978) 86 Cal.App.3d 341, 351.) If a majority of members of a decision-making body are disqualified from acting, it is appropriate to allow the action of an inferior decision maker, such as the Planning Commission, to stand as the final decision. (*Id.* at 351-352; *accord, Sabey v. City of Pomona* (2013) 215 Cal.App.4th 489, 498.)

Notably, none of the ex parte communications by Councilmembers cited below or in our prior correspondence were disclosed on the record as required by law. (*Safeway Stores, Inc. v. City of Burlingame* (1959) 170 Cal.App.2d 637, 648 ) [Safeway denied a fair hearing when councilmembers met with proponents of a parking assessment district and relied on information received at such meetings when reaching a decision without disclosing such meetings and information on the record]; *accord, Flagstad v. City of San Mateo* (1957) 156 Cal.App.3d 138.) Additionally, several of Mayor Barrett’s and Councilmember Healy’s emails demonstrating bias were not produced in accordance with Safeway’s Public Records Acts requests to the City dated May 24, 2018 and November 19, 2018, a summary of which is attached hereto as Exhibit A. These facts only further strengthen Safeway’s due process claims.

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As compelled by the law, the City Council members who have displayed their biases against Safeway and the Project must recuse themselves or refrain from any action to uphold the Appeal. These members can either follow the example set by Councilmembers Gabe Kearney and Kathy Miller or vote to deny the Appeal.<sup>2</sup>

### **C. Evidence of Bias by City Councilmembers and Others.**

#### **1. Mayor Teresa Barrett**

Mayor Barrett has expressed her opposition to the Project since 2013 and has used her position on the Bay Area Air Quality Management District (“BAAQMD”) board to lobby against it. (“Gas station ignites public controversy,” Argus-Courier, August 29, 2013 [Ms. Barrett is quoted as opposing the Project, noting “It’s really not what we’ve intended for our city.”].) Documents indicating Mayor Barrett’s bias are attached hereto as Exhibit B.

In an August 15, 2013 email, then-Councilmember Barrett questions Jim Karas, BAAQMD’s then-Director of Engineering regarding the status of Safeway’s then-pending Authority to Construct permit application.

In an August 16, 2013 email from Scott Owen, BAAQMD’s Supervising Air Quality Engineer, to Barry Young, BAAQMD’s Senior Advanced Projects Advisor, Mr. Owen provided a “briefing email” for Mr. Karas to use in his follow up call with Councilmember Barrett. The briefing email noted that the Project is not an especially large gas station and summarized the results of BAAQMD’s health risk screening assessment (“HRSA”), which concludes that Safeway would have to pump 25.71 million gallons per year before the relevant health risk standard would be triggered.

At the August 19, 2013 City Council hearing, Councilmember Barrett noted that she served as liaison to BAAQMD and had traded information with the “head person” there regarding the Project.

Unsatisfied with BAAQMD Staff’s previous responses, in an August 23, 2013 email to Mr. Owen copying BAAQMD CEO Jack Broadbent, ***Ms. Barrett listed “some of our concerns” with the Project in response to Jim Karas’s initial response to her that it was a “pretty straightforward” project.*** She then listed several issues related to air quality and traffic, including

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<sup>2</sup> Because Councilmembers Kearney and Miller have recused themselves from any further action on the Appeal, this letter does not focus on the evidence of bias pertaining to these members which was summarized in our January 24, 2019 letter to you.

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greenhouse gas emissions associated with drive-thrus, the widening of U.S. 101, and the Graton Casino in Rohnert Park.

In October 1, 2013 replies to commenters on the public notice for the Authority to Construct permit, which was circulated to neighboring schools and residents in both English and Spanish, Mr. Owen notes that BAAQMD “carefully reviewed” emissions of gasoline vapor from fuel deliveries and vehicle refueling. He states that Safeway “will be required to install and operate vapor recovery equipment that will reduce emissions of gasoline vapors by more than 96% and that meets the latest California Air Resources Board [“CARB”] and BAAQMD regulations.” He further writes:

The District has also completed a health risk screening analysis (HRSa) for this project, which includes assessing the potential adverse health effects of the gasoline vapors from the gasoline dispensing equipment. HRSAs are used to determine if particular chemical emissions pose a significant risk to human health. The results of the HRSa completed for this project are in compliance with the BAAQMD’s project risk limits in District Regulation 2, Rule 5. Therefore, it is unlikely that emissions related to this proposed project would cause adverse health effects to the surrounding population.

Notwithstanding BAAQMD’s extensive review and HRSa, Councilmember Barrett provided incorrect and misleading information regarding Project throughput to Jack Broadbent via a February 28, 2014 email. That information was provided to her by Councilmember Healy who received the information from Project opponent and local gas station owner Arash Salkhi. Ms. Barrett did not produce this email in response to Safeway’s Public Records Act requests.

At the March 3, 2014 hearing to consider a moratorium on new gas stations, Councilmember Barrett stated: “***I don’t like this project.*** I don’t like that it’s right next to these sensitive receptors.” She also directed Staff to investigate whether the Project would qualify as a “drive-thru” so as to be disallowed under the City Code. (See also “Temporary ban on Petaluma gas station fails,” March 4, 2014, Argus-Courier.)

In a May 7, 2018 email to Chris Thomas, Chief Business Officer of Petaluma City Schools, Councilmember Barrett wrote, “Yes, read it, thankbyou (sic) for sending it!” after receiving Ms. Thomas’s letter in opposition to the Project and peer review of the Project health risk assessment (“HRA”). Ms. Barrett did not produce this email in response to Safeway’s Public Records Act requests.

In a June 25, 2018 email to Linda Hartrich, an Appellant, Councilmember Barrett included a Staff analysis confirming that the recommended 300 foot distance between a new school and a gas station does not apply in reverse since gas stations are regulated by the air district, and wrote:



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“I’m afraid the standards are not as high as either you or I would want.” (*See also* July 7, 2018 email from David Glass to Ms. Hartrich [“The property zoning permits such a use, and it appears the regulations that are in place under the law for such use in proximity to schools do not meet the threshold to withhold approval of a project such as this. This project will comply with all California laws regarding such issues as pollution.”].) Notwithstanding the foregoing, Councilmember Barrett voted on December 3, 2018 and January 28, 2019 in favor of a resolution to uphold the Appeal, which includes a provision claiming that “CARB recommended setbacks for gas stations may be inadequate.”

In that same June 25, 2018 email, Councilmember Barrett indicated she intended to “follow up” with BAAQMD regarding the Project’s throughput of gasoline because she “did not know how the threshold of 25.7 million gallons was determined,” and noted that it “seemed like an awfully high number to me.” Ms. Hartrich thanked her for her efforts.<sup>3</sup>

During the June 26, 2018 Planning Commission meeting, Councilmember Barrett emailed City Staff who were in attendance at the hearing and then-Mayor Glass: “I am watching the planning commission meeting and I am stunned that *Safeway employees and consultants* are speaking as part of public comment. They *should be stopped from speaking once they are identified as Safeway shills* and allowed to speak when Safeway has a summation or reminded that they could have spoken before public comment period.”<sup>4</sup> Mayor Barrett previously used profanity in referring to Safeway’s tenant improvement project at another Petaluma shopping center.

In a June 26, 2018 email, Councilmember Barrett emailed Planning Commissioner Diana Gomez at 11:46 p.m. (after that evening’s Planning Commission vote on the Project) that Safeway was “unbelievably aggressive” and in a “league of their own.” She then thanked Commissioner Gomez for her “comments and moving the project down the line.”

Ms. Barrett was also in frequent email contact with Project opponents as they organized to file the Appeal. On July 8, 2018, she emailed then-Mayor David Glass that bicycle advocate Bernie Album was working with a group to appeal the Project and that she was forwarding emails from others “who ask what they can do.” When Mr. Album previously expressed that he could not garner sufficient support for the Appeal and was “giving up,” Mayor Barrett replied that “this

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<sup>3</sup> Ms. Barrett’s statements in this regard are in conflict with her comment during the March 3, 2014 City Council hearing regarding the proposed moratorium, wherein she confirms that she spoke to BAAQMD and was informed that the figure was derived from BAAQMD’s screening-level analysis and understood that it was well over the amount of gasoline that Safeway would sell.

<sup>4</sup> Emailing decision-makers during a public meeting violates the intent if not the letter of the City Council Policy Governing the Use of Electronic Communications During Public Meetings. (City Council Resolution No. 2012-026.)

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is NOT a win for Petaluma.” On July 9, 2018, she emailed Mr. Album to thank him for his work on the Appeal. She also cautioned Mr. Album about creating a public paper trail of her correspondence with him, emailing him on July 7, 2018: “Bernie, better not to include me in these emails,” and in regard to the draft appeal letter writes: “I couldn’t open it, but it is probably best I not see it.” Although Ms. Barrett received a copy of the filed Appeal from appellant Richard Sachen on July 7, 2018 and from Pam Torliatt on July 12, 2018, she emailed Annette Bock on August 20, 2018 that she had not seen the Appeal.

In an August 20, 2018 email to Annette Bock, Councilmember Barrett wrote: “***I do not support the idea of putting this project in this place . . .***”

On September 1, 2018, Councilmember Barrett wrote to project opponent and City Technology Advisory Committee Member Angelo Sacerdote to express her “concern[s]” with the Project, stating she was “very aware of the issues.”

On September 12, 2018, Councilmember Barrett referred to the upcoming hearing on the Project as “one of a handful that I feel absolutely terrible about.”

In response to an October 5, 2018 email from Ellen Webster, a Board Member of Petaluma City Schools, urging her to vote yes on the Appeal and the EIR, Councilmember Barrett wrote: “Keeping my fingers crossed until I see the staff report!” and signed off “Ever hopeful, Teresa Barrett.”

Project opponent and electric vehicle advocate Jason Davies emailed Councilmember Barrett on October 8, 2018 to state that it “just pains me to see us going backwards like this when we already have existing [gas] stations and we need to be getting ourselves off our addiction to fossil fuels.” Ms. Barrett responded, “I’m totally on the same page and I’m cautiously hopeful.”

During her successful race for Mayor in 2018, ***then-Councilmember Barrett emailed her campaign manager that she was making her opposition to the Project known personally to constituents as she walked door-to-door***, but refused to provide a formal written response on Facebook out of fear she would have to recuse herself from voting on the Project. (October 21, 2018 email from Teresa Barrett to Chris Samson.)

In a November 24, 2018 email to Olivia Ervin, fellow planner Lisa Davison quotes from a summary prepared by a law firm of the *Protect Niles v. City of Fremont* decision, suggesting it could be helpful in justifying an EIR for the Project. This case was cited by City Staff in the resolution purporting to uphold the Appeal. We explained how it was distinguishable in our December 1, 2018 letter to the City Council. While Ms. Barrett appears to have read our letter and voted in favor of the resolution upholding the Appeal, she later emailed Janice Cader Thompson after the December 3rd hearing, disavowing any knowledge of the *Protect Niles* case.

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Even after Safeway raised these concerns to the City, Mayor Barrett has continued to publicly and unapologetically display her biases. In her comments at the February 25, 2019 hearing on the motion for reconsideration, Mayor Barrett reiterated and confirmed her bias against Safeway and the Project. She noted that Safeway had “aggressively” sought to pursue the Project, a permitted use on land long planned and zoned by the City for a gas station. She incorrectly stated that Safeway was not willing to meet with reasonable mitigations, when in fact Safeway has agreed to 65 conditions of approval, far more than imposed on any comparable gas station project. She publicly chided Safeway for raising legitimate bias issues, noting that it made the remaining voices “even more important.” She confirmed that she had discussed the Project with constituents while campaigning for Mayor. She concluded her comments on the reconsideration motion by stating: “The Project is just not a ‘must have’ City infrastructure improvement nor does it provide a baseline human need such as affordable housing.”

## **2. Vice Mayor Kevin McDonnell**

Vice Mayor Kevin McDonnell expressed his bias against the Project both during his campaign for City Council and after his election. Documents indicating Vice Mayor McDonnell’s bias are attached hereto as Exhibit C.

In a Facebook post on his “Kevin McDonnell for City Council” website, dated July 12, 2018, Mr. McDonnell is asked by a constituent: “*Safeway gas in its current planned location: Yay or nay?*” *Mr. McDonnell replied, “As stated on my Web page issues, NO.”* (Capitalization in the original.)

In his campaign for City Council, Mr. McDonnell stated that he was opposed to the Safeway gas station Project. (“Ballot set in Petaluma election races,” August 23, 2018, Argus-Courier.) He also posted his opposition to the Project on his campaign website, noting his ownership of an electric car and questioning whether gas stations were a “business model we want to encourage.”

In Facebook posts by No Gas Here and others, Mr. McDonnell is listed as being opposed to the Project.

In response to a questionnaire from Bike Petaluma, then-City Council candidate McDonnell wrote: “When developments come through the Planning process, we must create incentives to move away from cars. They only create pollution and traffic.”

He also participated in a public candidate forum on October 13, 2018, co-hosted by opposition group No Gas Here and attended by Safeway representatives, in which he explicitly expressed his opposition to the Project.

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In a February 5, 2019 email to Zahyra Garcia, Co-Chair of Indivisible Petaluma and vocal opponent of the Project, Vice Mayor McDonnell writes that City Council “pushed the final decision of(f) until March 8” and he would like her input on the Appeal. He suggests that they arrange to meet in person since his ability to reply in writing is “somewhat constrained.”

In a February 19, 2019 email to the Deputy City Clerk responding to Safeway’s May 24, 2018 and November 19, 2018 Public Records Act requests, Vice Mayor McDonnell apologizes for his “slow response on this” and claims to be “a little shocked” at the need to produce responsive documents. Acknowledging that he has more communications than disclosed, he goes on to state that “Most communication re Safeway would be campaign related.”

In a February 22, 2019 email to constituents Ron and Cyndi Maddalena, Vice Mayor McDonnell expressed great disappointment with feedback from the City Attorney indicating that the City could not stop the Project, stating “It is very disappointing to me that the first action I am involved with on the Council isn’t even a choice - Council has its hands tied on this.”

In a March 8, 2019 email from City Attorney Eric Danly to Safeway and Safeway’s counsel regarding its Public Records Act requests, Mr. Danly states he is withholding responsive documents from Councilmember McDonnell (and presumably Mayor Barrett and Councilmember Fischer as well) “because they relate to campaign activity and not to the public’s business” and that “(t)he public interest in not disclosing such communications clearly outweighs the public interest in disclosure pursuant to Section 6255 of the Public Records Act in order to promote citizens running for local office.” Mr. Danly cites no authority to support his position and there is none.<sup>5</sup> Now that Mr. McDonnell is an elected official, any biased comments he made against the Project *at any time* most certainly do relate to the public’s business and are not exempt from disclosure under the Public Records Act. (See discussion below regarding the recusal of Lafayette Councilwoman Susan Candell for comments she made against a project during a political campaign.)

### **3. Councilmember Mike Healy**

Before the Project application was even complete, Councilmember Healy registered his strong opposition to it. Documents indicating Councilmember Healy’s bias are attached hereto as Exhibit D.

At the August 19, 2013 City Council hearing, in response to comments from independent gas station owners against a Safeway gas station made during general public comment, **Mr. Healy**

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<sup>5</sup> Indeed, such a sweeping statement would allow a city to refuse to disclose candidates’ mandatory campaign contribution and/or conflict of interest disclosure forms on the misguided belief that such information does not relate to the “public’s business.”

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*claimed the Project would set a “dangerous precedent,”* questioned whether there were any legislative changes that could be made prior to the Project coming through, and noted his understanding that the gas station owners had retained local counsel and that the issue was “not going away lightly.”

He authored an op-ed article against the Project. (“Bennett misses the point on moratorium,” a copy of which along with the original editorial entitled “City Council is fighting the wrong battle,” is attached hereto.) This alone would disqualify him from taking any action concerning the Project. (*Nasha L.L.C.*, *supra*, 125 Cal.App.4th at 483-484 [article opposing project written by planning commission member gave rise to an unacceptable probability of actual bias and was sufficient to preclude the commissioner from serving as a “reasonably impartial, noninvolved reviewer.”].)

As noted previously, *Councilmember Healy was the driving force behind both the proposed moratorium against gas stations and the proposed fee increase on gas stations.* (See Minutes of January 27, 2014, February 24, 2014, March 3, 2014, and July 7, 2014 City Council meetings; *see also* “Temporary ban on Petaluma gas station fails,” March 4, 2014, Argus-Courier and May 2014 email exchange with Ross Jones.) He appears to have taken these actions after lobbying by competing gas station owners and a local developer. (*Id.*; *see also* February 28, 2014 email exchange between Mike Healy and Arash Salkhi; *see also* March 3, 2014 letter from James Dombrowski, a Petaluma resident and anti-trust attorney that has sued Safeway numerous times on behalf of other gas station operators, including Arash Salkhi; March 4, 2014 Argus-Courier article, “Temporary ban on Petaluma gas station fails, noting Healy proposed a moratorium on gas stations because of what he characterized as unfair competition . . .”; and August 29, 2017 email from Mike Healy to Argus-Courier reporter Hanna Beausang providing an update on Dombrowski’s lawsuits against Safeway.].)

On January 27, 2014, in the middle of another project’s public hearing, Councilmember Healy proposed an urgency ordinance that would bar the processing of any gas station application pending adoption of legislation and provide discretionary approval on Safeway’s application and “give Safeway the opportunity to convince us that it’s a good thing for the community,” noting that may be a “difficult thing for them to do.”

In a February 21, 2014 email exchange with Malcom Johnson purporting to justify his position in support of the moratorium, *Councilmember Healy writes that the “problem” with the City’s existing land use processes is that it “will lead to an automatic approval for this project without any discretionary approval required by the planning commission or city council.”*

In a February 28, 2014 email, then-Councilmember Teresa Barrett provided incorrect and misleading information regarding Project throughput to Jack Broadbent, BAAQMD’s CEO. That information was provided to her by Councilmember Healy who received the information from

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Project opponent and local gas station owner Arash Salkhi. Councilmember Healy did not produce his correspondence with Councilmember Barrett nor City Manager John Brown (who is mentioned in the email) in response to Safeway's Public Records Act requests.

At the March 3, 2014 City Council hearing on the *moratorium*, Councilmember Healy cross-examined Safeway's then-Real Estate Manager Mary Davi regarding estimated sale tax figures and its fuel pricing practices, neither of which are required considerations for a site plan and architectural review ("SPAR") application, referring to Safeway as "enormously aggressive" in regard to pricing. He also asked Staff detailed questions regarding the Project's traffic even though the traffic study was not then complete and the Project was not before the City Council. Without any evidence of impacts, he suggested reducing the number of fuel pumps in half. ***Healy concluded by stating that the Project is on "auto-pilot" and that he was not "particularly happy" about it.***

In a July 9, 2018 email to appellant Linda Hartrich, Councilmember Healy explained his vote in favor of the Project at the June 26, 2018 Planning Commission as "probably the most disappointing vote to me in my years on the city council and planning commission. ***I did not like the proposal at all***, but I voted for it because I had to." He went on to explain, "when the Safeway gas station first surfaced a few years ago, Kathy Miller and I proposed an urgency moratorium to prevent new gas stations in town until city council could amend the zoning ordinance to, for instance, require a CUP for any new gas station. . . . So if you want to blame someone, blame the councilmembers who refused to support the urgency moratorium."

In an August 19, 2018 email not produced by Councilmember Healy in response to Safeway's Public Records Act requests, but attached to a January 15, 2019 letter from Janice Cader Thompson to the City requesting his recusal, Mr. Healy wrote to Stephen Gale of the Sonoma County Democratic Party Central Committee ("SCDPCC") regarding the opening of its 2018 campaign headquarters elsewhere in the Washington Square Shopping Center. ***In that email, Mr. Healy expresses his dislike for Safeway, the Property owner, and the Project:***

I don't get the impression that the SCDPCC has any idea of the steaming pile of horse poop of a local political mess it has stepped into with the choice of this HQ. The building you will be using is scheduled to be torn down soon for a Safeway fueling center 100 feet from an elementary school serving a 90%+ Hispanic population. The parents, the school district & the neighborhood are all outraged. Yet Safeway & the landlord persist. I will not be attending the grand opening or having anything to do with the HQ while it is in operation. Many in Petaluma will regard this choice of HQ as a slap in the face.



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As noted by Ms. Cader Thompson, Mr. Healy wrongly believed that the building to be used for the SCDPCC headquarters was located on the Project site. Despite his mistaken belief, his bias against the Project and Safeway are evident.

In an August 20, 2018 email exchange between Councilmember Healy and Planning Manager Heather Hines, he forwards a copy of the petition in support of the Project to Ms. Hines with the subject line: “Scroll down to the highlighted one – I’m putting this down to ‘Don’t believe everything on the internet’. . .” The petition included a signature by a woman named Heather Hines, to which Ms. Hines responded: “Oh my gosh! That is not a quote from me. That’s infuriating!” Councilmember Healy concluded, “Yeah, I didn’t think so. But the whole council has it, just so you know.”

In numerous emails not produced by Councilmember Healy in response to Safeway’s Public Records Act requests of the City, he was in near constant contact with Petaluma City Schools staff regarding the Project both prior to and after the Planning Commission hearings on May 8, 2018 and June 26, 2018, and before the originally-scheduled City Council hearing on September 17, 2018. In documents produced by Petaluma City Schools in response to a Public Records Act request by Safeway, Chief Business Official Chris Thomas routinely blind carbon copied Councilmember Healy on District correspondence regarding the Project. In response, Mr. Healy routinely asked her to call him to discuss the Project.

In a June 25, 2018 email exchange between Councilmember Healy and Ms. Thomas, they mock a petition in support of the Project sarcastically noting that certain signees are from Santa Rosa, San Francisco, and Hawaii.<sup>6</sup> Councilmember Healy then proceeds to ridicule outreach efforts made by the Property owner’s consultant, whom he erroneously assumed was Safeway’s consultant, stating “Now Safeway has Brian Sobel calling around. Good grief.”

In an October 11, 2018 email to Matt Brown, Managing Editor at the Petaluma Argus-Courier, Councilmember Healy gives him a “heads up” that the City Council hearing was continued. He goes on to mischaracterize Safeway’s submittal of a new HRA the day before, which was requested by BAAQMD, as “Yet another data dump.”

At the January 28, 2019 City Council hearing, Councilmember Healy claimed on three occasions to have only learned about the *McCorkle Eastside Neighborhood Group v. City of St. Helena* case that same day, stating: “And now we’re being told because the (*McCorkle*) decision, the court decision that I first heard of today, that no, that’s gone back 180 degrees and we have to allow the project to move forward without an EIR. I have to say my comfort level, and that is not

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<sup>6</sup> The petition in question was hosted by Change.org which, by default, logs the GPS location of the signee at the time the petition is signed. Change.org offers the signee an opportunity to change the location, but many signees often overlook this box.

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where I would like it to be. My, and I would be hesitant to take action on that after having just gotten that today . . . I realize it's a six-week-old case, so it is fairly fresh, but I first heard about it today. And I would like a chance to read it myself and form my own conclusions, and I haven't had that opportunity." Contrary to Councilmember Healy's claims, he received an email from Katie Crump, Executive Assistant to the City Manager, on January 24, 2019 at 4:26 p.m., forwarding a letter from our firm discussing the *McCorkle* decision, including a copy of the published opinion.<sup>7</sup>

#### **4. Councilmember D'Lynda Fischer**

Documents indicating Councilmember Fischer's bias are attached hereto as Exhibit E.

In Facebook posts by No Gas Here and others, Councilwoman Fischer is listed as being opposed to the Project. Appellants Adriann Saslow and Glenn Rubenstein claim that then-City Council candidate Fischer informed them directly that she was opposed to the Project. On her campaign website, she likewise stated: "I oppose the future development of fossil fuel gas stations and will work to change our zoning code to reflect this position."

At the January 28, 2019 City Council hearing on the Appeal, Councilmember Fischer provided more than 40 comments and questions including her opinion that "regardless of the outcome of the studies, I think we all just know intuitively that having this 50 feet from a school is not a good idea," and that planting trees "would help protect the climate, which we're not doing by approving a gas station at this location." Subsequently, Councilmember Fischer cast the lone vote against the motion to uphold the Appeal that night. Conversely, on February 25, 2019, she voted against the motion to reconsider the Project without providing any commentary as to her changed position.

At the March 4, 2019 hearing, Councilmember Fischer aggressively questioned Safeway representatives regarding traffic and air quality impacts that are thoroughly analyzed in the mitigated negative declaration ("MND") and numerous technical studies. Referencing a 2005 CARB handbook, she specifically mentioned the 300 foot recommended distance between new sensitive receptors and gas stations even though that issue had been responded to several times before, including by City Staff and Illingworth & Rodkin.<sup>8</sup> Those responses correctly note that the guidance is intended to ensure that a conflict is not created when a sensitive receptor that does not require any air district review or permits is allowed near an already permitted source that could adversely affect it without review. The gas station, a new source, required extensive BAAQMD

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<sup>7</sup> This email was produced by Vice Mayor McDonnell in response to Safeway's Public Records Act requests.

<sup>8</sup> Safeway has also responded multiple times before that the actual distance between the nearest gas island and McDowell Elementary School is 548 feet. (*See, e.g.*, Project Plans, Sheet A1.08.)

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review, including the HRSA and public notice and comment period, only after which BAAQMD issued Safeway its Authority to Construct permit.

Even more analysis of potential health risk was conducted during the City review process. Expert air consultant Illingworth & Rodkin prepared three HRAs, using two different methodologies. Those HRAs examined sensitive receptors within 1,000 feet of the Project site—over 3 times the recommended distances identified by CARB—and consistently concluded that the Project will NOT result in adverse health impacts. The consultant retained by Petaluma City Schools concurred with this assessment. (*See, e.g.*, June 18, 2018 letter from Chris Thomas to Natalie Mattei.)<sup>9</sup> Moreover, the sophisticated evaporative vapor recovery regulations put in place since CARB’s 2005 handbook require that vapors be controlled instead of released directly into the atmosphere as occurred prior and continues in many other states. (*See* documents from BAAQMD included in Exhibit B; *see also* May 8, 2018, September 4, 2018, and January 28, 2019 memos from Illingworth & Rodkin.)

In addition, the comment regarding the recommended 300 foot setback ignores the fact that the handbook also recommends avoiding new sensitive land uses (*e.g.*, schools or residences) within 500 feet of a freeway or urban road with 100,000 vehicles per day. Several nearby residences are located within 500 feet of U.S. 101 as are several recently-constructed and/or under-development housing projects.

As recently as March 9, 2019, after Safeway had raised its bias concerns, Councilmember Fischer posted a poll on her website under “Hot Topics” asking “Shall there be a gas station built in Safeway parking lot?”

## **5. Bias by Others**

The bias by the City Council has also been exhibited by members of the City’s commissions and Staff. The same rule prohibiting bias by decision-makers applies to staff and other administrative officials.<sup>10</sup> Documents indicating bias by others are attached hereto as Exhibit E.

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<sup>9</sup> Although the Planning Commission and Heather Hines were copied on this letter, it does not appear to have been provided to you as part of your agenda packet.

<sup>10</sup> (*See, e.g., Morongo Band of Mission Indians v. State Water Resources Control Board* (2009) 45 Cal.4th 731, 739-740 [agency staff may not act so as to create either the unacceptable risk of, or actual, bias by such a decision-maker] and *Haas v. City of San Bernardino* (2002) 27 Cal.4th 1017 [relying on an “appearance of bias” standard, court strikes down a county’s practice of appointing hearing officers whose prospects of future work depended solely on the county’s goodwill reasoning that there was a natural tendency to reward those officers whose decisions

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As early as May 2013, prior to Safeway's submittal of an application, Planning Manager Heather Hines emailed with Arash Salkhi, Project opponent and owner of three gas stations in Petaluma, including the Valero gas station at 532 E. Washington Street,<sup>11</sup> to schedule an in-person meeting to "discuss potential impacts of a Safeway gas station."

In an August 25, 2014 email regarding resubmittal of its SPAR application, then-City Manager John Brown asks the Safeway representative for sales tax revenues "adjusted for cannibalization." Planning Manager Heather Hines sent a similar request to then-Real Estate Manager Mary Davi and notified Mr. Brown of her actions.

In a May 9, 2018 email exchange with Planner Tiffany Robbe, *Environmental Planner Olivia Ervin wrote that the Project was "tricky because [the City] does not have to consider use (it's allowed by right)." Ms. Robbe responded that "Yes, that the use question is not really on the table does make it tricky!"*

In a May 18, 2018 email to Planner Lisa Davison, Ms. Ervin advocates that Ms. Davison explore potential significant impacts not identified in the MND prepared by Ms. Ervin and Planning Staff.

In a June 26, 2018 email Planning Commissioner Bill Wolpert, who voted against the Project, wrote to Christian Kallen with Sonoma News regarding a proposed Safeway gas station in Sonoma. At the Planning Commission hearing that evening, Commissioner Wolpert then questioned Safeway's Senior Real Estate Manager extensively about Safeway's business plans in Sonoma. He failed to disclose this ex parte communication with Mr. Kallen, which appears to have contributed to his reason for voting to deny the Project.

In a June 27, 2018 email to Mr. Brown, Ms. Hines referred to the June 26, 2018 Planning Commission hearing at which the Project was approved as "long and extremely painful."

In a July 7, 2018 email, Ms. Hines cautioned the developer of an ARCO gas station across town to review the "videos of the recent public hearings for the Safeway Fuel Center," noting that there were "considerable concerns about the conflict between a new gas station and an adjacent school that you should consider given the proximity of your project site to a school." Ms. Hines made this comment even though she stated in a June 25, 2018 email to the City Council that no

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avored the county by giving them future appointments].)

<sup>11</sup> On July 10, 2018, the Planning Commission approved a use permit and site plan and architectural review for remodeling of this station relying on a categorical exemption from CEQA. That approval did not discuss, let alone analyze, the impacts of relocating two underground storage tanks on the project site, which had a documented soil vapor intrusion issue.

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laws or regulations imposed any siting restrictions on a new gas station near schools or similar uses.

Responding to the Project architect's correction of his reporting on the number of gas dispensers, Argus-Courier reporter Yousef Baig emails then-City Manager John Brown on July 2, 2018: "That's not why [the Project] struggled to get approval . . ."

In an August 2, 2018 email to Vicky Mayster, Appellant Bernie Album reports that Planning Commissioner Scott Alonso, who voted against the Project on June 26, 2018 and for the Valero project on July 10, 2018, offered to obtain relevant documents to support the Appeal. In a follow-up email, he notes his group's intent to have the City "deny or delay Safeway a permit."

In an August 9, 2018 email to Bernie Album, fellow appellant Glenn Rubinstein notes that Planning Commissioner Alonso advised him that there would be "no collusion risk" for reaching out to the City Attorney "for legal clarification and guidance on the scope of our appeal."

In a September 18, 2018 email, Mr. Brown wrote to Damien Breen of BAAQMD indicating that he had called the day before to "discuss our strategy going into last night's [City Council] meeting, and the revised recommendation for a meeting continuance." Although BAAQMD had already reviewed the Project and issued an Authority to Construct permit in 2013 (and extension in 2017) and did not have any comments on the MND during its circulation in April-May 2018, BAAQMD submitted a letter to the City commenting on the Project HRA prepared by Illingworth & Rodkin on September 17, 2018 at 2:57 p.m.. Given the late submittal, the September 17th hearing had to be continued causing both delay and additional expense for Safeway and the Property owner. Councilmember Barrett then wrote to Damien Breen, Jack Broadbent, and Brian Bunker of BAAQMD at 3:47 p.m. on September 17, 2018 saying, "Thank you for the letter. I do not have any comments."

In an October 11, 2018 email from former City Councilmember Chris Albertson to John Brown regarding yet another continuance of the City Council's hearing on the Appeal, Mr. Albertson asks in a seemingly knowing, and certainly disapproving, manner: "Hopefully, this delay is not the making of our legal or planning offices."

In the Staff Report for the January 28, 2019 City Council hearing ["Staff Report"], Staff claims that the "vast majority" of comment letters express opposition to the Project. (Staff Report, p. 12.) Staff does not cite to any quantitative analysis to support this statistic. Moreover, it is contradicted by the evidence in the record. Numerous supporters sent emails, letters and/or testified during the City's six plus year review of the Project. In a June 2018 poll conducted by the highly reputable firm FM3, the results of which were provided to the Planning Commission and subsequently to the City Council, a clear majority of respondents support the Project. Specifically, fifty-five percent (55%) indicated that they support the new Safeway gas station

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project. Only thirty percent (30%) of respondents indicated they were opposed to the Project and fifteen percent (15%) were undecided. In addition, more than 2,500 people have signed petitions in support of the Project.

**D. Biased Communications Made As Part of a Political Campaign Require Recusal.**

We understand that the City Attorney has advised Councilmembers that ran for office in 2018 that any biased communications made as part of a political campaign do not require you to recuse yourself from taking an action to uphold the Appeal, citing *Fairfield v. Superior Court of Solano County* (2019) 14 Cal.3d 768. The City Attorney is incorrect and ***we urge you to seek your own independent legal counsel on this matter.***

The *Fairfield* decision focused on whether, under Code of Civil Procedure Section 1094.5, councilmembers could be deposed regarding their mental deliberations concerning a project. In ruling that they could not, the Court reasoned that the city's zoning ordinance did not prescribe any specified standards for the grant of a planned unit development permit and thus the proceedings before the city council "did not turn upon the adjudication of disputed facts or the application of specific standards to the facts found." (14 Cal.3d at 780.) As a result, "the few factual controversies were submerged in the overriding issues of whether construction of [a] shopping center would serve the public interest . . . ." (*Id.*)

The *Fairfield* decision did not discuss, much less consider and analyze, the concept of common law bias. The court in *Clark v. City of Hermosa Beach, supra*, did and construed *Fairfield* narrowly, as ***tolerating general comments about local policy only, as distinguished from comments about a specific project, which implicate a disqualifying conflict of interest.*** (48 Cal.App.4th at 1172-1173.) Indeed, in a recent case out of the East Bay City of Lafayette, a councilwoman recused herself from acting on a development project after having run successfully for office based on her opposition to it. ("Lafayette council member recuses herself from proposed housing discussions," East Bay Times, March 2, 2019, and "Candell to recuse from Deer Hill project," Lamorinda Weekly, March 9, 2019, attached hereto as Exhibit G.)

Councilmember Dave King's comments at the October 13, 2018 campaign forum provide an example of the distinction between permissible comments regarding "local policy" as opposed to impermissible comments regarding a specific project. When asked about climate change, Councilmember King generally discussed his interest in moving away from petroleum. When asked if he would "advocate for children against a 16 pump Safeway gas station and stand up against corporations," Councilmember King stated that he had not been fully briefed and wanted to avoid prejudging the Project. Further, we understand that none of Councilmember King's campaign material discussed the Project, and when asked by Project opponents whether he supported or opposed the Project, he declined to answer.



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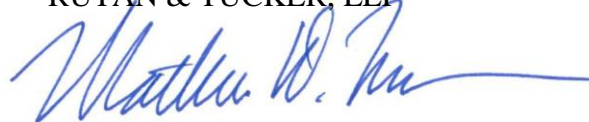
We strongly encourage the Mayor and newly elected Councilmembers that publicly voiced opposition to the Project during their campaigns to seek independent legal advice on this issue given that the City Attorney does not and cannot represent you in an individual capacity and you will be required to retain your own counsel in the event that this matter proceeds to litigation.

\*\*\*\*\*

Thank you for your consideration of Safeway's concerns on this matter. Representatives of Safeway, including the undersigned, will be in attendance at your April 1, 2019 hearing on the Appeal. In the meantime, please do not hesitate to contact me with any questions regarding this correspondence.

Very truly yours,

RUTAN & TUCKER, LLP



Matthew D. Francois

cc: Eric Danly, City Attorney, City of Petaluma  
Peggy Flynn, City Manager, City of Petaluma  
Heather Hines, Planning Manager, City of Petaluma  
Olivia Ervin, Principal Environmental Planner, City of Petaluma  
Claire Cooper, City Clerk, City of Petaluma  
Natalie Mattei, Senior Real Estate Manager, Safeway, Inc.  
Mark Friedman, President, Fulcrum Property  
Tina Thomas, Principal, Thomas Law Group

Exhibit A: Safeway Public Records Act Requests Summaries  
Exhibit B: Teresa Barrett Evidence of Bias  
Exhibit C: Kevin McDonnell Evidence of Bias  
Exhibit D: Mike Healy Evidence of Bias  
Exhibit E: D'Lynda Fischer Evidence of Bias  
Exhibit F: Others Evidence of Bias  
Exhibit G: News articles regarding recusal of Lafayette Councilmember

# **Exhibit A**

**Safeway - City of Petaluma Public Records Act Requests: 5/24/2018 and 11/19/2018**

Dated 3/24/2019

Name	Position	Produced Docs			Produced Docs			Missing Docs	Current Employee/Official	Comments
		5/24/2018	# Pages	Redactions	11/19/2018	# Pages	Redactions			
Teresa Barrett	Mayor	No	0	-	Yes	274	Yes	Yes	Yes	Mayor 1/6/19, Council before. Missing documents 2012-May 2018.
Michael Healy	Council Member	Yes	16	Unknown	Yes	27		Yes	Yes	Former Vice Mayor, Liaison to Planning Commission.
David King	Council Member	Yes	12	Unknown	Yes	184	Yes	Unknown	Yes	
Gabe Kearney	Council Member	No	0	-	Yes	72	Yes	Yes	Yes	Missing documents dated 2012-May 2018.
Kathy Miller	Council Member	No	0	-	Yes	83	Yes	Yes	Yes	Missing documents dated 2012-May 2018.
Kevin McDonnell	Vice Mayor	No	0	-	Yes	98	Yes	Yes	Yes	Former Parks & Rec Comm. Vice Mayor 1/7/19. City withholding docs claiming campaign exemption.
David Glass	Mayor	No	0	-	Yes	124	Yes	Yes	No	Retired 1/6/19. Missing documents dated 2012-May 2018.
Chris Albertson	Council Member	No	0	-	No	0	-	Yes	No	Retired 1/6/19. Missing ALL documents.
Michael Harris	Council Member	No	0	-	No	0	-	Yes	No	City Council until January 2015.
John Brown	City Manager	No	0	-	Yes	406	Yes	Yes	No	Retired 11/20/18. Missing documents 2012-April 2018.
Scott Brodhun	Assistant City Manager	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Katie Crump	CM Exec. Assistant	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Eric Danly	City Attorney	No	0	-	Yes	43	Yes	Yes	Yes	Missing documents 2012-May 2018.
Lisa Tennenbaum	Assistant City Attorney	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Claire Cooper	City Clerk	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Samantha Pascoe	Deputy City Clerk	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Gina Benedetti-Petnic	Planning Commissioner	Yes	13	Unknown	No	0	-	Yes	Yes	Missing docs 2012-April 2018 & post June 2018.Planning Commission until Dec. 2018, then City Engineer.
Diana Gomez	Planning Commissioner	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Scott Alonso	Planning Commissioner	Yes	33	Unknown	No	0	-	Yes	Yes	Most documents are public comments. Missing pre-May 2018 and post-June 2018.
Bill Wolpert	Planning Commissioner	No	0	-	Yes	42	No	Yes	Yes	Missing documents 2012-May 2018.
Heidi Bauer	Planning Commissioner	No	0	-	Yes	15	No	Yes	Yes	Missing documents 2012-May 2018.
Richard Marzo	Planning Commissioner	No	0	-	Yes	18	No	Yes	Yes	Missing documents 2012-April 2018.
Heather Hines	Planner	Yes	429	Unknown	Yes	1248	Yes	Unknown	Yes	Multiple duplicates. Multiple redactions.
Olivia Ervin	Planner	Yes	934	Unknown	Yes	369	Yes	Unknown	Yes	Multiple duplicates. Multiple redactions.
Adam Peterson	Planner	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Evelyn Ellis	Planning Assistant	No	0	-	Yes	745	Yes	Yes	Yes	Most documents are public comments/petitions uploaded to Granicus.
Lisa Davison	Planner	No	0	-	Yes	69	No	Unknown	Yes	Missing documents dated pre-May 2018.
Tiffany Robbe	Planner	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Krystle Rizzi	Assistant Planner	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Kevin Colin	Planner	No	0	-	No	0	-	Yes	No	Missing ALL documents. Left City of Petaluma July 2018 (went to City of Stockton).
Elizabeth Jonckheer	Planner	No	0	-	No	0	-	Yes	No	Missing ALL documents. Left City of Petaluma August 2015 (went to City of San Francisco).
Jacqueline Overzet	Planner	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Lilly Bianco	Assistant Planner	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Miscellaneous	Planning	Yes	69	-	No	0	-	N/A	N/A	
Curtis Bates	Public Works	No	0	-	No	0	-	Yes	No	Missing ALL documents. Left City of Petaluma July 2018 (went to City of Healdsburg).
Dan St. John	Public Works	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Jeff Stutsman	Public Works	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Jason Beatty	Public Works	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Kent Carrothers	Public Works	No	0	-	Yes	104	Yes	Yes	Yes	
Gian Aggarwal	Public Works	No	0	-	No	0	-	Yes	Unknown	Missing ALL documents.
Joe Rye	Transit	No	0	-	Yes	2	No	Yes	Unknown	
Jared Hall	Transit	No	0	-	Yes	17	No	Yes	Yes	
Jessica Power	Fire Marshall	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
David Alden	Transit Committee	No	0	-	No	0	-	Yes	Yes	Missing ALL documents.
Tiffany Rubenstein	Technology Committee	N/A	N/A	-	No	0	-	Yes	Yes	Appointed August 2018. City withholding docs claiming spousal exemption.
Robert Conklin	Tree Committee	N/A	N/A	-	Yes	15	Yes	Yes	Yes	Appointed August 2018. Produced 2 texts. City withholding docs claiming campaign exemption.
Angelo Sacerdote	Technology Committee	No	0	-	Yes	14	No	Yes	Yes	Produced 1 two-page email sent to 7 City Council members.

**TOTALS:**

Respondents	46
Missing Docs	42
Produced 5/24/18	8
Pages Produced	1506
Produced 11/19/18	
Pages Produced	3969
<b>TOTAL PAGES</b>	<b>5475</b>

# **Exhibit B**

Sign Up to receive our daily newsletter, breaking news alerts and more



# Gas station ignites public controversy

JANELLE WETZSTEIN,

ARGUS-COURIER STAFF | August 29, 2013



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For most drivers, cheaper gas is a welcome offer. But city officials and local gas station owners have raised concerns about a 16-pump Safeway gas station and convenience store proposed where Pepper's Restaurant is located on South McDowell Boulevard.

After several local station owners brought up the matter at a recent City Council meeting, council members discussed the potential for added traffic congestion that could come with the project.

Traffic on South McDowell Boulevard has become increasingly heavy over the past few years. The newly opened East Washington Place Shopping Center has likely contributed to longer commutes in the area. And the soon-to-open Deer Creek Shopping Center just up the road on North McDowell Boulevard is sure to add to the congestion.

On top of the commercial developments, the Petaluma Planning Commission recently recommended approving a 144-unit apartment complex on Maria Drive — just minutes from the proposed Washington Square Shopping Center gas station. Safeway has not yet submitted a traffic study, but several City Council members and station owners worried about the effects on the area.

"You already have people who are so frustrated with the gridlock going on (Maria Drive)," said City Councilwoman Teresa Barrett. "Each effect is cumulative and together, it makes an already bad situation worse."

Safeway, which is currently working on the traffic study, did not respond to several requests for comment.

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Accept

As a county representative on the Bay Area Air Quality Management District Board, Barrett also worried about potential greenhouse gas emissions in an area with a nearby school, day care center and little league ball fields.

"There's a similar station in Novato that I recently visited after hearing of this project," she said. "There were cars at every single pump, plus two additional cars idling and waiting to get in. We have a ban on drive-through businesses in our general plan and this business model certainly seems to have a drive-through quality. It's really not what we've intended for our city."

Barrett wasn't the only council member who had looked into Novato's Safeway gas station. Councilmember Mike Healy said he has spoken with Novato's city staff, who he said had some regrets over allowing Safeway to open a gas station in their city.

"Their feeling was that they hadn't adequately estimated the traffic that would be going through it," said Healy. "They said it's always crowded and that major tanker trucks are always there."

Healy added that he's heard from Petaluma city staff that the traffic concerns may not be a major issue, but that more details will be known after the pending traffic study is complete.

Petaluma attorney Jim Dombroski is watching this proposed station with particular interest. A longtime anti-trust litigator, he has been suing Safeway since 2009 over what he calls the company's unfair business practices of selling gas below market cost.

"We've been able to show lots of gas stations that went out of business because of a nearby Safeway station in Dixon, Concord, Livermore and San Jose," said Dombroski. "Once they've run competitors out of business, then they can up the price."

Dombroski said that in his opinion, there's no question that a Safeway gas station in Petaluma would force several other stations out of business. Local station owners agreed.

"What this really means is that four small gas station will close completely," said Petaluma



According to Gutzman, Safeway is expecting to sell 700,000 gallons of gas per month. Since many of Petaluma's existing 16 gas stations only sell about 100,000 gallons of gasoline each month, Safeway's proposal means a large portion of Petaluma's gas needs could be met with at this one particular station — potentially putting several others out of business through lower prices, Gutzman said.

Baywood Drive Valero station owner Bert Lathrop said that he understands customers wanting cheaper gas.

"I get that completely," Lathrop said. "But ultimately we need to look at the long-term effects on Petaluma's lifestyle and the benefits for the community in general."

City staff said that once the traffic study has been completed, the project application will go before the Planning Commission, most likely later this year or early in 2014.

(Contact Janelle Wetzstein at [janelle.wetzstein@arguscourier.com](mailto:janelle.wetzstein@arguscourier.com))

## Trending Now

Ads by Adblacle

----- Forwarded message -----

From: "Teresa Barrett" <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>

To: "Jim Karas" <[jkaras@baaqmd.gov](mailto:jkaras@baaqmd.gov)>

Subject: Automatic reply: Upcoming public notice in Sonoma County

Date: Thu, Aug 15, 2013 10:12 pm

Jim, when you get back can you let me know about the Safeway Gas station application?

Teresa Barrett

Petaluma City Council

Voice: 707.953.0846

E-mail: [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)

On Aug 15, 2013, at 9:31 PM, Jim Karas <[jkaras@baaqmd.gov](mailto:jkaras@baaqmd.gov)> wrote:

I am out of the office until August 26. I will periodically check e-mail.

## Natalie Mattei

---

**From:** Scott Owen  
**Sent:** Friday, August 16, 2013 9:27 AM  
**To:** Barry Young  
**Subject:** RE: Automatic reply: Upcoming public notice in Sonoma County

Barry:

- Safeway has submitted AN 405215 for a new gas station at 421 S. McDowell Blvd. in Petaluma
- The station will be equipped with two 20,000 gal tanks and 8 nozzles with EVR Phase I and Phase II equipment. This is not an especially large station.
- This station is within 1,000' of McDowell Elementary School, triggering Public Notice Requirements. We expect the notice to go out late next week
- The risk screen allows them to pump 25.71 MMgal/yr. Maximum risk at the school is 2.4 in a million.

Please let me know if you need anything else.

--Scott

---

**From:** Barry Young  
**Sent:** Friday, August 16, 2013 12:15 AM  
**To:** Scott Owen  
**Subject:** Fwd: Automatic reply: Upcoming public notice in Sonoma County

Scott,

Please draft a briefing email for Jim tomorrow. See below. I'll be in tomorrow around 10 AM.

Thanks,

Barry

Sent from my iPhone

Begin forwarded message:

**From:** Jim Karas <[jkaras@baaqmd.gov](mailto:jkaras@baaqmd.gov)>  
**Date:** August 15, 2013 10:58:30 PM PDT  
**To:** Barry Young <[BYoung@baaqmd.gov](mailto:BYoung@baaqmd.gov)>  
**Subject:** Fwd: Automatic reply: Upcoming public notice in Sonoma County

I need a briefing so I can call Ms. Barrett.  
JimK

Sent from my Verizon Wireless 4GLTE smartphone

## Barry Young

---

**From:** Barry Young  
**Sent:** Monday, August 26, 2013 5:16 PM  
**To:** Jim Karas  
**Cc:** Scott Owen  
**Subject:** RE: Safeway Gas Station

Tracking:	Recipient	Read
	Jim Karas	
	Scott Owen	Read: 8/27/2013 9:39 AM

Jim,

**Action Requested:** Your review and approval of the below draft email message to Teresa Barrett regarding a Safeway gas station in Petaluma, the project is currently on Waters Bill Public Notice.

**Background:**

- You spoke to Ms. Barrett about this project already and referred her to Scott Owen with questions.
- Ms. Barrett's comment letter to Scott is attached below in the email string.

Thanks,  
—Barry

---

Dear Ms. Barrett:

We appreciate your concerns about this project. As a regional air quality agency, our authority is limited to regulating emissions from stationary sources. In the case of a gas station, we review the emissions from the gasoline refueling equipment and ensure that vapor recovery equipment is installed to minimize these emissions. Emissions associated with increased motor vehicle traffic are not under our jurisdiction. These are closely related to local (city or county) land use decisions and are more appropriately considered by a local agency such as a planning board.

The vapor recovery equipment Safeway is proposing to install meets the latest requirements of the California Air Resources Board and BAAQMD regulations. The District has completed our preliminary review of the application and has sent out a public notice. The public comment period will end on September 23rd.

Please feel free to contact me if you have any questions or require additional information.

Scott Owen, P.E.  
Supervising Air Quality Engineer  
Engineering Division  
Bay Area Air Quality Management District  
(415) 749-4693  
(415) 749-4949 FAX

---

**From:** Teresa Barrett [<mailto:teresa4petaluma@comcast.net>]  
**Sent:** Friday, August 23, 2013 10:53 AM  
**To:** Scott Owen

**Cc:** Jack Broadbent  
**Subject:** Safeway Gas Station

Scott,

The other day I spoke briefly with Jim Karas regarding the safeway gas station project in Petaluma. He told me you were the lead on this project. He indicated that it seemed like a pretty straightforward project and then I told him about some of our concerns:

\*Petaluma's 2008 General Plan specifically bans new "drive-thrus" in a forward thinking and positive attempt to bring down our Greenhouse Gas (GHG) emissions in keeping with the Sonoma County comprehensive near term climate action plan aiming for a 25% reduction in GHG emissions below 1990 levels by 2015. While a gas station is not technically a drive-thru, because users drive up, turn off their cars, conduct business, restart their cars and then drive away, the economic lure of the Safeway business model basically has the gas station functioning as a drive-thru. (Please see the photo at the bottom.)

\*particularly the unavoidable increase in greenhouse gases as a result of the congestion of so many idling cars waiting to fill up in close proximity to

\*a major gridlocked intersection,

\*a childcare/preschool facility directly across Maria Drive,

\*a K through 3 public elementary school next to the preschool on the next block, and

\*a Little League park directly across Maria Drive.

There are also the known but not yet measured impacts of

\*the still unbuilt 300,000 square feet of retail space currently under construction a short distance north (the Friedman project and almost 200,000 square feet of additional retail) to the already gridlocked intersection mentioned above,

\*the ongoing widening of the 101 highway which will absolutely divert drivers onto McDowell Blvd., and

\*the soon to open casino in Rohnert Park expected to add over 18,000 car trips to 101 per day.



I had a meeting in Marin County and took advantage of my proximity to the Sareway Gas Station on Nave Drive to take the attached photo at approximately 7:20 p.m. on a Wednesday evening (8/21): Not an available pump and cars waiting, (idling) in the public thoroughfare.

Should you want to talk with me please feel free to contact me.

Thank you.

Teresa Barrett

Petaluma City Council

Voice: 707.953.0846

E-mail: [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)



**Natalie Mattei**

---

**From:** Scott Owen  
**Sent:** Tuesday, October 01, 2013 10:58 AM  
**To:** C.J. Newton  
**Subject:** RE: Safeway Fuel Center #3011, Petaluma, CA

Dear Mr. Newton:

Thank you for your comments regarding the proposed Safeway gas station on McDowell Blvd. in Petaluma. We understand that you are concerned about this proposed project because of its location and the potential impacts to the surrounding community. As a regional air quality management district, our jurisdiction is limited to regulating pollution emitted by stationary sources. Although we understand your concerns regarding traffic congestion, safety, and the impact of this project on local business, we do not have authority in these areas. If you wish to pursue these issues, you could contact your local city or county regarding any zoning or planning ordinances governing the location of this business in your community.

The emissions of gasoline vapors from fuel deliveries and vehicle refueling is regulated by the District, and we have carefully reviewed these items. Safeway will be required to install and operate vapor recovery equipment that will reduce emissions of gasoline vapors by more than 96% and that meets the latest California Air Resources Board and BAAQMD regulations.

The District has also completed a health risk screening analysis (HRSAs) for this project, which includes assessing the potential adverse health effects of the gasoline vapors from the gasoline dispensing equipment. HRSAs are used to determine if particular chemical emissions pose a significant risk to human health. The results of the HRSAs completed for this project are in compliance with the BAAQMD's project risk limits in District Regulation 2, Rule 5. Therefore, it is unlikely that emissions related to this proposed project would cause adverse health effects in the surrounding population.

We will be issuing an Authority to Construct for this project later this week. Please feel free to contact me if you have any further questions.

Scott Owen, P.E.  
Supervising Air Quality Engineer  
Bay Area Air Quality Management District  
(415) 749-4693  
(415) 749-4949 FAX

**From:** C.J. Newton [mailto:cjnewton99@gmail.com]  
**Sent:** Tuesday, September 03, 2013 1:33 PM  
**To:** Scott Owen  
**Subject:** Safeway Fuel Center #3011, Petaluma, CA

Dear Mr. Owen,

I am a resident of Petaluma and am writing this public comment against the proposed gas station at S. McDowell and Maria Drive.

That site is right across the street from a thriving elementary school. I have seen a comparable gas station in the next town south of us, in Novato, which is full of cars all day with motors idling. Maria Drive is a narrow two-

lane street with a large apartment complex behind Safeway, and is our transfer point for Petaluma Transit buses. All the cars flowing out of the gas station will congest this area.

A wonderful restaurant that employs many people is on that site now and will be demolished. There is also a Curves exercise business for women, an optometrist and a long-established travel agency. That shopping plaza already has a Chevron adjacent to it--and Safeway has a business relationship with them. We can use our Safeway card to get points, etc.

It is an unnecessary hazard to the school and the residents nearby. There is a 76 gas station and convenience store diagonally across the street from Washington Square (the Safeway shopping plaza). We don't need a gas superstation and don't want it.

Thank you,

Christopher Newton  
Petaluma, CA

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# Safeway gas station may be fast-tracked

JANELLE WETZSTEIN,  
ARGUS-COURIER STAFF | January 27, 2014



A proposed 16-pump Safeway gas station in the Washington Square shopping center, which drew sharp criticism from several neighbors and businesses, may not require the city's approval since the property's zoning allows for gas stations to be built at that location.

City officials and local gas station owners first raised concerns over Safeway's plans to build the fueling station in town at an August city council meeting. The main concerns included the impact on traffic that a discount gas station could bring to the already busy South McDowell Boulevard and East Washington Street intersection, and the potential that Safeway could take business from other fuel stations by offering gas at below-market rates. But unlike other developments in town that required general plan amendments, environmental impact studies and other reports to the city council, Safeway's property is already designated as commercial land, meaning a gas stations is a permitted use.

Mayor David Glass said that the city's zoning ordinances are crafted in a way that doesn't allow the council to review new development projects if they comply with zoning and land use laws.

"Our city laws have been written under the guise of being 'business friendly,' but what it really means is that we don't review projects that are permitted by the zoning ordinance of any given property," said Glass. "So we may not have discretionary power this time around."

City staff said they are reviewing Safeway's application to make sure it is complete. Senior Planner Heather Hines said that the project will be at the planning commission's discretion, but only in terms of the site's plan and architectural review.

Developer Fulcrum Property has not renewed a handful of tenant leases to vacate space for the planned gas station. While proprietors of the shuttered Petaluma diner Pepper's Restaurant recently chastised Fulcrum for evicting them in order to build the gas station, not all the affected businesses agreed.

Washington Square Veterinary Clinic owner Sharon Johnson said after Fulcrum told her she had to relocate her office because Safeway planned to put a gas station in the plaza, they made the move as easy as possible.

"When I first heard that I had to move and Fulcrum said they would arrange a space in the center of equal size, I never thought it would work out," said Johnson. "But, knock on wood, everything has gone well so far."

Fulcrum built Johnson a new space, only asking her to pay for upgrades and any extra amenities she requested in her new location. Johnson said she plans to open her new office sometime next month near Peet's Coffee - Tea.

Several other businesses have relocated as well. Sonoma Travel has relocated to a new off-site location at 725 E. Washington St., while Curves gym has leased space at 2000 Lakeville Highway. Optometrist Richard Aston has been unable to find a new spot, but said he is pursuing options in the city.

(Contact Janelle Wetzstein at [janelle.wetzstein@arguscourier.com](mailto:janelle.wetzstein@arguscourier.com))

## Jack Broadbent

---

**From:** Jack Broadbent  
**Sent:** Friday, February 28, 2014 4:29 PM  
**To:** Teresa Barrett  
**Cc:** Jeffrey McKay  
**Subject:** RE: Safeway question

Director Barrett,  
I've asked Jeff McKay, my Deputy in charge of permitting and compliance to look into this for you. He'll call you Monday.  
Have a good weekend.  
Jack

**From:** Teresa Barrett [mailto:teresa4petaluma@comcast.net]  
**Sent:** Friday, February 28, 2014 12:17 PM  
**To:** Jack Broadbent  
**Subject:** Fwd: Safeway question

Here are the BAAQMD questions being asked:

Teresa,

One of the other station owners in town has asked BAAQMD what gallon throughput Safeway has requested for its Petaluma station, & the answer back was 24 million gallons per year. That is a staggering number. I understand that the BAAQMD permit fees are based on the size of the permitted throughput number, but how much of a cost is it? Is it just a few bucks if you get a number way higher than you need, or is it expensive enough to get station owners to try to be somewhat accurate?

Thanks,  
Mike

John,

I understand that gas stations are permitted by the BAAQMD for a certain maximum volume of gas sales, in gallons per month. Could you please ask staff to find out what number Safeway has asked for at their proposed station, and see if that is consistent with the traffic analysis they've submitted?

Thanks,  
Mike

Background (skip if this is too much local detail):

1. The intersection where this is proposed is directly across a two way street—one lane each direction) from a child care center and K through 3 public school as well as down the street from the Little League field.
2. The intersection is the first right turn signal from E. Washington and McDowell, a seriously impacted (LOS D) intersection.

3. Petaluma's General Plan does not allow for drive throughs as an attempt to curb GHG emissions. Due to the popularity of this kind of cheaper gas facility, car idling becomes a de facto drive through as cars idle to get to the pump during peak periods.

Sorry to drop this on you with such little warning.

Also, could we make our call back time after 12 noon? I have a 10:45 to 11:45 interview.

Thank you very much, Jack.

Teresa Barrett  
Petaluma City Council  
Voice: 707.953.0846  
E-mail: [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)

# Temporary ban on Petaluma gas stations fails

LORI A. CARTER

THE PRESS DEMOCRAT | March 4, 2014

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The Petaluma City Council on Monday night rejected a proposed moratorium on gas stations that would have prohibited Safeway from building a fueling station in front of its North McDowell Boulevard store.

A temporary urgency ordinance &#8211; commonly called a moratorium &#8211; would have required the approval of six of seven council members.

As council members began discussing the issue, it soon became clear that Councilman Mike Healy, who sought the moratorium, wouldn't even get a majority on his side. In a straw vote, only Healy, Gabe Kearney and Kathy Miller supported a 45-day ban to buy the council time to craft tighter regulations on gas stations.

"We should just follow the process we already have in place," said Councilman Mike Harris, saying businesses should be able to rely on existing rules when they "make investments in our community."

Councilwoman Teresa Barrett was conflicted in her vote. She said she opposes the gas station project on whole, but doesn't support blanket bans.

"I don't like moratoriums in general," she said. "I could support some for legitimate, really serious reasons...This is sort of designer legislation: 'We don't like this project, so what can we do to make it go away?' That's just not right."

Issues like air quality, noise, light, traffic and safety near school zones can be handled through the normal planning and environmental review, Planning Manager Heather Hines said.

Safeway applied in July to build a gas station at the front of the Washington Square Shopping Center, where a gas station is permitted by existing zoning.

Initially, other gas station owners in town voiced opposition to the plan out of fear that Safeway would sell below-cost gasoline or offer deep discounts to grocery club shoppers. Later, nearby residents and others concerned about air quality and traffic congestion also voiced opposition.

Meanwhile, Safeway gathered support from its shoppers and motorists who welcome additional competition in Petaluma's gasoline market.

A lawfirm representing Safeway wrote a strongly worded 16-page letter arguing that a temporary ban on its existing application wouldn't pass legal muster.

Safeway, which has operated a grocery store in Petaluma since 1929, proposes a station with eight double-sided fuel pumps under a canopy, with a charging station for electric vehicles.

The company said it will generate about \$400,000 in new tax revenue for the city, although the basis for that estimate was unclear.

Healy proposed a moratorium on gas stations because of what he characterized as unfair competition Safeway would create for other gas station operators and other grocers. He wanted the council to temporarily ban all gas stations &#8211; although Safeway is the only application being processed &#8211; so the council could consider tighter regulations.

While the temporary ban failed, the project itself still must go through the planning process at the Planning Commission. Decisions there can be appealed to the council.

Several council members said they would be interested in fine-tuning the city's regulations on gas stations or on air quality rules in general.

Longer-term options could include prohibiting all new gas stations, requiring new stations to have a conditional use permit, limiting the number of pumps at new stations or expanding the definition of "gas station" to address specific project impacts.

You can reach Staff Writer Lori A. Carter at 762-7297 or [lori.carter@pressdemocrat.com](mailto:lori.carter@pressdemocrat.com).

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## Goodwin, Hannah

---

**From:** Teresa Barrett <teresa4petaluma@comcast.net>  
**Sent:** Monday, May 7, 2018 10:58 PM  
**To:** Chris Thomas  
**Subject:** Re: Safeway

Yes, read it, thankyou for sending it!

Teresa Barrett  
Petaluma City Council  
707.953.0846  
Sent from my iPhone

On May 7, 2018, at 3:57 PM, Chris Thomas <[cthomas@petk12.org](mailto:cthomas@petk12.org)> wrote:

Hello Commissioners,

Please find a letter of concern and comments from Petaluma City Schools on the Safeway Fuel Center.

Regards,

Chris Thomas  
Chief Business Official.  
707-778-4621

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Thank you.

<Peer Review of HRA.pdf>

<Safeway Fuel Center.pdf>



**From:** Pamela Joyce <[pamelajoyce@comcast.net](mailto:pamelajoyce@comcast.net)>  
**Subject:** Re: Safeway  
**Date:** December 14, 2016 at 8:45:40 PM PST  
**To:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>

I love this! yes indeed! and this village is very lucky to have you in it!! thank you...

On Dec 14, 2016, at 8:37 PM, Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)> wrote:

Do not forward this but feel free to let folks know you told me and...!

It takes a fucking village!

Sent from my iPhone

Begin forwarded message:

**From:** "Brown, John" <[JBROWN@ci.petaluma.ca.us](mailto:JBROWN@ci.petaluma.ca.us)>  
**Date:** December 14, 2016 at 3:51:58 PM PST  
**To:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>  
**Subject:** FW: Safeway

I think it's safe to say our folks are all over it. Thanks again for letting me know that there is a problem.

JB

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

From: Garcia, Joe  
Sent: Wednesday, December 14, 2016 3:37 PM  
To: Hughes, Doug; Klein, Ronald



Cc: Brown, John; Colin, Kevin; Savano, Ken; Frye, Marty  
Subject: RE: Safeway

Doug and Ron:

Attached are the PUD guideline for the Parkway Plaza. Of immediate concern to the matters below, the following conditions apply to this shopping center:

1. Hours of operation are generally limited to 7:00 am to 10:00 pm. Starbucks received approval to open at 6:00 am.
2. Delivery hours are limited to 8:30 am to 4:30 pm. No delivery trucks should be coming or going outside of those hours. Trucks may be parked overnight for loading and unloading, but should be located near the loading docks.
3. Delivery trucks may enter from SMP, Riesling or Casella, but must exit using the southern exit by Leghorns Park.

Per the Zoning Ordinance, construction activities are limited to 7:00 am to 10:00 pm during the week, and 9:00 am to 10:00 pm during the weekends and City-observed holidays. The activities included in these hours that are applicable are:

1. A hammer or any other device or implement used to repeatedly pound or strike an object.
2. An impact wrench, or other tool or equipment powered by compressed air.
3. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower. Except as specifically included in this Ordinance, motor vehicles, powered by an internal combustion engine and subject to the State of California vehicle code, are excluded from this prohibition.
4. Any electrically or battery powered tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as but not limited to a saw, drill, lathe or router.
5. Any of the following: the operation and/or loading or unloading of heavy equipment (such as but not limited to bulldozer, road grader, back hoe), ground drilling and boring equipment, hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump and the like.
6. Construction, demolition, excavation, erection, alteration or repair activity.

I have included a copy of the City's noise ordinance for reference.

If you need me to join you in talking with Safeway, please let me know.

Thank you.



Begin forwarded message:

**From:** Linda Hartrich <rldt@aol.com>  
**Subject:** Re: Safeway Fuel Center  
**Date:** June 26, 2018 at 12:05:50 AM PDT  
**To:** Teresa Barrett <teresa4petaluma@comcast.net>

Thank you Theresa. I live a mile away, but I have a friend with young kids who lives just across the street on McDowell/McKenzie.

I wish they could just buy out the Chevron station! If Safeway gas is built, that Chevron may go out of business anyway.

I appreciate your efforts, along with neighbors, teachers, kids & coaches.

Linda

Sent from my iPhone



On Jun 25, 2018, at 8:01 PM, Teresa Barrett <teresa4petaluma@comcast.net> wrote:

Linda,

I am not certain if the staff responded directly to you regarding the issue you asked about the proximity of gas stations and sensitive receptors like preschool children and schools.

I'm afraid the standards are not as high as either you or I would want.

I intend to follow this up with the BAAQMD, because I do not know how the threshold of 25.7 million gallons was determined and. That seems like an awfully high number to me.

I will circle back once I hear back from the Air District.

Teresa Barrett  
Petaluma City Council  
707.953.0846  
[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)

Begin forwarded message:

---

**From:** Hines, Heather  
**Sent:** Monday, June 25, 2018 6:09 PM  
**To:** Brown, John  
**Subject:** Safeway Fuel Center

John,

You requested a response to the question of "what are the California regulations of how many feet away a gas station can be built in proximity to schools and homes". The answer is not quite as direct as the question is asked, but please see the following.

There is not a specific regulation that states a maximum distance that a gas station can be built next to sensitive receptors. The California Air Resource Board's (CARB) handbook, from 2005, provides nonbinding advisory recommendations to avoid siting new sensitive land uses within 300 feet of an existing gasoline dispensing facility. These guidelines are for the siting of new schools facilities, daycare centers, and other sensitive receptors (homes) not the other way around. This is because new sensitive land uses, such as schools, do not require air quality permits (they are not regulated, so general guidelines for locating new schools away from existing source emitters are provided). Whereas a new area source emitters, such as a new gas station, does require air quality permits which will evaluate the appropriateness of the proposed location and proximity to



Danly, Eric

**From:** David Glass <daveglass@comcast.net>  
**Sent:** Thursday, December 20, 2018 4:17 PM  
**To:** Danly, Eric  
**Subject:** Fwd: RE: Safeway employees and consultants speaking as part of public comment?!

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---

> ----- Original Message -----

> From: dave glass <daveglass@comcast.net>  
> To: 'Council Member Teresa Barrett' <teresa4petaluma@comcast.net>  
> Date: June 26, 2018 at 10:21 PM  
> Subject: RE: Safeway employees and consultants speaking as part of public comment?!

>

> It is a tough nut. I saw Eric's response. League has seminar's for new  
> Mayors. After you are elected I highly recommend you attend it. It  
> is a four day seminar on the Brown Act, public comment, the rights of  
> the public and the like.

>

> When I speak during Eric's evaluation about the many times he has  
> helped me, it is usually prior to a tricky meeting and how to best  
> handle the public's right to speak. It is a bummer. Due to nuances  
> that are not always self-evident is why I ask Eric during meetings to  
> do certain things, usually to be preempted by Esquire Kearney.

>

> -----Original Message-----

> From: Council Member Teresa Barrett  
> [mailto:teresa4petaluma@comcast.net]  
> Sent: Tuesday, June 26, 2018 9:35 PM  
> To: John Brown <JBROWN@ci.petaluma.ca.us>; Heather Hines  
> <hhines@ci.petaluma.ca.us>; Eric W. Danly <edanly@ci.petaluma.ca.us>  
> Cc: Dave Glass <daveglass@comcast.net>  
> Subject: Safeway employees and consultants speaking as part of public  
> comment?!

>

> I am watching the planning commission meeting and I am stunned that  
> Safeway employees and consultants are speaking as part of public comment.  
> They should be stopped from speaking once they are identified as  
> Safeway shills and allowed to speak when Safeway has a summation or  
> reminded that they could have spoken before public comment period.

>

> Teresa Barrett



Something smells of inside dealing. The school opposes Safeway and has many toxic sites close to schools. Let's talk. Janice



Click to Download

993\_lin\_nov.pdf

1.2 MB

Click to Download

423822\_FID111267.pdf

2.7 MB

Begin forwarded message:

**From:** Teresa barrett <teresabarrett@comcast.net>

**Subject:** Safeway gas station

**Date:** June 26, 2018 at 11:44:41 PM PDT

**To:** Dave Glass <daveglass@comcast.net>

Healy casts the deciding vote to allow Safeway Gas Station!

Safeway was unbelievably aggressive. Diana Gomez (who ended up voting for it) and Scott Alonso (who voted against it) were both very good.

Teresa Barrett

Sent from my iPhone

Begin forwarded message:

**From:** "The Petaluma Argus-Courier" <newsletter@email.petaluma360.com>

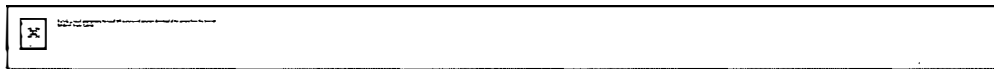
**Subject:** Paperwork continues to delay decision on Petaluma's Safeway gas station

**Date:** October 26, 2018 at 10:32:26 AM PDT

**To:** teresa4petaluma@comcast.net

**Reply-To:** The Petaluma Argus-Courier<newsletter@email.petaluma360.com>

TODAY'S HEADLINES FOR October 26, 2018



## Paperwork continues to delay decision on Petaluma's Safeway gas station







**Subject: Re: Safeway hearing**

**Date:** June 26, 2018 at 11:54:11 PM PDT

**To:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>

I know right? Your welcome it was very close and I don't think it really should've been that close given what we are presented but that's OK. And why are you up so late

Diana.

On Jun 26, 2018, at 11:46 PM, Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)> wrote:

Wow, Safeway was in a league of its own! Thank you for your comments and moving the project down the line.

Teresa Barrett  
Petaluma City Council  
707.953.0846  
Sent from my iPhone

# New post on The Raucous Rooster



## Safeway Gas Project's BAAQMD Permit 'No Longer Complies with Current Law' – Sierra Club

by [Christopher Fisher](#)

The Sonoma County chapter of the Sierra Club last week mailed a letter to the Petaluma City Council that suggested the Safeway gas station project on its September 17 agenda should, at a minimum, be delayed so that a formal Environmental Impact Report could be developed due to the possible invalidity of its 2013 Bay Area Air Quality Management District permit under current law. Visit [Oppose Petaluma Safeway Gas](#) for more information on this project.



[Christopher Fisher](#) | September 14, 2018 at 1:28 pm | Tags: [Sierra Club Sonoma Group](#) | URL: <https://wp.me/p45e6u-2NO>



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Trouble clicking? Copy and paste this URL into your browser:

<http://theraucousrooster.com/2018/09/14/safeway-gas-projects-baaqmd-permit-no-longer-complies-with-current-law-sierra-club/>

Begin forwarded message:

**From:** Teresa Barrett <[teresabarrett@comcast.net](mailto:teresabarrett@comcast.net)>  
**Subject:** Re: Safeway Gas Station  
**Date:** July 8, 2018 at 7:12:52 AM PDT  
**To:** dave glass <[daveglass@comcast.net](mailto:daveglass@comcast.net)>

Bernie Album is working with a group to appeal this. I have sent him emails of those who ask what they can do.

Teresa Barrett

On Jul 7, 2018, at 5:48 PM, dave glass <[daveglass@comcast.net](mailto:daveglass@comcast.net)> wrote:

I am forwarding your questions to city staff for response.

The preliminary answer to your question is not going to be the answer you are most likely looking for.



The property zoning permits such a use, and it appears the restrictions that are in place under the law for such use in proximity to schools do not meet the threshold to withhold approval of a project such as this.

This project will comply with all California Laws regarding such issues as pollution. No laws will be broken regarding this matter either to deny approval or to allow for an approval.

Nothing in this correspondence should be interpreted as an opinion of support or lack of the same. As you mention California Law, under the law as a decision maker, I am required to keep an open mind, review all evidence in the record, and only then am I able to make an informed decision on the matter.

I realize this issue was in front of the Planning Commission recently and was approved on a divided vote. It may be coming to the city council on an appeal of that decision. Therefore, I will reserve all other comments on this matter until such time the appeal period has expired, or the appeal has been heard at the city council.

I am confident city staff will be in communication with you in the coming days.

Thank you.

David Glass

**From:** [rldt@aol.com](mailto:rldt@aol.com) [<mailto:rldt@aol.com>]  
**Sent:** Saturday, July 07, 2018 5:34 PM  
**To:** [mayordavidglass@gmail.com](mailto:mayordavidglass@gmail.com)  
**Subject:** Safeway Gas Station

We are writing to express our EXTREME DISMAY at the potential Safeway Gas Station coming in to Washington Square. I have nothing against the gas station -- only the TERRIBLE congested corner location!

This corner is DIRECTLY across from 4C's Preschool and playground, and McDowell Elementary School plus two other schools on the property.

This corner faces residential homes on S. McDowell and McKenzie Ave.

This corner is on a small two-way road, Maria Drive. And the very congested S. McDowell.

This corner is right next to a very busy bus stop.

This corner is very close to the busy Little League fields and McDowell Park playground. Too much pollution. Too much noise pollution. Too many idling cars. Too many fumes.

SO MANY neighbors have spoken out AGAINST this location.

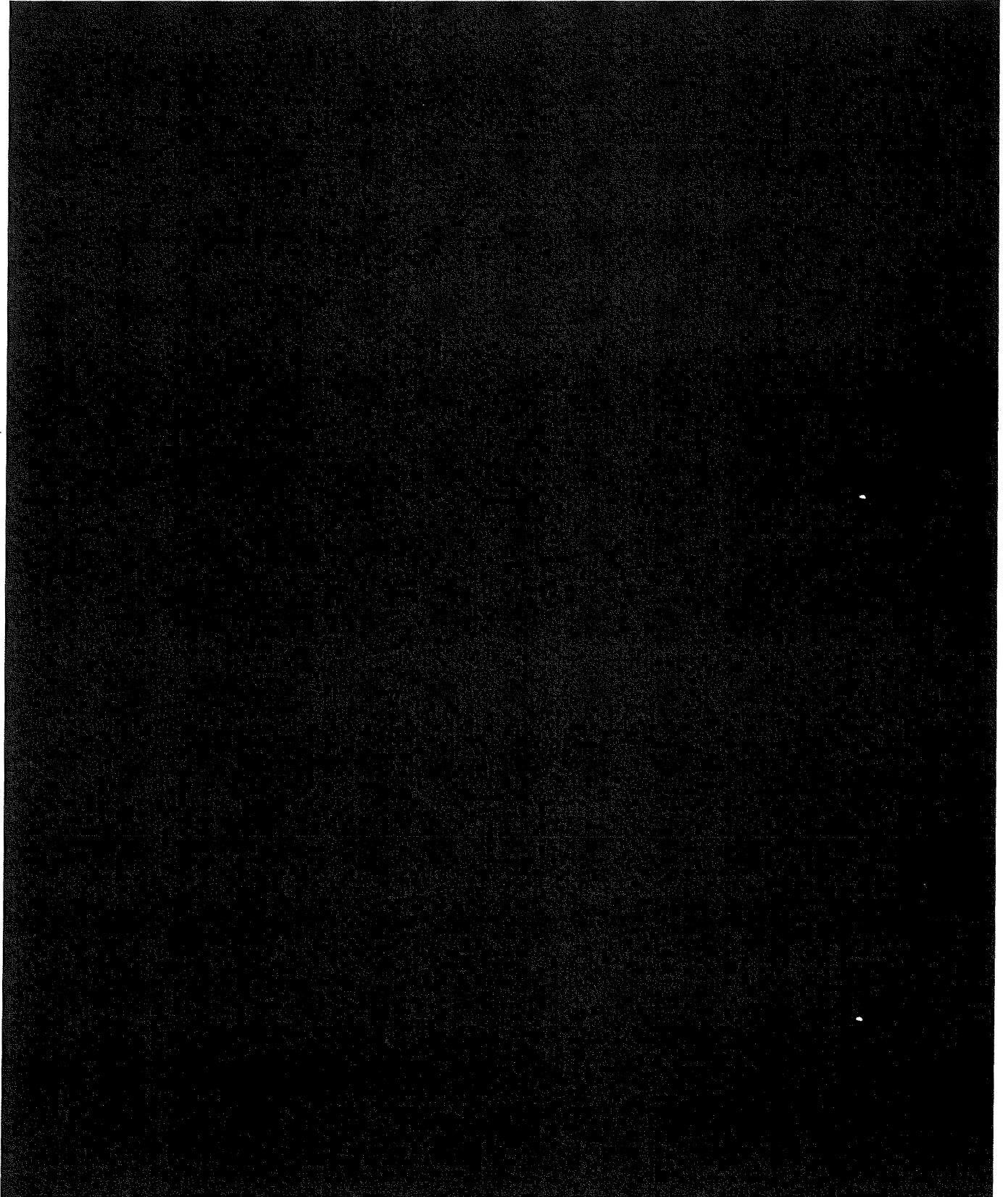
Our questions: Is there anywhere else to locate this within the center? Maybe move WestAmerica Bank?? Maybe buy out the already existing Chevron Station (the one that already gives a Safeway discount?)

2nd question: WHAT IS THE CALIFORNIA STATE REGULATION ON HOW FAR AWAY GAS PUMPS HAVE TO BE FROM SCHOOL AND RESIDENCES? Are you breaking a law here? The preschool is RIGHT ACROSS THE STREET!



We would appreciate answers to each of these questions as soon as possible. Thank you.  
Robert and Linda Hartrich  
[RLDT@aol.com](mailto:RLDT@aol.com)

Begin forwarded message:





Palo Alto, CA 94306  
(650) 320-1500 x7723  
[mrespicio@rutan.com](mailto:mrespicio@rutan.com)  
[www.rutan.com](http://www.rutan.com)

**RUTAN**



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---

**Other message recipients:**

**From:** [mrespicio@rutan.com](mailto:mrespicio@rutan.com)

**To:** [dbreen@baaqmd.gov](mailto:dbreen@baaqmd.gov)

**Cc:** [Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com), [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net), [szane@baaqmd.gov](mailto:szane@baaqmd.gov), [dcampbell@baaqmd.gov](mailto:dcampbell@baaqmd.gov), [ydicalro@baaqmd.gov](mailto:ydicalro@baaqmd.gov), [vlau@baaqmd.gov](mailto:vlau@baaqmd.gov), [koei@baaqmd.gov](mailto:koei@baaqmd.gov), [dvintze@baaqmd.gov](mailto:dvintze@baaqmd.gov), [byoung@baaqmd.gov](mailto:byoung@baaqmd.gov), [citymgr@ci.petaluma.ca.us](mailto:citymgr@ci.petaluma.ca.us), [edanly@ci.petaluma.ca.us](mailto:edanly@ci.petaluma.ca.us), [mayordavidglass@gmail.com](mailto:mayordavidglass@gmail.com), [hhines@m-group.us](mailto:hhines@m-group.us), [oervin@m-group.us](mailto:oervin@m-group.us), [apetersen@m-group.us](mailto:apetersen@m-group.us), [mfrancois@rutan.com](mailto:mfrancois@rutan.com)  
**Reply To All**

Thru Tracking: T478-041-75215-78744

Begin forwarded message:

**From:** Teresa barrett <[teresabarrett@comcast.net](mailto:teresabarrett@comcast.net)>

**Subject:** Re: Safeway Gas Station

**Date:** July 7, 2018 at 2:14:00 PM PDT

**To:** Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)>

Sorry, Bernie—this is NOT a win for Petaluma!

Teresa Barrett  
Sent from my iPhone

On Jul 7, 2018, at 9:45 AM, Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)> wrote:

Teresa,

I manage to get 3 others on my Miwok Neighbors network to join with me and share paying the \$256 fee. I thought you would not be permitted to be involved in any way with an appeal. The letter listed all the reasons against you already heard. I decided not to continue my effort because I didn't get at least 9 others to join with me and because the more I think about it, I doubt we could get anyone who voted for approval to change. The fact of the matter is Safeway has more lawyers and funds to spend in endless litigation than Petaluma. Probably Mike Healy's reasoning (?) because he spoke against while



voting for. I am giving up. Maybe someone else will file an appeal on their own and we will find out.

Thank you for your replies.

Bernie

On Sat, Jul 7, 2018 at 8:02 AM, Teresa Barrett <teresabarrett@comcast.net> wrote:  
Bernie,

I couldn't open it, but it is probably best I not see this. You might review the video of the meeting to get the names of those who spoke if you don't already have them.

Best

Teresa Barrett

On Jul 6, 2018, at 3:31 PM, Bernie Album <allbernie5@gmail.com> wrote:

***Teresa,***

***Just to follow-up my request for info I want to inform you I did call and am in the process of trying to get together 9 others to cosign a letter requesting an appeal and to share the required \$256 fee 10 ways. I drafted a letter to get started and posted a request for others to join with me on our Miwok Neighbors network. So far only 2 have replied positively. I need 6 more to proceed. I don't know how involved you are permitted to be with my efforts, therefore, I just want to let you know what I am trying to do. Also, be advised I have not contacted any other Council member unless they are subscribed to my Miwok Neighbors Network.***

***Attached is the letter I drafted FYI and, if permitted, comment(s).***

***Bernie***

***(note:I may need to convert it to a pdf if you can't open)***

On Thu, Jul 5, 2018 at 1:40 PM, Teresa Barrett <teresabarrett@comcast.net> wrote:

I think a call to our planning department: (707) 778-4316 can give you all the details—call today they do not work in Fridays

Teresa Barrett

On Jul 5, 2018, at 9:49 AM, Bernie Album <allbernie5@gmail.com> wrote:

Teresa,

There will be many voters to support an appeal. I suspect there will be a large turnout of residents to



To: Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)>

Thanks for your work on this, Bernie.

Teresa Barrett

On Jul 9, 2018, at 2:48 PM, Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)> wrote:

Teresa,

That is my understanding. Hope it is okay for you to refer any who contact you to me. Richard Sachen, whmo you referred to me is a member of the Sierra Club Executive Board and joined us. Any more like him send them to me. Appreciate your position and respect your appropriate limitations.

Bernie

On Sun, Jul 8, 2018 at 5:03 PM, Teresa barrett <[teresabarrett@comcast.net](mailto:teresabarrett@comcast.net)> wrote:

Bernie,

I don't think it is appropriate for me to work with people who are appealing something I will gave to decide.

I'm happy to put you together but I can't do more.

Teresa Barrett

Sent from my iPhone

On Jul 8, 2018, at 3:57 PM, Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)> wrote:

Teresa,

(Teesa) Yikes! I am doing too much today. sorry,

Linda is a very active member of the group I am working with to appeal Council's approval of the permit. We did it today, signed a letter and collected the full required fee. It will be submitted Monday on time with all requirement to reach Council. She sent you the questions to get you engaged in a dialog I am guessing. Your option.

More will be coming after the Appeal is on the agenda, the later the better so school administration will be back and many others returned from vacation.

Bernie

On Sat, Jul 7, 2018 at 9:54 PM, Teresa Barrett

<[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)> wrote:

Teresa Barrett

Petaluma City Council

707.953.0846

Sent from my iPhone

Begin forwarded message:



Information contained in this message may be privileged, confidential and protected from disclosure. If you are not an intended recipient, it is strictly prohibited to use, disseminate or copy this communication. If you have received this in error, please reply to the sender and then delete the message.

Thank you.

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Click to Download

PCS Proposed Safeway Fuel Center Project ltr.pdf

327 KB

Click to Download

Meridian Consultants - Petaluma Safeway Review 09122018.pdf

579 KB

Begin forwarded message:

**From:** Teresa barrett <teresabarrett@comcast.net>  
**Subject:** Re: Safeway Gas Permit  
**Date:** July 7, 2018 at 9:52:09 PM PDT  
**To:** Bernie Album <allbernie5@gmail.com>

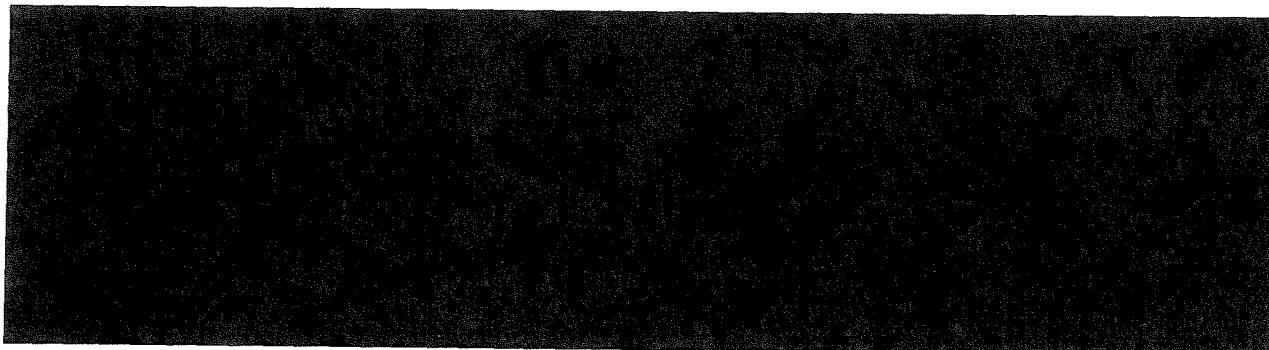
Bernie, better not to include me in these emails.

Teresa Barrett  
Sent from my iPhone

On Jul 7, 2018, at 4:44 PM, Bernie Album <allbernie5@gmail.com> wrote:

Richard,  
A group of area residents that are anti-Safeway gas station permit approval will be meeting Sunday to submit a formal appeal. We are required to submit a signed letter and \$256 fee by Monday to City Hall Planning Office. Attached is my draft letter FYI. If you are interested in being involved let me know with your home resident address and I will send you more information.  
Bernie Album  
<Safeway APPEAL.pdf>

Begin forwarded message:







**From:** "Pascoe, Samantha" <[SPASCOE@ci.petaluma.ca.us](mailto:SPASCOE@ci.petaluma.ca.us)>  
**Subject:** Rutan/Safeway Fuel Center Project Public Records Act Request (PRA2018-11-006)  
**Date:** December 5, 2018 at 2:47:28 PM PST  
**To:** David Glass <[daveglass@comcast.net](mailto:daveglass@comcast.net)>, Council Member Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>, Chris Albertson <[councilman.albertson@gmail.com](mailto:councilman.albertson@gmail.com)>, Gabe Kearney <[councilmemberkearney@me.com](mailto:councilmemberkearney@me.com)>, Kathleen Miller <[kathleencmillerooffice@gmail.com](mailto:kathleencmillerooffice@gmail.com)>, "dianaegomez@gmail.com" <[dianaegomez@gmail.com](mailto:dianaegomez@gmail.com)>, Bill Wolpert <[wolpert@sonic.net](mailto:wolpert@sonic.net)>, "mikeharriscampaign@gmail.com" <[mikeharriscampaign@gmail.com](mailto:mikeharriscampaign@gmail.com)>, "Brodhun, Scott" <[SBRODHUN@ci.petaluma.ca.us](mailto:SBRODHUN@ci.petaluma.ca.us)>  
**Cc:** "Danly, Eric" <[edanly@ci.petaluma.ca.us](mailto:edanly@ci.petaluma.ca.us)>, "Hines, H" <[HHines@m-group.us](mailto:HHines@m-group.us)>

Good afternoon,

We've received a second Public Records Act request from Rutan.

Please note: Item 1 requests those listed in Exhibit B to produce records from the May 24<sup>th</sup> request (Exhibit A). Although most of you responded, please check your records again and let me know either way for the record.

An extension has been given to Rutan to enable us to search and collect any responsive records. Please send the records directly to me and if you do not have any responsive documents to any of the items listed, we will need to note that. Legal will be reviewing before releasing any records to Rutan.

Thank you for your assistance,  
Samantha

**Samantha Pascoe, CMC**  
Deputy City Clerk  
Main 707.778.4360 Direct 707.778.4575  
[www.cityofpetaluma.net](http://www.cityofpetaluma.net)  
Hours: Mon – Thurs 8am to 5pm, Closed Fridays

Click to Download

2018 1119 PRA Request to City of Petaluma.pdf  
449 KB

Begin forwarded message:

**From:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>  
**Subject:** Re: Safeway gas station on McDowell  
**Date:** August 18, 2018 at 11:41:49 AM PDT



Begin forwarded message:

**From:** Teresa Barrett <teresabarrett@comcast.net>  
**Subject:** Re: Safeway Gas Station  
**Date:** July 7, 2018 at 8:02:38 AM PDT  
**To:** Bernie Album <allbernie5@gmail.com>

Bernie,

I couldn't open it, but it is probably best I not see this. You might review the video of the meeting to get the names of those who spoke if you don't already have them.

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Teresa Barrett

On Jul 6, 2018, at 3:31 PM, Bernie Album <allbernie5@gmail.com> wrote:

*Teresa,*

*Just to follow-up my request for info I want to inform you I did call and am in the process of trying to get together 9 others to cosign a letter requesting an appeal and to share the required \$256 fee 10 ways. I drafted a letter to get started and posted a request for others to join with me on our Miwok Neighbors network. So far only 2 have replied positively. I need 6 more to proceed. I don't know how involved you are permitted to be with my efforts, therefore, I just want to let you know what I am trying to do. Also, be advised I have not contacted any other Council member unless they are subscribed to my Miwok Neighbors Network.*

*Attached is the letter I drafted FYI and, if permitted, comment(s).*

*Bernie*

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On Thu, Jul 5, 2018 at 1:40 PM, Teresa Barrett <teresabarrett@comcast.net> wrote:

I think a call to our planning department: (707) 778-4316 can give you all the details—call today they do not work in Fridays

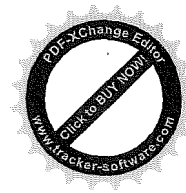
Teresa Barrett

On Jul 5, 2018, at 9:49 AM, Bernie Album <allbernie5@gmail.com> wrote:

Teresa,

There will be many voters to support an appeal. I suspect there will be a large turnout of residents to support an appeal at the next council meeting July 9. I will be among them. I attended the Planning Commission meeting June 26. All visitors spoke against, except Brian Moynahan of course. I thought I even heard Mike Healy speak against Railey and I left before they voted but I read in the Argus it passed 4-3, but I did not note that included how Mike Healy voted.

Who can initiate an appeal process?



**From:** Richard Sachen Jr <[richard@rsachen.net](mailto:richard@rsachen.net)>  
**Subject:** Re: Safeway Gas Permit  
**Date:** July 7, 2018 at 5:45:40 PM PDT  
**To:** Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)>  
**Cc:** JoAnn McEachin <[joannmceachin@gmail.com](mailto:joannmceachin@gmail.com)>, Teresa Barret  
<[teresabarrett@comcast.net](mailto:teresabarrett@comcast.net)>

Bernie,

Thank you for getting in touch with me. I am a Petaluma Resident and live near Meadow Elementary at 1617 Madeira Circle. I've had personal experience with what happens when a school is near a business



that leaks a hazardous material. The business ends up not having the funds for cleanup and the school ends up closing because neither does the school district.

I am also part of the Executive Committee of the Sonoma Group of the Sierra Club, and I would like to offer what assistance I can. The Sonoma Group cannot take the lead on an appeal, especially with the time frame involved, but we can help once an appeal has been made. The Sierra Club is generally against expansion of fossil fuel infrastructure and encourages the transition to EV and other zero emission technologies. With the CA legislature set to vote on a bill to require 100% clean energy in the near future (SB100), there is no long term viability of a gasoline refueling station.

Let me know when you are meeting as I would like to attend.

Richard Sachien  
707-327-8298 (cell)

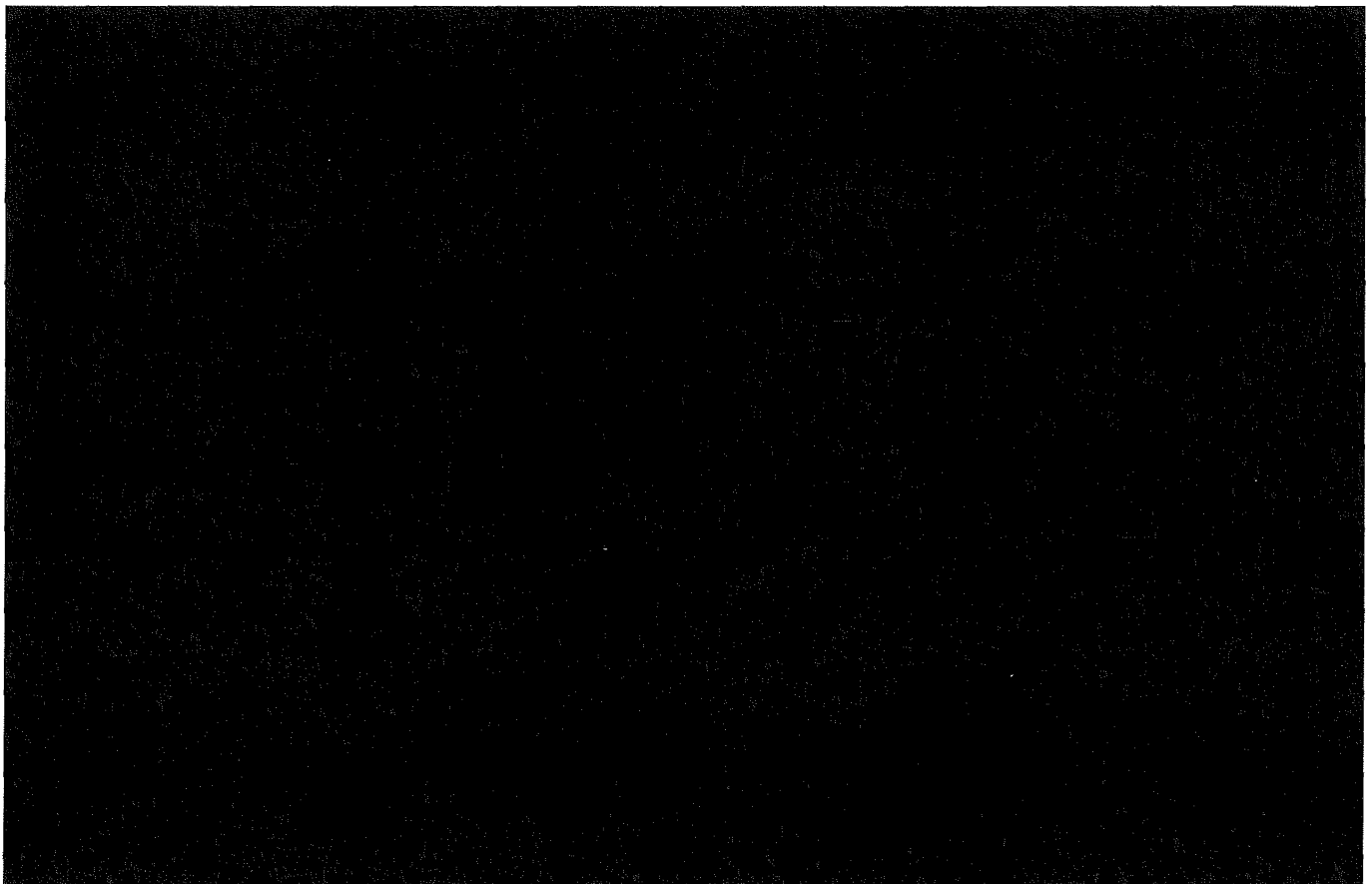
On Jul 7, 2018, at 4:44 PM, Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)> wrote:

Richard,

A group of area residents that are anti-Safeway gas station permit approval will be meeting Sunday to submit a formal appeal. We are required to submit a signed letter and \$256 fee by Monday to City Hall Planning Office. Attached is my draft letter FYI. If you are interested in being involved let me know with your home resident address and I will send you more information.

Bernie Album

<Safeway APPEAL.pdf>





I just came from a business here in town where the owner read to me postings on the neighborhood website over by the old G and G market.

It seems Safeway is retrofitting the G and G market seven days a week 24 hours a day according to the postings. The other complaint is that the huge trucks are using streets that are not open to those kinds of trucks. I have no idea how valid this is, or what kind of permitting they have with the city but it is a big snit on the neighborhood website and a lot of negative things being said about the city on this.

Sent from my iPhone

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Begin forwarded message:

**From:** Teresa Barrett <[Teresabarrett@comcast.net](mailto:Teresabarrett@comcast.net)>  
**Subject:** Re: **SAFEWAY GAS STATION**  
**Date:** July 13, 2018 at 6:39:11 AM PDT  
**To:** Pamela Torliatt <[ptorliatt@aol.com](mailto:ptorliatt@aol.com)>

Yes, perhaps we can talk about this tonight.

Teresa Barrett  
[Teresabarrett@comcast.net](mailto:Teresabarrett@comcast.net)

On Jul 12, 2018, at 10:19 PM, Pamela Torliatt <[ptorliatt@aol.com](mailto:ptorliatt@aol.com)> wrote:

<Safeway Gas station appeal letter, Petaluma.pdf>

Begin forwarded message:

**From:** jennyb <[jenynyb01@wllw.net](mailto:jenynyb01@wllw.net)>  
**Subject:** **No to Safeways gas station**  
**Date:** November 29, 2018 at 6:21:32 PM PST  
**To:** [MavorDavidGlass@gmail.com](mailto:MavorDavidGlass@gmail.com), [mthealy@sbcglobal.net](mailto:mthealy@sbcglobal.net), [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net), [councilmemberkearney@me.com](mailto:councilmemberkearney@me.com), [davekingpcc@gmail.com](mailto:davekingpcc@gmail.com), [kathleencmillerooffice@gmail.com](mailto:kathleencmillerooffice@gmail.com)

Dear Petaluma City Council

I urge you to deny Safeway's proposal to build a new 16-pump gas station in Washington Square, close to a child care center, an elementary school, and fields where children play.

Safeways/Albertsons states, "Albertsons Companies is committed to integrating sustainability into our everyday business decisions to enable our employees, customers and stakeholders to create better lives, vibrant neighborhoods and a healthier planet." <https://www.albertsonscorporation.com/our-values/sustainability.html>



**From:** Teresa Barrett <teresa4petaluma@comcast.net>  
**Subject:** Re: Safeway gas station on McDowell  
**Date:** August 20, 2018 at 8:23:16 PM PDT  
**To:** Nettie <bockak@yahoo.com>

No, it means I want to know what is to be decided on, ie, the staff report— before I respond, as this is coming to the council for a vote on the 17th.

I do not support the idea of putting this project in this place, but I am not sure that that is what I will be asked to vote on. I have watched the planning commission hearing, read a lot of the background documentation, but I have not seen the appeal or the staff report.

Sorry if I was unclear.

Teresa Barrett  
Petaluma City Council  
707 .953 .0846  
Sent from my iPhone



On Aug 20, 2018, at 7:30 AM, Nettie <[bockak@yahoo.com](mailto:bockak@yahoo.com)> wrote:

Hi-not sure what this means. Are you for the Safeway gas station project?

Sent from my iPhone

On Aug 18, 2018, at 11:41, Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)> wrote:

Thank you. I am waiting to get the staff report.

Teresa Barrett  
Petaluma City Council  
707.953.0846  
Sent from my iPhone

On Aug 17, 2018, at 10:43 AM, A Bock <[bockak@yahoo.com](mailto:bockak@yahoo.com)> wrote:

If it still matters at this point to hear from  
Petaluma residents about the planned  
Safeway gas station on McDowell I would like  
to say on the record I oppose it. As much as I  
like cheap gas it's not worth it given the  
proximity to a residential area near schools  
and a park. I'm also concerned about  
increased traffic congestion. Thank you,  
Annette Bock Petaluma

**From:** Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)>  
**Subject:** Re: Safeway Gas Station  
**Date:** July 7, 2018 at 3:49:14 PM PDT  
**To:** Teresa barrett <[teresabarrett@comcast.net](mailto:teresabarrett@comcast.net)>

Teresa,

FYI I am meeing with 2 others today and have had email contact with another activist parent resident representing a few others. We are meeting SUNDAY noon at Peete's (Wash.Sq. Plaza) to finalize a letter

and collect \$ for the fee to submit an appeal on Monday. My decision is based on the belief that it is better to file an appeal then not. We realize what the issues are and how expensive this can become for Petaluma but believe this is the good fight and should be taken on. Mike Healy will have to be convinced cheap gas should not win over our children's safety and health. Safeway would be responsible for our having to use local tax funds to fight them in protracted litigation. The public will know and there will be wide negative publicity for Safeway. City Coucil will not be the blame, Safeway will be. This is not like other controversial projects that the City approved to avoid expensive litigation or Shollenber Ranch. Of course your attendance would be welcome but understand may not be politically permitted or advisable.

Bernie





Danly, Eric

**From:** David Glass <daveglass@comcast.net>  
**Sent:** Thursday, December 20, 2018 3:38 PM  
**To:** Danly, Eric  
**Subject:** Fwd: RE: Safeway Gas Station

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---

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

From: dave glass <daveglass@comcast.net>  
To: rldt@aol.com  
Cc: "'Cooper, Claire'" <ccooper@ci.petaluma.ca.us>  
Date: July 7, 2018 at 5:48 PM  
Subject: RE: Safeway Gas Station

I am forwarding your questions to city staff for response.

The preliminary answer to your question is not going to be the answer you are most likely looking for.

The property zoning permits such a use, and it appears the restrictions that are in place under the law for such use in proximity to schools do not meet the threshold to withhold approval of a project such as this.

This project will comply with all California Laws regarding such issues as pollution. No laws will be broken regarding this matter either to deny approval or to allow for an approval.

Nothing in this correspondence should be interpreted as an opinion of support or lack of the same. As you mention California Law, under the law as a decision maker, I am required to keep an open mind, review all evidence in the record, and only then am I able to make an informed decision on the matter.

I realize this issue was in front of the Planning Commission recently and was approved on a divided vote. It may be coming to the city council on an appeal of that decision. Therefore, I will reserve all other comments on this matter until such time the appeal period has expired, or the appeal has been heard at the city council.



I am confident city staff will be in communication with you in the coming days.

Thank you.

David Glass

**From:** rldt@aol.com [mailto:rldt@aol.com]  
**Sent:** Saturday, July 07, 2018 5:34 PM  
**To:** mayordavidglass@gmail.com  
**Subject:** Safeway Gas Station

We are writing to express our EXTREME DISMAY at the potential Safeway Gas Station coming in to Washington Square. I have nothing against the gas station -- only the TERRIBLE congested corner location!

This corner is DIRECTLY across from 4C's Preschool and playground, and McDowell Elementary School plus two other schools on the property.

This corner faces residential homes on S. McDowell and McKenzie Ave.

This corner is on a small two-way road, Maria Drive. And the very congested S. McDowell.

This corner is right next to a very busy bus stop.

This corner is very close to the busy Little League fields and McDowell Park playground.

Too much pollution. Too much noise pollution. Too many idling cars. Too many fumes.

SO MANY neighbors have spoken out AGAINST this location.

Our questions: Is there anywhere else to locate this within the center? Maybe move WestAmerica Bank?? Maybe buy out the already existing Chevron Station (the one that already gives a Safeway discount?)



**From:** Council Member Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>

**Subject: Re: Safeway Gas Station**

**Date:** September 1, 2018 at 2:36:37 PM PDT

**To:** Angelo Sacerdote <[angelo9000@gmail.com](mailto:angelo9000@gmail.com)>

Thank you for your letter. I am concerned about this as well. I have to wait until I get the staff report before I can weigh in, but I am very aware of the issues.

I wish I could say more but, as this will be before me on the 17th, I cannot at this time.

Teresa Barrett

On Sep 1, 2018, at 9:18 AM, Angelo Sacerdote <[angelo9000@gmail.com](mailto:angelo9000@gmail.com)> wrote:

Dear Councilmember Barrett

I am writing to express my opposition to the planned Safeway Gas Station on South McDowell Blvd. I live just a few blocks away from there and already experience traffic congestion when I need to get to East Washington via South McDowell. There are two



other gas stations within a few blocks of this proposed one and no shortage of gas stations in multiple directions from this location. More importantly, this proposed site is directly across the street from a pre-school, an elementary school, a park, baseball field and homes.

A 16 pump gas station will release gas fumes, host idling vehicles and further slow down traffic, leading to more air pollution so close to very young children. I am really surprised that there is no law barring the construction of a gas station near a school.

There is also the increased risk of fire and explosion anywhere there is a large amount of fuel. We should be increasing our use of electric vehicles and public transportation, not building more gas stations.

Not my top concern, but this will also negatively affect the property values of homes in the area, especially directly across the street from it.

I have also noticed that there have been no public notices at the site announcing hearings or even signs that there will be a gas station there. I pass this location every day and there is no indication of a gas station being planned. I almost didn't find out until it was too late.

I can think of other fine uses for that corner, such as a small apartment building. Something that addresses the needs of this community.

On the East Side of Petaluma we have many gas stations and so many strip malls. I feel like this would not be so easily approved on our historic West Side.

I hope you will decide to join other local residents in opposing this gas station.

Thank you,

Angelo Sacerdote  
522 Park Lane  
Petaluma, CA 94954

Begin forwarded message:

**From:** "Crump, Katie" <[KCRUMP@ci.petaluma.ca.us](mailto:KCRUMP@ci.petaluma.ca.us)>  
**Subject:** FW: Petaluma City Schools Comment Letters on the Safeway Fuel Center Project  
**Date:** September 12, 2018 at 4:25:25 PM PDT  
**To:** Chris Albertson <[councilman.albertson@gmail.com](mailto:councilman.albertson@gmail.com)>, Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>, David Glass <[daveglass@comcast.net](mailto:daveglass@comcast.net)>, "Mike Healy" <[mthealy@sbcglobal.net](mailto:mthealy@sbcglobal.net)>, "Gabe Kearney" (<[gkearney@me.com](mailto:gkearney@me.com)>) <[gkearney@me.com](mailto:gkearney@me.com)>, Dave King <[davekingpcc@gmail.com](mailto:davekingpcc@gmail.com)>, Kathleen Miller <[kathleencmilleroffice@gmail.com](mailto:kathleencmilleroffice@gmail.com)>  
**Cc:** "Brown, John" <[JBROWN@ci.petaluma.ca.us](mailto:JBROWN@ci.petaluma.ca.us)>

Ms. Thomas insisted that Council receive a copy today of the attached correspondence. I will have a hard copy of this, along with all the other late documents that are arriving, on the dais at your places on Monday.

Heather has been copied, and the Clerk's office will place on-line with the other late documents.



[RLDT@aol.com](mailto:RLDT@aol.com)



Begin forwarded message:

**From:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>  
**Subject:** Re: Petaluma City Schools Comment Letters on the Safeway Fuel Center Project  
**Date:** September 12, 2018 at 7:07:14 PM PDT  
**To:** Katie Crump <[KCRUMP@ci.petaluma.ca.us](mailto:KCRUMP@ci.petaluma.ca.us)>

It is one of a handful that I feel absolutely terrible about.

Teresa Barrett  
Petaluma City Council  
707.953.0846  
[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)

On Sep 12, 2018, at 6:54 PM, Crump, Katie <[KCRUMP@ci.petaluma.ca.us](mailto:KCRUMP@ci.petaluma.ca.us)> wrote:

Oh good Lord. Ms Thomas was so insistent and wanted Danly to distribute. Told her no, unless there was attorney-client privilege, it comes to the CM's office, I log them, and we distribute. So instead she duplicates everything! I sure don't envy your meeting next week!

Sent from my iPhone

On Sep 12, 2018, at 5:25 PM, Council Member Teresa Barrett  
<[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)<<mailto:teresa4petaluma@comcast.net>>> wrote:

Thank you, Katie, the school Secretary also sent them to us—hmmmm!

Teresa Barrett



On Sep 12, 2018, at 4:25 PM, Crump, Katie  
<[KCRUMP@ci.petaluma.ca.us](mailto:KCRUMP@ci.petaluma.ca.us)<<mailto:KCRUMP@ci.petaluma.ca.us>>> wrote:

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Heather has been copied, and the Clerk's office will place on-line with the other late documents.

Thanks  
Katie

From: Chris Thomas [<mailto:cthomas@petk12.org>]  
Sent: Wednesday, September 12, 2018 4:15 PM



To: citymgr  
Cc: Gary Callahan; Sheri Chlebowski; Stan Barankiewicz; Danly, Eric  
Subject: Petaluma City Schools Comment Letters on the Safeway Fuel Center Project

To Whom it May Concern,

Please find a letter from Petaluma City Schools and a Comment/Review letter from Meridian Consultants for the Public Hearing on the Agenda for the Petaluma City Council Meeting on the 17th on the Proposal Safeway Fuel Center Project.

Please feel free to contact me with any questions.

Best regards,

Chris Thomas  
Chief Business Official  
Petaluma City Schools  
707-778-4621

Notice to Recipient:

Information contained in this message may be privileged, confidential and protected from disclosure. If you are not an intended recipient, it is strictly prohibited to use, disseminate or copy this communication. If you have received this in error, please reply to the sender and then delete the message.

Thank you.

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<PCS Proposed Safeway Fuel Center Project ltr.pdf>

<Meridian Consultants - Petaluma Safeway Review 09122018.pdf>

Begin forwarded message:

**From:** Teresa barrett <teresabarrett@comcast.net>  
**Subject:** Re: Safeway/Albertson/ Niles Canyon Fair Agrument  
**Date:** December 15, 2018 at 5:42:31 PM PST  
**To:** Janice Cader-Thompson <ianice.cader@gmail.com>

I don't know what the Niles Canyon Fair Argument is. Let's deal with it in 2019!

Teresa Barrett  
Sent from my iPhone

On Dec 13, 2018, at 12:56 PM, Cader-Thompson Janice <ianicecader@gmail.com> wrote:



**From:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>  
**Subject:** Re: Proposed Safeway Fuel Center Project - Site Plan and Architectural Plan Review Appeal  
**Date:** October 5, 2018 at 5:42:22 PM PDT  
**To:** Ellen Webster <[ellen.webster@gmail.com](mailto:ellen.webster@gmail.com)>

Keeping my fingers crossed until I see the staff report!

Ever hopeful,

Teresa Barrett



Petaluma City Council  
707.953.0846  
[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)



On Oct 5, 2018, at 12:31 PM, Ellen Webster <[ellen.webster@gmail.com](mailto:ellen.webster@gmail.com)> wrote:

I have seen this, and I agree there needs to be a full EIR. Personally, I am against the gas station; we don't need another one in town. I think you would be hard pressed to find supporters in the neighborhood most affected. My grandson plays ball at those fields, and I just don't think this is an appropriate location for yet another gas station. I hope you vote yes on the appeal, and the EIR.

On Friday, October 5, 2018, Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)> wrote:  
Ellen, I assume you are aware of this, but in case you aren't, I am sending it to you.

Teresa Barrett  
Petaluma City Council  
707.953.0846  
Sent from my iPhone

Begin forwarded message:

**From:** Lori Hiras <[lhirasa@petk12.org](mailto:lhirasa@petk12.org)>  
**Date:** October 4, 2018 at 1:09:57 PM PDT  
**To:** [mayordavidglass@gmail.com](mailto:mayordavidglass@gmail.com), Mike Healy  
<[mthealy@sbcglobal.net](mailto:mthealy@sbcglobal.net)>, [councilman.albertson@gmail.com](mailto:councilman.albertson@gmail.com),  
[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net), [councilmemberkearney@me.com](mailto:councilmemberkearney@me.com),  
[davekingpcc@gmail.com](mailto:davekingpcc@gmail.com), [kathleencmillerooffice@gmail.com](mailto:kathleencmillerooffice@gmail.com)  
**Cc:** Gary Callahan <[gcallahan@petk12.org](mailto:gcallahan@petk12.org)>, Sheri Chlebowski  
<[schlebowski@petk12.org](mailto:schlebowski@petk12.org)>, [edanly@ci.petaluma.ca.us](mailto:edanly@ci.petaluma.ca.us),  
[jbrown@ci.petaluma.ca.us](mailto:jbrown@ci.petaluma.ca.us), "Hines, Heather"  
<[hhines@ci.petaluma.ca.us](mailto:hhines@ci.petaluma.ca.us)>, Chris Thomas <[cthomas@petk12.org](mailto:cthomas@petk12.org)>  
**Subject:** Proposed Safeway Fuel Center Project - Site Plan and  
Architectural Plan Review Appeal

Good afternoon.

Please see the attached letter sent on behalf of Chris Thomas, Chief  
Business Official.

Thank you,  
Lori

Lori Hiras  
Executive Assistant  
Business Services  
*Petaluma City Schools*





Begin forwarded message:

**From:** Teresa Barrett <teresa4petaluma@gmail.com>  
**Subject:** Re: Safeway gas and 11 years from now...  
**Date:** October 8, 2018 at 9:45:02 PM PDT  
**To:** Jason Davies <jasond1@mac.com>

I'm totally on the same page and I'm cautiously hopeful.  
Thanks for offering to GOTV—packet with instructions will be coming soon!

Teresa Barrett

On Oct 8, 2018, at 7:29 PM, Jason Davies <jasond1@mac.com> wrote:

I realize there may be little the city can do to avoid approval of the Safeway gas station without a costly legal challenge, but if a case were to be made, I'd say this is a good one:

<https://www.cnn.com/2018/10/07/world/climate-change-new-ipcc-report-wxc/index.html>

Just pains me to see us going backwards like this when we already have existing stations and we need to be getting ourselves off our addiction to fossil fuels.

All the best,

Jason

Begin forwarded message:

**From:** "Respicio, Maryknol" <mrespicio@rutan.com>  
**Subject:** Safeway Fuel Center Project; 335 S. McDowell Boulevard, City of Petaluma  
**Date:** October 5, 2018 at 5:58:01 PM PDT  
**To:** "teresa4petaluma@comcast.net" <teresa4petaluma@comcast.net>

You are being provided access to documents by Rutan & Tucker, LLP. You can access the documents for the next 30 days by clicking on the link below. See below for a message from the sender, and for a list of all recipients of this email.

[Access Secured Files Here](#) - Expires Monday 5 Nov 2018 07:59 AM (UTC)

\* If the link above does not work, copy the following URL to a web browser:

<https://rutantucker.thruinc.net/Desktop/Distro/Open/04164MLY7E1>

Please see attached letter from Matthew Francois.

Thank you.

### Maryknol Respicio

Assistant to Matthew D. Francois  
Rutan & Tucker, LLP  
Five Palo Alto Square, 3000 El Camino Real, Ste. 200



**From:** "Chris Samson" <[2samsons@comcast.net](mailto:2samsons@comcast.net)>  
**Subject:** RE: Question from Peter Parks about your position on the proposed Safeway gas station  
**Date:** October 21, 2018 at 8:09:16 PM PDT  
**To:** "Teresa Barrett" <[teresa4petaluma@gmail.com](mailto:teresa4petaluma@gmail.com)>

Thanks. I responded to him with your statement.

Chris

**From:** Teresa Barrett [<mailto:teresa4petaluma@gmail.com>]  
**Sent:** Sunday, October 21, 2018 7:48 PM  
**To:** Chris Samson  
**Subject:** Re: Question from Peter Parks about your position on the proposed Safeway gas station

Chris,

My standard response is below. Thank you for responding for me. I have responded to people at their doors, but I can make it very clear that this is not an official position and if it were on the Internet I am sure I would have to recuse myself from any vote. But I don't really want to put that on the Internet.

This is an issue that that will come before the City Council so I cannot take a yes or no position on it until I have all the documents and evidence before me. If you would like to speak to me about it you can call me at 707-953-0846 and we can talk about it.



Teresa Barrett



On Oct 21, 2018, at 7:40 PM, Chris Samson <[2samsons@comcast.net](mailto:2samsons@comcast.net)> wrote:

Teresa:

Peter Parks sent you a message on Facebook today asking where you stand on the Safeway gas station. I don't recall this question being asked at either of the candidates forums. How would you like me to respond??

Chris

---

**From:** Facebook [<mailto:notification@facebookmail.com>]

**Sent:** Sunday, October 21, 2018 4:12 PM

**To:** Chris Samson

**Subject:** [Teresa Barrett for Petaluma Mayor 2018] New message from Peter Parks



Facebook

**Peter Parks** is waiting for a response from Teresa Barrett for Petaluma N 2018

Responding quickly to your message from Peter Parks will help increase their trust and confidence in your Page.



Where do you stand on the Safeway gas station, are you for or against it?

[View Conversation](#)

New! Reply by Email

If you reply to this email, Peter Parks will receive your response in Messenger.

This message was sent to [2samsons@comcast.net](mailto:2samsons@comcast.net). If you don't want to receive these emails from Facebook in the future, please unsubscribe.

Facebook, Inc., Attention: Community Support, 1 Facebook Way, Menlo Park, CA 94025

## Lisa Davison

---

**From:** Lisa Davison  
**Sent:** Saturday, November 24, 2018 8:37 AM  
**To:** Olivia Ervin  
**Subject:** Case Law - Public Opposition to MND

Hi Olivia,

I'm catching up on CEQA Cases and this paragraph from the Fremont Niles case caught my eye as it relates to the Safeway project.

- CEQA is interpreted to afford the fullest possible protection to the environment within its language's reasonable scope; the EIR is the "heart of CEQA"; and fostering informed self-government through public participation is an essential part of the process. The "low threshold" "fair argument" test requires that an EIR be prepared if there is *any* substantial evidence in the record, contradicted or not, supporting a "fair argument" that a project *may* (meaning a "reasonable possibility") have a significant affect. The existence of a fair argument is a legal issue; judicial review is de novo with a preference for resolving doubts in favor of environmental review; and relevant personal observations on non-technical subjects (as opposed to argument, speculation, and unsubstantiated opinion) can qualify as substantial evidence supporting a fair argument. While most CEQA practitioners can probably recite these basic legal principles in their sleep, they do serve to remind project proponents of an important "fact of life" in the CEQA world: if your project faces intense and dedicated neighborhood opposition, as did the Project here, it will be a daunting task to uphold an MND against legal challenge.

[https://www.ceqadevelopments.com/2018/08/20/context-matters-first-district-holds-ceqa-requires-eir-not-mnd-to-analyze-mixed-use-projects-potentially-significant-aesthetic-and-traffic-impacts-on-fremonts-niles-historical-di/?utm\\_source=Miller+Starr+Regalia+-+CEQA+Developments&utm\\_campaign=c52cb3a689-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email&utm\\_term=0\\_2b3a24553f-c52cb3a689-72965009](https://www.ceqadevelopments.com/2018/08/20/context-matters-first-district-holds-ceqa-requires-eir-not-mnd-to-analyze-mixed-use-projects-potentially-significant-aesthetic-and-traffic-impacts-on-fremonts-niles-historical-di/?utm_source=Miller+Starr+Regalia+-+CEQA+Developments&utm_campaign=c52cb3a689-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_2b3a24553f-c52cb3a689-72965009)

### LISA DAVISON | ENVIRONMENTAL PLANNER

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**From:** "Pascoe, Samantha" <[SPASCOE@ci.petaluma.ca.us](mailto:SPASCOE@ci.petaluma.ca.us)>  
**Subject:** Rutan/Safeway Fuel Center Project Public Records Act Request (PRA2018-11-006)  
**Date:** December 5, 2018 at 2:47:28 PM PST  
**To:** David Glass <[daveglass@comcast.net](mailto:daveglass@comcast.net)>, Council Member Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>, Chris Albertson <[councilman.albertson@gmail.com](mailto:councilman.albertson@gmail.com)>, Gabe Kearney <[councilmemberkearney@me.com](mailto:councilmemberkearney@me.com)>, Kathleen Miller <[kathleencmillerooffice@gmail.com](mailto:kathleencmillerooffice@gmail.com)>, "dianaegomez@gmail.com" <[dianaegomez@gmail.com](mailto:dianaegomez@gmail.com)>, Bill Wolpert <[wolpert@sonic.net](mailto:wolpert@sonic.net)>, "mikeharriscampaign@gmail.com" <[mikeharriscampaign@gmail.com](mailto:mikeharriscampaign@gmail.com)>, "Brodhun, Scott" <[SBRODHUN@ci.petaluma.ca.us](mailto:SBRODHUN@ci.petaluma.ca.us)>  
**Cc:** "Danly, Eric" <[edanly@ci.petaluma.ca.us](mailto:edanly@ci.petaluma.ca.us)>, "Hines, H" <[HHines@m-group.us](mailto:HHines@m-group.us)>

Good afternoon,

We've received a second Public Records Act request from Rutan.

Please note: Item 1 requests those listed in Exhibit B to produce records from the May 24<sup>th</sup> request (Exhibit A). Although most of you responded, please check your records again and let me know either way for the record.

An extension has been given to Rutan to enable us to search and collect any responsive records. Please send the records directly to me and if you do not have any responsive documents to any of the items listed, we will need to note that. Legal will be reviewing before releasing any records to Rutan.

Thank you for your assistance,  
Samantha

**Samantha Pascoe, CMC**  
Deputy City Clerk  
Main 707.778.4360 Direct 707.778.4575  
[www.cityofpetaluma.net](http://www.cityofpetaluma.net)  
Hours: Mon – Thurs 8am to 5pm, Closed Fridays

Click to Download

2018 1119 PRA Request to City of Petaluma.pdf  
449 KB

Begin forwarded message:

**From:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>  
**Subject:** Re: Safeway gas station on McDowell  
**Date:** August 18, 2018 at 11:41:49 AM PDT



To: A Bock <[bockak@yahoo.com](mailto:bockak@yahoo.com)>

Thank you. I am waiting to get the staff report.

Teresa Barrett  
Petaluma City Council  
707.953.0846  
Sent from my iPhone

On Aug 17, 2018, at 10:43 AM, A Bock <[bockak@yahoo.com](mailto:bockak@yahoo.com)> wrote:

If it still matters at this point to hear from Petaluma residents about the planned Safeway gas station on McDowell I would like to say on the record I oppose it. As much as I like cheap gas it's not worth it given the proximity to a residential area near schools and a park. I'm also concerned about increased traffic congestion. Thank you, Annette Bock  
Petaluma

Begin forwarded message:

**From:** PAMELA TORLIATT <[ptorliatt@aol.com](mailto:ptorliatt@aol.com)>  
**Subject:** Re: Please Vote YES on the Safeway Gas Station  
**Date:** November 27, 2018 at 11:34:12 AM PST  
**To:** Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)>

No it is Scott Vouri

Sent from my iPhone

On Nov 26, 2018, at 10:47 PM, Teresa Barrett <[teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)> wrote:

Is this the same name as the guy who ran for city council?

Teresa Barrett  
Petaluma City Council  
707.953.0846  
Sent from my iPhone

Begin forwarded message:

**From:** [Svorhees@comcast.net](mailto:Svorhees@comcast.net)  
**Date:** November 26, 2018 at 8:56:29 PM PST  
**To:** [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)  
**Subject:** Please Vote YES on the Safeway Gas Station

Message: Gas prices are to high in Petaluma, everybody I know goes to Costco in RP because of it. Let's keep that money local and get this Safeway Gas station approved now.

Name: Scott Vorhees



Eric



**From:** David Glass <daveglass@comcast.net>  
**Sent:** Thursday, December 20, 2018 3:37 PM  
**To:** Danly, Eric  
**Subject:** Fwd: RE: Safeway Gas Station

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---

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

**From:** dave glass <daveglass@comcast.net>  
**To:** 'Teresa Barrett' <teresabarrett@comcast.net>  
**Date:** July 8, 2018 at 8:17 AM  
**Subject:** RE: Safeway Gas Station

Thank you. Not surprise that there would be an appeal. Going to Art and Garden today.  
Got to get somewhere out of my T Shirt.

**From:** Teresa Barrett [mailto:teresabarrett@comcast.net]  
**Sent:** Sunday, July 08, 2018 7:13 AM  
**To:** dave glass <daveglass@comcast.net>  
**Subject:** Re: Safeway Gas Station

Bernie Album is working with a group to appeal this. I have sent him emails of those who ask what they can do.

Teresa Barrett

On Jul 7, 2018, at 5:48 PM, dave glass <[daveglass@comcast.net](mailto:daveglass@comcast.net)> wrote:

I am forwarding your questions to city staff for response.

The preliminary answer to your question is not going to be the answer you are most likely looking for.

The property zoning permits such a use, and it appears the restrictions that are in place under the law for such use in proximity to schools do not meet the threshold to withhold approval of a project such as this.



To: citymgr  
Cc: Gary Callahan; Sheri Chlebowsky; Stan Barankiewicz; Danly, Eric  
Subject: Petaluma City Schools Comment Letters on the Safeway Fuel Center Project

To Whom it May Concern,

Please find a letter from Petaluma City Schools and a Comment/Review letter from Meridian Consultants for the Public Hearing on the Agenda for the Petaluma City Council Meeting on the 17th on the Proposal Safeway Fuel Center Project.

Please feel free to contact me with any questions.

Best regards,

Chris Thomas  
Chief Business Official  
Petaluma City Schools  
707-778-4621

Notice to Recipient:

Information contained in this message may be privileged, confidential and protected from disclosure. If you are not an intended recipient, it is strictly prohibited to use, disseminate or copy this communication. If you have received this in error, please reply to the sender and then delete the message.

Thank you.

City of Petaluma records, including emails, are subject to the California Public Records Act. Unless exemptions apply, this email, any attachments and any replies are subject to disclosure on request, and neither the sender nor any recipients should have any expectation of privacy regarding the contents of such communications.

<PCS Proposed Safeway Fuel Center Project ltr.pdf>

<Meridian Consultants - Petaluma Safeway Review 09122018.pdf>

Begin forwarded message:

**From:** Teresa barrett <teresabarrett@comcast.net>  
**Subject:** Re: Safeway/Albertson/ Niles Canyon Fair Agrument  
**Date:** December 15, 2018 at 5:42:31 PM PST  
**To:** Janice Cader-Thompson <janice.cader@gmail.com>

I don't know what the Niles Canyon Fair Argument is. Let's deal with it in 2019!

Teresa Barrett  
Sent from my iPhone

On Dec 13, 2018, at 12:56 PM, Cader-Thompson Janice <janicecader@gmail.com> wrote:





, Eric

om: David Glass <daveglass@comcast.net>  
Sent: Thursday, December 20, 2018 4:17 PM  
To: Danly, Eric  
Subject: Fwd: RE: Safeway employees and consultants speaking as part of public comment?!

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---

> ----- Original Message -----

> From: dave glass <daveglass@comcast.net>  
> To: 'Council Member Teresa Barrett' <teresa4petaluma@comcast.net>  
> Date: June 26, 2018 at 10:21 PM  
> Subject: RE: Safeway employees and consultants speaking as part of public comment?!

>  
> It is a tough nut. I saw Eric's response. League has seminar's for new  
> Mayors. After you are elected I highly recommend you attend it. It  
> is a four day seminar on the Brown Act, public comment, the rights of  
> the public and the like.

>  
> When I speak during Eric's evaluation about the many times he has  
> helped me, it is usually prior to a tricky meeting and how to best  
> handle the public's right to speak. It is a bummer. Due to nuances  
> that are not always self-evident is why I ask Eric during meetings to  
> do certain things, usually to be preempted by Esquire Kearney.

>  
> -----Original Message-----  
> From: Council Member Teresa Barrett  
> [mailto:teresa4petaluma@comcast.net]  
> Sent: Tuesday, June 26, 2018 9:35 PM  
> To: John Brown <JBROWN@ci.petaluma.ca.us>; Heather Hines  
> <hhines@ci.petaluma.ca.us>; Eric W. Danly <edanly@ci.petaluma.ca.us>  
> Cc: Dave Glass <daveglass@comcast.net>  
> Subject: Safeway employees and consultants speaking as part of public  
> comment?!

>  
> I am watching the planning commission meeting and I am stunned that  
> Safeway employees and consultants are speaking as part of public comment.  
> They should be stopped from speaking once they are identified as  
> Safeway skills and allowed to speak when Safeway has a summation or  
> reminded that they could have spoken before public comment period.  
>  
> Teresa Barrett

# **Exhibit C**



Kevin McDonnell for City Council  
@PetalumaKMAC

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Kevin McDonnell for City Council shared a photo.

July 12, 2018 · 🌐

Help spread the word and get Kevin elected in November! #VoteKMAC



Kevin McDonnell for City Council

July 12, 2018 · 🌐

<http://votekevinmcdonnell.com/>  
#VoteKMAC

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Write a comment...



Kevin McDonnell for City Council Any follow up questions?  
Suggestions to broaden the web info?

Like · Reply · 28w



Scott Bruin Safeway gas in its current planned location:  
Yay or nay?

Like · Reply · 28w



Kevin McDonnell for City Council As stated on my Web  
page issues, NO

Like · Reply · 28w

# Ballot set in Petaluma election races

MATT BROWN

ARGUS-COURIER STAFF | August 23, 2018



Ten candidates will be on the November ballot seeking seats on Petaluma's highest elected board, including three for the separately elected mayor's seat and seven running for three open city council seats.

The crowded field includes longtime incumbent leaders, political newcomers and activists spurred to run for local office by the current political climate.

The race for mayor features three-term incumbent councilwoman Teresa Barrett, former councilman Mike Harris, who narrowly lost the mayoral race in 2014, and political newcomer Brian Powell, who can trace his roots in Petaluma back a century.

The city council candidates are Scott Alonso, Robert Conklin, D'Lynda Fischer, Dave King, Kevin McDonnell, Dennis Pocekay and Michael Regan.

## Race for mayor

The Petaluma mayoral race was thrown wide open in February when longtime mayor David Glass, 70, announced he would not seek reelection. A self-described progressive, Glass was first elected mayor in 2002.

Though elected separately from the rest of the city council, the mayor of Petaluma has little additional power aside from running meetings and making public appearances.

Barrett, 70, Glass's political ally, was first elected to the city council in 2006. Her top campaign issues are traffic congestion relief, housing affordability, street repairs, improving parks and fiscal responsibility. She has said she is in favor of building the Rainier crosstown connector, though she has questioned how to pay for the project.

She is in favor of increasing affordable housing fees charged to developers of residential projects in the city, and would like to increase the city's hotel tax. She has been opposed to an increase in the sales tax. Barrett is endorsed by Rep. Jared Huffman and Rep. Mike Thompson.

Harris, 47, a conservative politician who campaigned for John McCain in 2008, served three terms on the city council from 2002 until 2014, when he lost to Glass by 84 votes. An executive for a local financial services company, he has served on several city boards and volunteer organizations including the Friends of SRJC's Petaluma campus, the Petaluma Area Chamber of Commerce, Petaluma Educational Foundation and Petaluma Historical Library and Museum.

His key issues include the economic revitalization of the city, incrementally earmarking revenue for city infrastructure and making Petaluma a tourist destination. A former Sonoma County Transportation Authority representative, he is in favor of pushing to complete the Highway 101 widening project and the Rainier crosstown connector.

Powell, 38, the newcomer in the race, is the grandson of Philip Joerger, a former Petaluma councilman and county supervisor. A self-described scientist who does volunteer work helping chronically sick people, he has never held elected office. He said his key issue is stopping what he sees as rampant growth in Petaluma.

A father of a 10-year-old son, he coaches youth sports in Petaluma and has visions of opening a teen center in the city. He said he is in favor of keeping the Sonoma-Marin Fairgrounds land for the fair. He is against a proposed Safeway gas station on McDowell

and he wants to ban smoking outside in the city.

## City council race

King, 61, is the only incumbent running for one of three open seats after Chris Albertson decided to retire from the council and Barrett chose to run for mayor. A Petaluma attorney, King was first elected to the council in 2014. His top issues are housing affordability, road repairs and economic development. He has voted to advance the Rainier and Caulfield crosstown connector projects, and he helped draft an ordinance that bars Petaluma police from cooperating with federal immigration officials.

Alonso, 32, is the youngest candidate in the race. A planning commissioner, his key issue is creating more affordable housing, and he has supported requiring developers to include affordable units with their projects. He is in favor of building the Rainier connector and raising revenue to support road repairs, and he has proposed passing an ordinance to ban flavored tobacco products. Alonso works in media relations for the Contra Costa County District Attorney's Office.

Conklin, 39, a life-long Petaluma resident, works as a fleet service worker for the city of San Francisco. He grew up on the west side, played football for Petaluma High School, then bought a house on the east side of the city. His main issues are repairing streets, constructing new routes across the city to alleviate traffic, protecting the environment and attracting jobs to Petaluma.

Fischer, 58, moved to Petaluma four years ago. A former operations manager with Daily Acts, her background is in urban planning. Her key issues include more affordable housing, solutions to relieve traffic congestion, and allocating the resources necessary for city staff to provide adequate services.

McDonnell, 61, works as a project management consultant for North Bay cities. The chair of the city's Recreation, Music, and Park Commission, he co-founded a citizen's educational forum which promotes citizen engagement in pending Petaluma developments. He supports infill developments and traffic relief, including road diets in some places. He is against the proposed Safeway gas station and he wants a proposed public art project on Water Street reworked.

Poczekay, 68, has lived in Petaluma 27 years, and is a retired doctor. He is active in progressive causes in Petaluma, and currently volunteers with the North Bay Rapid Response Network, which helps immigrants facing deportation, and the North Bay Organizing Project, he works on social justice issues including establishing just cause eviction for tenants. He is in favor of more affordable housing, raising the minimum wage to \$15 per hour, and he is against the Safeway gas station.

Regan, 38, chairs the city's Transit Advisory Committee, and he is president of the Petaluma Educational Foundation. He started The Regan Team Home Loan Group with his wife in 2010. His main issues are public safety, housing for young families, seniors, and working people, addressing transportation issues including the Rainier crosstown connector and looking at the long-term future of the Sonoma-Marin Fairgrounds.

(Contact Matt Brown at [matt.brown@arguscourier.com](mailto:matt.brown@arguscourier.com).)



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## Safeway Gas Station

The Safeway Gas Station needs more studies. The city needs to demand the developer to provide answers to the impacts of the proposal. They need to prove that traffic won't get worse and generate accidents involving our children!

More than that, where do the customers come from? As the only "super" station in town, this station will reduce purchases at other stations all which shifts car trips into this area. We complain about traffic on East Washington Blvd, wait until many more cars decide to head to the intersection of So. McDowell Blvd and Maria Drive.

Lastly, is this even a business model we want to encourage? We need to reduce our gas dependency, not subsidize it. Global warming is turning California into year round fire risk and we're putting value in cheap gas? We need to make it easier to walk in town, not construct new risks to those who walk or bike. I know it's not for everyone but getting my Leaf electric car 5 years ago was one of the best transportation moves I've made. I'll help anyone do the math on why it's a great decision!

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### News

Kevin Endorsed by the Argus Courier

Kevin Joins the Race!

Kevin Starts "Know Before You Grow"

New Fields for Petaluma

Petaluma finally gets funding for new parks

Committee to Elect Kevin McDonnell

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# PETALUMA CITY COUNCIL CANDIDATE FORUM

HOSTED BY NORTH BAY  
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OCT Petaluma City Council Candidate Forum

13

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Petaluma will vote on THREE city council members on November 6, 2018!

There are 7 candidates running, each with a different vision for Petaluma:

- Dave King                      - Robert Conklin  
- Dr. Dennis Pocekay       - Kevin McDonnell  
- D'Lynda Fischer           - Scott Alonso  
- Michael Regan\* (\*unable to attend)

Please join us to hear what each of the candidates stands for & how they plan on moving Petaluma forward.



## Oppose the Petaluma Safeway Gas Station



Sunday at 11:14 AM •

Election Day is coming up, and many people have asked us where Petaluma City Council candidates stand on the Safeway Gas Station.

In June, Scott Alonso voted against it on the Planning Commission and took Safeway to task for their poor job of public notification.

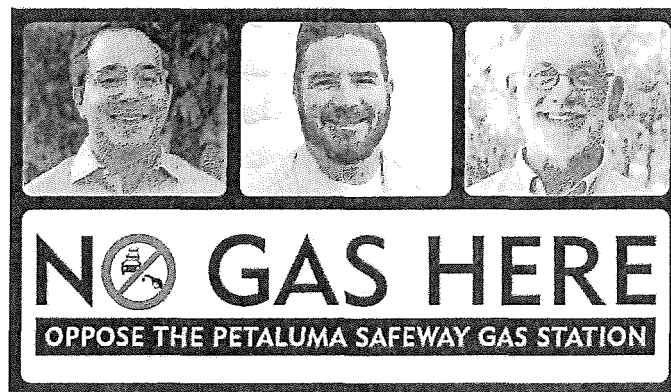
In July, Robert Conklin joined us and co-signed our appeal asking the City to vote against the project, and has since contributed money and time.

In August, Dr. Dennis Pocekay wrote a letter to our City Council, expressing his concern.

To that end, these 3 candidates have been the most helpful to our cause and we encourage you to learn more about them before voting on November 6th!

Kevin McDonnell and D'Lynda Fischer have also stated their opposition.

We will not know where sitting council-member Dave King stands until he votes at the City Council meeting on December 3rd.



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**Kristen Welch**

Do you have information on how each City Council candidate stands regarding the gas station?

6w Like Reply



**Glenn Rubenstein**

Robert Conklin is against it and signed the appeal.

Scott Alonso is also against it and voted against it on the Planning Commission.

Dennis Pocekay wrote a letter against it to our City Council.

Kevin McDonnell, D'Lynda Fischer and Michael Regan have also said they are against it for various reasons.

## Bike Petaluma

Bike Petaluma strives to create a community where people of all ages and abilities can enjoy bicycling.

### Kevin McDonnell

Name	Kevin McDonnell
Candidate for:	City Council
1. Do you ride a bicycle in Petaluma for recreation or transportation? Why or why not? What has been your experience?	Yes I ride a bicycle. I ride several Centuries a year including Backroads, the Giro, Wine Country and America's Most Beautiful (Tahoe). I ride my bike for transportation as well. I used to referee a lot of soccer and the bike was the fastest way to get from field to field. I am a comfortable urban biker. That said, I totally get why people would be terrified to do what I do. And with our roads and drivers, I wouldn't recommend it except to the brave. I have some stories!!!
2. What role does bicycling and walking play in your vision for the future development of Petaluma? If elected what strategies/tools/resources would you utilize to realize this vision?	The past of Petaluma (and California) is car based. Housing was driven by car needs. Road design was driven by car needs. The future must be multi modal (yes I'm a civil engineer and use words like that). All new housing has to be walk-able and bike-able. We won't build anymore housing on the edge of town. We will build downtown. When developments come through the Planning process, we must create incentives to move away from cars. They only create pollution and traffic. The change must be to de-couple parking spaces from apartment rents, reduce the total parking provided, provide SMART fares to bike users, create central concourses in designs so that cars don't clog where bike and walkers can be. I founded "Know Before You Grow", a citizens forum series on the coming development because I think the city Planning process is not adequately communicating with the public. Our mission is get the public educated and engaged early. One of our four key values is "mobility for all." At our first forum, we brought in Bjorn Gripenburg to speak to bike mobility. We continue to advocate these values. I have met with developers to advocate for these ideas.
3. What are Petaluma's biggest transportation challenges? What policies or projects would you promote to address these challenges?	Petaluma's biggest transportation challenge is funding. Because transportation has been underfunded for years, every road is overcrowded and new paths do not get built. Current state gas tax is starting to improve the funding. Repeal of this is on the State ballot in November. It would be disastrous to Petaluma if SB1 gets repealed. Good paving surfaces make biking possible. Flat tires and wrist injuries from bad roads get people off their bikes. (overcrossing). We also need to put a good surface on the Lynch Creek Trail. I can't wait for the SMART bike path project from Payran to Southpoint Blvd/McDowell. SMART owes Petaluma more than it has delivered. Another pet project of mine is to extend street sweeping to focus on busy biking routes. Too often road debris makes bike lanes dangerous, so bikers move to straddle the white line. This angers cars. If the lanes were swept, both cars and bikers would be happier.
4. Petaluma streets are increasingly congested and worn if elected, how would you propose to improve infrastructure in the City?	I have a two step plan to improve infrastructure. First continue as I've stated above. Second, the city needs added funding or there are no projects. Some money can come from grants but a tax is the only real money to fix things. However, I do not believe that the a city led tax can pass at this time. Look around, who really trusts city hall? My plan is to gather the most interested public parties, those with the loudest complaints and provide the facts and ask for solutions. If these working groups are constructive, they will provide the leadership needed to create a dedicated tax for roads. This has been done in many cities. It needs to happen in Petaluma.



Kevin McDonnell <mcdonnell4council@gmail.com>

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**Kevin McDonnell** <mcdonnell4council@gmail.com>  
To: Zahyra Garcia <zahyragarcia@gmail.com>

Tue, Feb 5, 2019 at 9:15 AM

Last night, we pushed the final decision of until March 8 but it's looking like we're legally limited. I'd be glad to meet with you and discuss this and other matters. I read along with all the FB post on Indivisible Petaluma, but am somewhat constrained in replying in that it's a poor medium for dialog - a great medium for connecting, poor for dialog. Obviously, there are a lot of important issues getting decided. I'd like your input on them. Please suggest a meeting time and place. I'm rather flexible to book.

Kevin

[Quoted text hidden]

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**2 attachments**

 **2018 0522 Rutan PRA Request to City of Petaluma.pdf**  
155K

 **2018 1119 PRA Request to City of Petaluma.pdf**  
439K

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**Kevin McDonnell** <mcdonnell4council@gmail.com>  
To: "Pascoe, Samantha" <SPASCOE@ci.petaluma.ca.us>

Tue, Feb 19, 2019 at 12:16 AM

Sorry for the slow response on this. Frankly I was a little shocked. Can I make an appointment with you to review this or to have technical assistance with the "search"?

I doubt that I have any communications related to participation on the Park and Rec Commission. I have been on the Commission for 5 years. Most communication re Safeway would be campaign related.

Thanks

Kevin McDonnell  
592-3769

[Quoted text hidden]

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**Pascoe, Samantha** <SPASCOE@ci.petaluma.ca.us>  
To: Kevin McDonnell <mcdonnell4council@gmail.com>

Tue, Feb 19, 2019 at 9:58 AM

Hi Kevin,

Happy to assist. Do you have time available Wednesday or Thursday of this week?

Samantha

**Samantha Pascoe, CMC**

Deputy City Clerk

Main 707.778.4360 Direct 707.778.4575

[www.cityofpetaluma.net](http://www.cityofpetaluma.net)

Hours: Mon – Thurs 8am to 5pm, Closed Fridays



Kevin McDonnell <mcdonnell4council@gmail.com>

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## Gas station in Washington Square

3 messages

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**cyndi maddalena** <outlook\_265727DDB4CC99CD@outlook.com>

Thu, Feb 21, 2019 at 10:39 PM

To: "mcdonnell4council@gmail.com" <mcdonnell4council@gmail.com>

My family and I do not want the Safeway gas station to be built in Washington Square. It's too close to schools and parks. Please do not allow this to happen.

Thank you,

Ron and Cyndi Maddalena

Sent from [Mail](#) for Windows 10

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**Kevin McDonnell** <mcdonnell4council@gmail.com>

Fri, Feb 22, 2019 at 6:29 PM

To: cyndi maddalena <outlook\_265727DDB4CC99CD@outlook.com>

I appreciate your input. We've been hearing that a lot. However, if you've followed the last couple Council Meetings you heard the city lawyer say that new case law means the City cannot stop this from happening.

It is very disappointing to me that the first action I am involved with on the Council isn't even a choice - Council has its hands tied on this.

Thank again for writing

Kevin McDonnell

[Quoted text hidden]

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**Mail Delivery Subsystem** <mailer-daemon@googlemail.com>

Fri, Feb 22, 2019 at 6:29 PM

To: mcdonnell4council@gmail.com



### Address not found

Your message wasn't delivered to **outlook\_265727DDB4CC99CD@outlook.com** because the address couldn't be found, or is unable to receive mail.

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**From:** Danly, Eric <edanly@ci.petaluma.ca.us>  
**Sent:** Friday, March 8, 2019 4:04 PM  
**To:** Francois, Matthew; Natalie Mattei  
**Cc:** Pascoe, Samantha  
**Subject:** McDonnell Records Production  
**Attachments:** McDonnell Production 1 redacted.pdf.pdf; McDonnell Production 2 Redacted\_2.pdf; McDonnell Production 3 redacted.pdf

Matt and Natalie,

Here is the entire production from Council Member McDonnell, in three batches. Attorney client communications, which are exempt in accordance with Section 954 of the Evidence Code and Section 6254(k) have been redacted. Also not included are campaign communications, because they relate to campaign activity and not to the public's business, pursuant to Section 6252(e) of the Public Records Act. Such communications on candidate's private devices and accounts are by definition not City business as they cannot lawfully be carried out using City resources, including City equipment, accounts, staff time, office space, etc. (See, e.g., *Stanson v. Mott*, 17 Cal.3d 206 (1976). See also *Fairfield v. Superior Court* (1975) 14 Cal.3d 768.) The public interest in not disclosing such communications clearly outweighs the public interest in disclosure pursuant to Section 6255 of the Public Records Act in order to promote citizens running for local office, and to avoid penalizing appointees to local government subordinate bodies campaigning for local government elective office, as a result of their communications being subject to the Public Records Act pursuant to *San Jose v. Superior Court* (2017) 2 Cal.5th 608.

I am responsible for the determination regarding redaction of exempt records in my capacity as City Attorney and in consultation with authorized City representatives.

Please let me know if you have any questions.

Thank you.

Eric W. Danly  
Petaluma City Attorney

# **Exhibit D**

## OTHER VIEWS

### Bennett misses the point on moratorium

BY MIKE HEALY

I write in response to last week's column by my good friend, Don Bennett, regarding whether Petaluma should adopt a temporary moratorium on new gas stations so that we can consider changes to our zoning ordinance pertaining to gas stations.

Don has himself a tub-thumping good time denouncing the entire concept as raw protectionism, an attack on free market economics and, for good measure, an assault on the pocketbooks of Petaluma residents, particularly east side residents.

With all due respect, Don, you're missing my point. My bachelor's degree is in economics. I fully understand, as the great economist Joseph Schumpeter posited, that "creative destruction" is an integral part of a free market economy. And I have no interest in trying to protect the next buggy whip manufacturing sector, or anyone else, from the winds of progress and competition.

At the same time, America has long recognized that there ought to be rules to ensure fair competition. Teddy Roosevelt busted

the Standard Oil monopoly. Gov. Hiram Johnson pushed back against Southern Pacific Railroad's stranglehold on California. And for more than 70 years California law has banned predatory pricing, specifically both selling products below cost and the use of "loss leaders" (Business & Professions Code sections 17030, 17043 and 17044).



Healy

With good reason. The city's interest in these issues is more than academic. They fall under the heading of "urban blight." In Dixon and other communities, Safeway fueling centers, based on the same model proposed for Petaluma, have caused multiple gas stations to fail. Dead gas stations are particularly problematic to re-purpose for other productive uses.

And, of course, gas stations are not even Safeway's actual target. They're aiming at other grocery stores. Dead grocery stores, and the centers they anchor, are even

*America has long recognized that there need to be some rules to ensure fair competition.*

more of a blighting challenge. The empty shell of the old Safeway remains a hundred yards away from the new one, two years later.

What I have suggested, after a temporary moratorium is in place, is legislation clarifying and confirming that the term "gas station," as used in Petaluma's zoning ordinance, does not include a fueling station under common ownership with another retail business where gasoline is sold to customers below cost as a loss-leader incentive for patronizing the affiliated retail business. Thus, such uses would not be allowed. That pretty much tracks the state law provisions mentioned above that for some reason are not being enforced.

I am mindful that some citizens feel they must

buy gas in Santa Rosa to get a competitive price. My own non-scientific survey indicates that prices at several of the "major" brand stations, such as Chevron and Shell, are within a penny between Petaluma and Santa Rosa, though several other Petaluma major brand stations are a dime more expensive. But it's at the "off" brands — Arco and Valero — where things get particularly interesting. In Santa Rosa they tend to be around 30 cents cheaper than the majors. But not in Petaluma. One Petaluma Valero is 30 cents more than its Santa Rosa counterpart. Another is nearly 40 cents more.

For whatever reason, price competition is not as vigorous in Petaluma. "Locality discrimination" in pricing is also prohibited under California law (section 17040). My willingness to delve into this issue is very much dependent on that problem rectifying itself, and quickly. So we'll see if anyone is listening.

(Mike Healy is a member of the Petaluma City Council who suggested the moratorium on gas stations in Petaluma).



## OTHER VIEWS

# Heading back to square one

In George Orwell's political fable "Animal Farm," the animals, led by the pigs, overthrow the oppressive humans, but by the end of the story, the pigs had become so taken in by their newfound power that they became undistinguishable from the humans.

Something like that is happening right here in Petaluma. Councilmember Mike Healy, who achieved political prominence working hard to block some of the progressives more cockeyed efforts to stall progress in our town, now has come up with a doozy in his own right. He wants to prevent Safeway from selling low-priced gasoline with a moratorium on new fueling stations.

There are several reasons given for this opposition, but under careful examination, most appear to be classic smokescreen, and the only reason that really makes sense is to protect local gas station owners from price-based competition.

In other words, Healy has sided with a handful of station owners and/or managers against the right of the public to buy gasoline at a better price.

This proposal is dreadfully wrong for a number of reasons.

First, protectionism, using the power of government to advance or protect the interests of one business or a group of businesses is the sort of thing you expect in New Jersey or Louisiana, but certainly not in Petaluma.

Next, one of the purposes of planning law in California is to objectify the process and minimize the subjectivity of decision making in the name of fairness and protecting the public interest. In this case, all of our existing plans and policies, approved under the eagle eye of public scrutiny, say that Safeway has a right to open a gas station and to charge whatever it wants for gas. By the same token, nothing is stopping Chevron or Shell or the others from dropping their prices sharply, but why should they? With Petaluma gas prices ranking with the highest in the county, why mess with a good thing?

Now to the smokescreen arguments against Safeway. Traffic, all that stuff. There is no evidence to support these concerns precisely because there has

been no public review of the proposal at any level, and there have been no studies, because a gas station in the shopping center is a permitted use. Shopping centers are allowed to have big stores, and big gas stations, by their zoning. This is what shopping centers do. Most arguments against Safeway are excuses, not fact. Healy wasn't worried about traffic at the Target center, but now he is overly righteous about traffic at Washington Square shopping center.

Next, the proposal to get around permitted use by declaring a moratorium on gas stations is simply a lawyerly trick, worthy of comparison to several of the legal stratagems employed by

the "progressives" in the past to derail proposals such as the Factory Outlets, Target center and the Friedman's center. The purpose of the moratorium is not to take time out to garner information. Healy has been forthright in his published comments about his determination to use the moratorium to keep Safeway from selling low-priced gas.

Safeway apparently did an exit poll of customers to gauge support, and got about 1,000 signatures. This in itself doesn't mean much, but what was revealing about this was that a map of Petaluma showing origin of these signatures showed that support for Safeway was overwhelmingly based on the east side.

It is interesting to note that the power base not just for Healy but for the council majority as well is the east side of town, where 60 percent of the population lives, and drives cars to work. It is a fair assumption that these same voters are currently filling their gas tanks in Novato, Rohnert Park or Santa Rosa, all cities that have discount gasoline available for their residents.

So, if this silly moratorium idea is adopted, it will be the stereotypical "little guy" who is the loser, and local gas stations who are the winners.

Lately, the City of Petaluma has been trumpeting the notion that we have overcome our odious reputation as a "bad place to do business." The moratorium idea threatens to put us back to square one.



DON BENNETT

**Subject:** Re: Let the process work it out, don't block it with your power

**From:** Michael Healy (mthealy@sbcglobal.net)

**To:** malcolm@johnsonnet.com;

**Date:** Friday, February 21, 2014 4:06 PM

That would be the goal.

---

**From:** Malcolm Johnson <malcolm@johnsonnet.com>

**To:** 'Michael Healy' <mthealy@sbcglobal.net>

**Sent:** Friday, February 21, 2014 4:01 PM

**Subject:** RE: Let the process work it out, don't block it with your power

I see. So they must be within their current zoning, environmental, etc right to put it in. Assuming the discretionary approval process isn't something that is required only for some projects, I understand that the city would want to at least weigh in on development. The problem with going down this road, then, is stopping at 45 days and not letting it slip out without bound.

Thanks,

Malcolm

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**From:** Michael Healy [mailto:mthealy@sbcglobal.net]

**Sent:** Friday, February 21, 2014 2:50 PM

**To:** Malcolm Johnson

**Subject:** Re: Let the process work it out, don't block it with your power

Malcolm,

Thanks for your thoughts. The problem with your suggestion is that the "processes already in place" will lead to an automatic approval for this project without any discretionary approval required by the planning commission or the city council. Only by putting a temporary (45 day) moratorium in place can the city effectively deal with the various issues this proposal presents.

Regards,

Mike Healy

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**From:** Malcolm Johnson <malcolm@johnsonnet.com>

**To:** mavordavidglass@gmail.com; councilmemberkearney@me.com; councilman.albertson@gmail.com; teresa4petaluma@comcast.net; mike4pet@aol.com; mthealy@sbcglobal.net; kathleencmilleroffice@gmail.com

**Sent:** Friday, February 21, 2014 2:01 PM

**Subject:** Let the process work it out, don't block it with your power

It's an abuse of power to block a specific project thereby not allowing the processes already in place to run their course.

There are pros and cons on either side of the matter of the Safeway gas station and I don't want to boar you with my opinion on the matter. Determining the best approach for the city requires planning and discussion. Until this gas station was proposed there was no discussion of how the city will

handle all future gas station applications so it's clear this project will have been singled out if you unilaterally ban it.

No one is a fan of dangerous gas emissions near schools, but that's why we have environmental studies. If we don't rely on the results for guidance, we are just guessing. There are always risks, and are probably more likely to occur at older stations.

I'm no fan of backed up traffic, but I can't see how having almost as many waiting spaces as there are pumps will create additional traffic. If you consider that concern another way, if we have that many people who elect to use the Safeway station over the other nearby stations, we did exactly the right thing by providing less expensive fuel to our citizens. Anyway, the problem with traffic in that area stems from the fact that McDowell's very close proximity to Hwy 101 doesn't allow for enough cars to move from McDowell toward the highway, creating a jam in all three contributing directions.

I'm no fan of putting the livelihoods for the nearby station owners at risk, but if the council takes the position of determining which businesses in town receive council support and which don't, it is abusing your power. I agree we should have a fuel plan, but hold something up because we didn't think of something earlier just seems reactive. Having ample fuel in the center of town seems like good planning to me. Let's have some electric bays with the ability to add more, too. Same for natural gas, another obvious and viable long term option.

Our city and county is blessed with politically active residents. Let the process work this out using the active bases, results of studies, and right minded discussion. Don't block something and cut all this off.

Malcolm

## MEMORANDUM

To: John Brown  
From: Mike Healy  
Date: February 26, 2014  
Re.: Development Impact Fees

I wanted to give staff a heads up on an issue I intend to raise on Monday, just for purposes of possible direction. As you know, Ross Jones is arguing that traffic impact fees for his proposed downtown hotel seem high compared to the previous gas station use, for which he would receive credit. Just looking at it, it appears to me more that the gas station fees are too low, as opposed to the hotel fees being too high.

Significantly, our existing fee structure departs from strict adherence to dollars per square foot in specific instances where square feet of building area is not the best metric for capturing traffic impacts. Coincidentally, hotels are one example of that, where traffic impact fees are assessed on a dollars per room basis. See attached Table 3-7 from the 2012 Fehr & Peers report, which assesses several such metrics on a dwelling unit equivalent ("DUE") basis.

The argument that building square footage is not a compelling metric seems overwhelming with respect to gas stations. Staff is asserting that the old B Street Chevron, were it to be built today, would pay traffic impact fees based on the square feet of the office / store (not the garage), which was 1,350 square feet, leading to a total traffic impact mitigation fee of \$23,654.70. See attached.

Dan Lutz, owner of the Chevron franchise on East Washington near Safeway, tells me that he gets between 1,200 and 1,500 vehicles per day at his station. The Lutz Chevron has 8 pumps and thus 16 fueling positions. (In the jargon, a "pump" has two nozzles and thus represents two fueling positions.) So, total vehicle visits are between 75 and 94 per fueling position per day.

Looking again at Table 3-7, the process is to determine the peak hour trip generation rate for the new metric, convert that into DUEs, and then multiply by the DUE value. I do not have the ITE treatise referenced in footnote 1, but assume for sake of discussion that a gas station generates 8 trips in the peak hour per fueling station, or 16 per pump. That would equate to 15.8 DUEs per pump. Since the old B Street Chevron had 4 pumps, that would mean 63.2 DUEs, multiplied by \$18,978 per DUE, for a total traffic impact mitigation fee, currently, of \$1.2 million.

So the discussion I intend to raise with the Council is considering giving direction to staff to return with a metric based on the number of pumps or fueling positions for applying traffic mitigation impact fees to gas stations, as opposed to the current inadequate reliance on the square footage of any structures that may be on the site.

I write to explain the City of Petaluma's modification last year of our traffic mitigation impact fee program and how that relates to the Safeway's proposed fueling center.

Petaluma's traffic mitigation impact fees ensure that new development pays its fair share of the traffic improvements the community needs and expects as the city continues to, slowly, grow.

For the most part, the impact fee new commercial development pays is based on the square footage of the project. That may not perfectly capture the traffic generation of a new project, but close enough.

But in a few circumstances, a different metric would more accurately gauge traffic generation. Thus, for many years, new hotels have paid an impact fee based on the number of guest rooms rather than square footage.

Early last year it came to the city council's attention that calculating a new gas station's traffic impact fee based on the square footage of the associated mini-mart or cashier kiosk made no sense because those bear no relation to actual traffic generation.

Interestingly, this issue arose not because of Safeway or any other proposed gas station, but rather because of the efforts to build a boutique hotel on a downtown site previously occupied by a Chevron station at Petaluma Blvd. and B Street. The hotel would have to pay traffic impact fees, but it would get a credit against those fees of what the fees would have been for the previous use at the same location. Thus, the higher the gas station impact fee, the bigger the credit and the less the hotel would have to pay.

Similarly, Safeway will get credit against its impact fees for the buildings that will be torn down to make way for its fueling center.

So, early last year the city council asked city staff to explore whether basing traffic impact fees for gas stations on the number of pumps would more accurately reflect traffic generation than the square footage of the mini-mart or cashier kiosk. Staff came back with a proposal to base impact fees on the number of pumps, and that is what the council adopted.

At this point, any assertion that Safeway should pay impact fees under the old structure is really just saying that Safeway shouldn't pay its fair share based on actual traffic generation.

Another point. The new fees are based an average trip generation per pump for average gas stations. Anyone who has seen the Safeway fueling centers in Santa Rosa or Novato has witnessed that those generate far more traffic per pump than an average gas station. The city is not charging Safeway for that.

One caveat to the above is that Safeway has raised some technical questions with respect to the accuracy of the city's effort to calculate impact fees on a per pump basis. The city is looking into that and will make adjustments if appropriate.

---

**From:** Franklin Dickey [<mailto:fdickey@baaqmd.gov>]

**Sent:** Friday, February 28, 2014 8:36 AM

**To:** [asalkhi@hotmail.com](mailto:asalkhi@hotmail.com)

**Subject:** Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

Good morning Arash, here is the information you requested in regards to the Safeway Fuel Center #3011 located at S. McDowell Blvd & Maria Drive, Petaluma, CA 94954. Frank

[http://www.baaqmd.gov/~media/Files/Engineering/Public%20Notices/2013/405215/G200026\\_nsr\\_405215\\_eval\\_082213.ashx?la=en](http://www.baaqmd.gov/~media/Files/Engineering/Public%20Notices/2013/405215/G200026_nsr_405215_eval_082213.ashx?la=en)

Frank Dickey

Case Settlement Specialist

Bay Area Air Quality Management District - Legal Unit

939 Ellis Street San Francisco, CA 94109

Office: 415-749-4663 Fax: 415-749-5103

[fdickey@baaqmd.gov](mailto:fdickey@baaqmd.gov) | [www.baaqmd.gov](http://www.baaqmd.gov)

## Jack Broadbent

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**From:** Jack Broadbent  
**Sent:** Friday, February 28, 2014 4:29 PM  
**To:** Teresa Barrett  
**Cc:** Jeffrey McKay  
**Subject:** RE: Safeway question

Director Barrett,  
I've asked Jeff McKay, my Deputy in charge of permitting and compliance to look into this for you. He'll call you Monday.  
Have a good weekend.  
Jack

**From:** Teresa Barrett [mailto:teresa4petaluma@comcast.net]  
**Sent:** Friday, February 28, 2014 12:17 PM  
**To:** Jack Broadbent  
**Subject:** Fwd: Safeway question

Here are the BAAQMD questions being asked:

Teresa,

One of the other station owners in town has asked BAAQMD what gallon throughput Safeway has requested for its Petaluma station, & the answer back was 24 million gallons per year. That is a staggering number. I understand that the BAAQMD permit fees are based on the size of the permitted throughput number, but how much of a cost is it? Is it just a few bucks if you get a number way higher than you need, or is it expensive enough to get station owners to try to be somewhat accurate?

Thanks,  
Mike

John,

I understand that gas stations are permitted by the BAAQMD for a certain maximum volume of gas sales, in gallons per month. Could you please ask staff to find out what number Safeway has asked for at their proposed station, and see if that is consistent with the traffic analysis they've submitted?

Thanks,  
Mike

Background (skip if this is too much local detail):

1. The intersection where this is proposed is directly across a two way street—one lane each direction) from a child care center and K through 3 public school as well as down the street from the Little League field.
2. The intersection is the first right turn signal from E. Washington and McDowell, a seriously impacted (LOS D) intersection.

3. Petaluma's General Plan does not allow for drive throughs as an attempt to curb GHG emissions. Due to the popularity of this kind of cheaper gas facility, car idling becomes a de facto drive through as cars idle to get to the pump during peak periods.

Sorry to drop this on you with such little warning.

Also, could we make our call back time after 12 noon? I have a 10:45 to 11:45 interview.

Thank you very much, Jack.

Teresa Barrett  
Petaluma City Council  
Voice: 707.953.0846  
E-mail: [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)





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## Argus-Courier Editorial

### City Council is fighting the wrong battle

*Published: Monday, March 3, 2014 at 3:00 a.m.*

The Petaluma City Council's pursuit of a temporary ban on new fueling stations, aimed squarely at preventing Safeway from opening a gas station alongside its store on McDowell Boulevard, is perfectly suited to spark a costly and unnecessary lawsuit. In addition to the obvious financial risk, the council's action could also result in preventing local motorists from saving a few dollars at the pump. Why do this?

It was one thing for the city to expend its limited financial resources joining a lawsuit to overturn the County of Sonoma's approval of an asphalt plant near the southern boundary of town. There was, after all, widespread and vocal opposition to the Dutra plant, and the city was already on record as opposing the development.

But it's quite another thing for the city to go to war against Safeway for a proposed gas station that complies with all local land use and zoning laws and has generated almost zero opposition. The only real objections to the project are coming from a handful of competing gas station owners who don't want the competition from Safeway which has an attractive rewards program offering gas discounts for grocery shoppers. The program is very similar to one offered by Lucky and Shell here in Petaluma and elsewhere.

But according to City Councilman Mike Healy, the Safeway gas discount program, if unleashed on unsuspecting local consumers, would cause "urban blight." This would come about, predicts Healy, because other gas stations will go out of business in the face of Safeway's lower gas prices. That's not all. According to Healy, Safeway is out to put other grocery stores out of business as well, leaving empty buildings and "dead" gas stations all over town.

Healy's overwrought fears appear to stem from conversations he's had with fellow Petaluma attorney Jim Dombroski who represents a few gas station owners in Dixon who are suing Safeway, claiming the chain violated state law by selling gas below cost. The lawsuit, originally filed in 2008, was tossed out of court last summer, but Dombroski and his clients are now appealing the ruling.

Healy is claiming that Safeway's intrusion into the fueling marketplace in Dixon caused "multiple gas stations to fail." In reality, there are no "dead" gas stations in Dixon and no proof showing that any fuel retailer was put out of business by Safeway. Nor is there any evidence that Safeway's gas rewards program has put any grocery stores out of business anywhere.

Despite the lack of facts indicating that any real threat exists to the Petaluma community, Healy successfully convinced his colleagues on the city council that something must be done to stop Safeway from lawfully expanding its operations



because doing so could enable the company, when selling gas, to offer a customer rewards program locally that a state appeals court might one day deem illegal.

Because gas stations are permitted uses in Petaluma's zoning code, Healy has proposed a political strategy for which Machiavelli would be proud: Declare that there is a "current and immediate threat to the public health, safety or welfare" of such substantial magnitude that it necessitates a temporary moratorium on new gas station developments. The temporary ban would give the city time to enact a new zoning law that would permanently prohibit Safeway's gas rewards program.

There's only one problem with the strategy: It appears to violate at least a couple state laws as well as several protections in the U.S. Constitution, something made abundantly clear in a 16-page letter submitted to the city from Safeway's attorney earlier this week. The company's letter very clearly outlines the significant legal challenges the city will soon face if the council decides to move ahead with a gas station ban.

If there was a good reason to fight this costly battle, we could understand. But there isn't. City officials are not responsible for protecting the profit margins of local gas station owners from possible unfair price competition. That's the job of the state legislature and the courts.

Also, with the city in fiscal crisis, it makes little sense to reject a few hundred thousand dollars a year in new sales tax revenues from a retail gas purveyor willing to adhere to city zoning and design requirements.

We're also not convinced that Petaluma motorists want their elected officials to limit their chances of saving money when filling up their gas tanks.

There are many important priorities for the city council to tackle this year. Stopping the Safeway gas station is not one of them.

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# Temporary ban on Petaluma gas stations fails

LORI A. CARTER

THE PRESS DEMOCRAT | March 4, 2014



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The Petaluma City Council on Monday night rejected a proposed moratorium on gas stations that would have prohibited Safeway from building a fueling station in front of its North McDowell Boulevard store.

A temporary urgency ordinance &#8211; commonly called a moratorium &#8211; would have required the approval of six of seven council members.

As council members began discussing the issue, it soon became clear that Councilman Mike Healy, who sought the moratorium, wouldn't even get a majority on his side. In a straw vote, only Healy, Gabe Kearney and Kathy Miller supported a 45-day ban to buy the council time to craft tighter regulations on gas stations.

"We should just follow the process we already have in place," said Councilman Mike Harris, saying businesses should be able to rely on existing rules when they "make investments in our community."

Councilwoman Teresa Barrett was conflicted in her vote. She said she opposes the gas station project on whole, but doesn't support blanket bans.

"I don't like moratoriums in general," she said. "I could support some for legitimate, really serious reasons...This is sort of designer legislation: 'We don't like this project, so what can we do to make it go away?' That's just not right."

Issues like air quality, noise, light, traffic and safety near school zones can be handled through the normal planning and environmental review, Planning Manager Heather Hines said.

Safeway applied in July to build a gas station at the front of the Washington Square Shopping Center, where a gas station is permitted by existing zoning.

Initially, other gas station owners in town voiced opposition to the plan out of fear that Safeway would sell below-cost gasoline or offer deep discounts to grocery club shoppers. Later, nearby residents and others concerned about air quality and traffic congestion also voiced opposition.

Meanwhile, Safeway gathered support from its shoppers and motorists who welcome additional competition in Petaluma's gasoline market.

A lawfirm representing Safeway wrote a strongly worded 16-page letter arguing that a temporary ban on its existing application wouldn't pass legal muster.

Safeway, which has operated a grocery store in Petaluma since 1929, proposes a station with eight double-sided fuel pumps under a canopy, with a charging station for electric vehicles.

The company said it will generate about \$400,000 in new tax revenue for the city, although the basis for that estimate was unclear.

Healy proposed a moratorium on gas stations because of what he characterized as unfair competition Safeway would create for other gas station operators and other grocers. He wanted the council to temporarily ban all gas stations &#8211; although Safeway is the only application being processed &#8211; so the council could consider tighter regulations.

While the temporary ban failed, the project itself still must go through the planning process at the Planning Commission. Decisions there can be appealed to the council.

Several council members said they would be interested in fine-tuning the city's regulations on gas stations or on air quality rules in general.

Longer-term options could include prohibiting all new gas stations, requiring new stations to have a conditional use permit, limiting the number of pumps at new stations or expanding the definition of "gas station" to address specific project impacts.

You can reach Staff Writer Lori A. Carter at 762-7297 or [lori.carter@pressdemocrat.com](mailto:lori.carter@pressdemocrat.com).

## Trending Now

Ads by Adblade

**Subject:** Re: Chevron Question  
**From:** Michael Healy (mthealy@sbcglobal.net)  
**To:** rossjones@hotmail.com;  
**Date:** Thursday, May 8, 2014 3:32 PM

Ross,

Now I'm hearing from staff that they've comfortable with a methodology that would raise your credit for gas station traffic impact fees to around the \$850K range. Probably to council in July.

Mike

On Thursday, February 27, 2014 12:10 PM, Michael Healy <mthealy@sbcglobal.net> wrote:  
Now would be better.

---

**From:** Ross Jones <rossjones@hotmail.com>  
**To:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Thursday, February 27, 2014 12:03 PM  
**Subject:** Re: Chevron Question

Mike, I can swing by anytime after 2:30, or right now before my 1PM meeting.

Thx

Ross

Sent from my iPhone

On Feb 27, 2014, at 11:34 AM, "Michael Healy" <mthealy@sbcglobal.net> wrote:

If you'd like to swing by my office, I'll give you a copy of what I will hand out on Monday.

Mike

---

**From:** Ross Jones <rossjones@hotmail.com>  
**To:** "mthealy@sbcglobal.net" <mthealy@sbcglobal.net>  
**Sent:** Monday, February 24, 2014 5:17 PM  
**Subject:** RE: Chevron Question

My Hero! That would be swell.

I met with David Glass this morning and I have a better understanding of the up hill battle of this topic, from his perspective.

Nothing worthwhile is easy.

Ross

---

Date: Mon, 24 Feb 2014 16:58:48 -0800  
From: mthealy@sbcglobal.net  
Subject: Re: Chevron Question  
To: rossjones@hotmail.com

My alternative approach would calculate traffic impact fees for the old gas station use at \$1.5 million, give or take a few hundred grand....

---

**From:** Ross Jones <rossjones@hotmail.com>  
**To:** "mthealy@sbcglobal.net" <mthealy@sbcglobal.net>  
**Sent:** Monday, February 24, 2014 4:10 PM  
**Subject:** RE: Chevron Question

Mike,

That's right. 4 pumps, which represent 8 fueling positions.

Ross

---

Date: Mon, 24 Feb 2014 16:05:49 -0800  
From: mthealy@sbcglobal.net  
Subject: Chevron Question  
To: rossjones@hotmail.com

Ross,

I know we talked about this, but I didn't write it down. The old Chevron station had 4 "pumps," each with 2 nozzles, for a total capacity of 8 cars at a time; is that right?

Thanks,

Mike

**Ervin, Olivia**

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**From:** Hines, Heather  
**Sent:** Tuesday, November 18, 2014 1:28 PM  
**To:** Ervin, Olivia  
**Subject:** FW: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

---

**From:** Michael Healy [mailto:mthealy@sbcglobal.net]  
**Sent:** Saturday, March 01, 2014 11:02 AM  
**To:** Brown, John  
**Cc:** Hines, Heather  
**Subject:** Fw: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

John,

I'm guessing this will be difficult to square with the traffic study.

Mike

----- Forwarded Message -----

**From:** Arash Salkhi <asalkhi@hotmail.com>  
**To:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Saturday, March 1, 2014 10:07 AM  
**Subject:** RE: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

Yes. That is what they asked on their Bay Area Air Quality application.

Thanks,

Arash

---

Date: Fri, 28 Feb 2014 16:46:13 -0800  
**From:** mthealy@sbcglobal.net  
**Subject:** Re: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954  
**To:** asalkhi@hotmail.com

Thanks. Does that mean that 25.71 mg/y is what Safeway asked for?  
Mike

---

**From:** Arash Salkhi <asalkhi@hotmail.com>  
**To:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Friday, February 28, 2014 4:38 PM  
**Subject:** FW: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

Mike - Below is the link that provides the information from BAAQMD.

Thanks for all your help,

Arash

Law Offices of  
**JAMES M. DOMBROSKI**  
ATTORNEY AT LAW  
LICENSED IN CALIFORNIA AND HAWAII  
P.O. BOX 751027  
PETALUMA, CALIFORNIA 94975-1027  
TELEPHONE (707) 762-7807  
FAX (707) 769-0419  
Email Address: jdomski@aol.com

March 3, 2014

Via Email

Mike Healy  
Petaluma City Council

Re: Safeway Fuel Station

Dear Mike:

I will be unable to attend the Council meeting on March 3, 2014, for the purpose of addressing the impact issues of the proposed Safeway fuel station in Petaluma.

From my perspective, it is important to address the statement made in the editorial section of the Argus Courier on February 27, 2014, that referred to my involvement in the trial against Safeway and the impact of Safeway's fuel pricing practices on competitors. The editorial stated: "In reality, there are no 'dead' gas stations in Dixon and no proof showing that any fuel retailer was put out of business by Safeway." (Emphasis added.)

The source for the quoted statement is suspect. The quoted statement is not supported by the trial record. The trial record clearly demonstrates that the statement is false and misleading. First, it is unclear what is meant by "dead stations". In fact, there were numerous stations in Dixon that were unable to compete in Dixon and sold because of Safeway's fuel pricing. Second, a real estate broker specializing in the sale of gasoline stations in Northern California testified that it was difficult to sell a gas station for its fair market value if it was located near a Safeway fuel center. Third, a former Vallejo gas station owner testified that prior to Safeway adding the fuel center in Vallejo, his monthly volume sales was 150,000 gallons per month and his grocery market sales was \$60,000 per month. However, after Safeway opened its Vallejo fuel center, his volume dropped to 30,000 gallons per month for fuel sales and \$13,000 per month for his grocery market sales. He testified that the impact of Safeway's below-cost pricing practices was that it forced him out of business and that he literally gave his gas station away (trial transcript pages 410-417).

Please feel free to share my letter with other members of the Council.

Very truly yours,

JAMES M. DOMBROSKI

JMD:sd





Dave King &lt;davekingpcc@gmail.com&gt;

---

## The Petaluman (proposed boutique hotel at Blvd and B) - Question about FEIA standard

3 messages

davealden53@comcast.net <davealden53@comcast.net>  
To: Dave King <davekingpcc@gmail.com>

Wed, Mar 25, 2015 at 11:30 AM

Dave, I hope you're settling into your City Council role. Sorry I couldn't attend the Monday evening meeting. I was interested in the SCWA and CalPers updates, but had to change plans to support my wife on a household issue that was troubling her.

If I can impose on your good will, I need to pick your brain about the FEIA process. If I correctly understood the Council comments at the goal-setting session, there was no sentiment to retain the current FEIA process. The Mayor specifically noted that the only useful data he'd found in prior FEIA reports was the table on projected TOT receipts.

However, when the City Manager queried the Planning Manager about how many FEIAs were to be done during 2015, Hines responded that only one was likely. At which response, the implicit decision seemed to be that it wasn't worth the effort to repeal the FEIA resolution if only a single project was to be saved from the time and expense.

It's a decision I can objectively understand, but it feels less good when I'm part of the team for that one project.

I assume you're familiar with The Petaluman, the proposed boutique hotel at the Boulevard and B Street. But if you need a further information, I'll be happy to arrange a meeting between you and Ross Jones, the developer/architect.

For purposes of the current conversation, we've been working on entitlement issues for over two years. The two biggest challenges have been parking, with the City unable to provide space in the Keller Street garage even though the hotel is within the parking district and therefore entitled to parking in the garage, and the soil contamination cleanup, with Chevron having mishandled the process thereby delaying remediation by two or more years.

Jones has a number of potential investors lined up for the project, but all have been unwilling to write checks until the parking and environment situations are resolved. Both resolutions seem now to be in sight, but the lack of capital has constrained the project, including Jones' inability to fund the FEIA, an inability that seems likely to delay the project. It's a problem with which Jones and I have been grappling.

By chance, I bumped in the Mayor last week at the office of the dentist we share. In the course of discussing various City matters, we touched upon The Petaluman and the FEIA. Glass repeated his willingness to waive the FEIA for the hotel project. (In exchange, I promised to provided him with a copy of the hotel financial analysis, prepared to industry standards, that does a better job of estimating TOT receipts that the FEIA would.) However, Glass said that the challenge would getting the City Manager to put the matter on a Council agenda.

And that gets to the crux of my question. We have a City standard that all seem to agree provides little or no benefit to the City. Yet complying with the standard will cost the Applicant more than \$20,000, which he would struggle to raise, and may delay the project, which virtually all agree would benefit the community, by several months. But the path to waive the standard for this project or to repeal the entire resolution requires the assistance of the City Manager who has generally taken a hands-off approach.

At this point, we intend to approach the City Manager in about a week, after the Planning Manager has returned from vacation, but any alternative political thoughts would be appreciated.

Sorry for the length, but it's a multi-faceted subject. If I've perchance left something out, please let me know. And any thoughts you can provide would be appreciated. - Dave

---

Dave King <davekingpcc@gmail.com>  
To: davealden53@comcast.net

Wed, Mar 25, 2015 at 2:05 PM

Dave,

5/31/2018

Gmail - The Petaluman (proposed boutique hotel at Blvd and B) - Question about FEIA standard

I have an email into John Brown to have a short meeting. I added the FEIA issue to the list. My recall is that the council was a little fuzzy about the benefits of FEIA, but made no decision on whether to get rid of it or to even agendaize it.

I'll start with John and go from there.

Dave

[Quoted text hidden]

---

davealden53@comcast.net <davealden53@comcast.net>  
To: "King, Dave" <davekingpcc@gmail.com>

Wed, Mar 25, 2015 at 2:20 PM

Dave, thanks for the followup. You and I have similar recollections, although we may color them slightly differently. In my memory, no one spoke up in favor of keeping the FEIA, at least as currently written. My sense was that there might be a growing consensus to do away with it, but Hines' comment that only one project would do an FEIA in 2015 deflated the balloon and the discussion quickly moved onto the next agenda item.

By the way, Jones and I are acutely aware of the favor that the Council and staff did for the hotel by revising the impact fees for gas stations. It was the correct decision, but doing it with alacrity despite the likely wrath of Safeway was greatly appreciated. Given that history, we were loathe to raise the topic of the FEIA, but it is a stumbling block to the project which we think will benefit the community.

I'll await a report on your meeting with Brown. Thanks again. - Dave

---

**From:** "Dave King" <davekingpcc@gmail.com>

**To:** davealden53@comcast.net

**Sent:** Wednesday, March 25, 2015 2:05:23 PM

**Subject:** Re: The Petaluman (proposed boutique hotel at Blvd and B) - Question about FEIA standard

[Quoted text hidden]

**Subject:** Re: Hi Mike -- "top five" for fall?  
**From:** Michael Healy (mthealy@sbcglobal.net)  
**To:** Eric.Gneckow@arguscourier.com;  
**Date:** Saturday, August 29, 2015 2:58 PM

Now it looks like we won't be home until late Monday, so let me give you some thoughts on subjects.

1. Yes, I expect John to name the new permanent fire chief soon. that is his decision, not the council's.
  2. There are several apartment projects, & apartment heavy mixed use projects, in the pipeline, scattered around town. Those will start showing up at planning commission hearings soon.
  3. I've said before that water conservation is more of a marathon than a sprint, although this year has felt more like a sprint. On the marathon side, some longer term issues continue to chug forward. Over the next year or 2, purple pipe will get extended up the eastside (SRJC, Kenilworth, Sonoma Mountain & Corona Creek elementary) and into the industrial parks (Kaiser), converting landscape irrigation to recycled water. To accommodate that, we will be expanding Ellis Creek's ability to create tertiary treated wastewater.
  4. The Lafferty mediation talks continue.
  5. A sales tax will likely be an issue for 2016, rather than this fall.
  6. We should hear within the next 3 months if the Cal. Supreme Court will take the DoF case.
  7. Yes, but that's probably an entire article. Our residents & businesses have done a great job conserving water. An interesting question to me, on a go forward basis, is how much of the new conservation is permanent, vs. how much consumption will spring back once the drought ends. My guess is that a lot of it is permanent. This is a particularly interesting issue because the City is in the early stages of our next 5 year Urban Water Management Plan Cycle - you'll be hearing about that soon.
  8. The City has retained a consultant to examine some highly technical Safeway complaints about the methodology of calculating traffic impact fees on gas station pumps. You'll be hearing about "pass-by rates." If there are changes that need to be made, we'll make them.
- Mike

On Friday, August 28, 2015 11:18 AM, "Gneckow, Eric" <Eric.Gneckow@arguscourier.com> wrote:

Hi Mike,

I hope you've had a nice week.

We're working on a "fall preview" for the upcoming issue, with the idea of giving readers a heads-up on the kind of interesting developments coming down the pike here in Petaluma before the council resumes regular meetings next month.



Re: Safeway

From: Michael Healy (mthealy@sbcglobal.net)

To: Hannah.Beausang@arguscourier.com

Date: Tuesday, August 29, 2017 10:57 AM PDT

I saw Jim Dombroski first thing this morning at Shollenberger. He said he had oral argument last week in his Safeway gas case & he thought it went well.

On Monday, August 28, 2017 5:34 PM, "Beausang, Hannah" <Hannah.Beausang@arguscourier.com> wrote:

Thanks for letting me know. The Safeway folks have been blowing me off, but I'll see what I can find out.

**From:** Michael Healy [mailto:mthealy@sbcglobal.net]

**Sent:** Monday, August 28, 2017 3:25 PM

**To:** Beausang, Hannah <Hannah.Beausang@arguscourier.com>

**Subject:** Safeway

I left a voicemail last week for the fellow who gave me the tip, but he hasn't called back.  
Mike

**Ervin, Olivia**

---

**From:** Hines, Heather  
**Sent:** Tuesday, November 18, 2014 1:28 PM  
**To:** Ervin, Olivia  
**Subject:** FW: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

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**From:** Michael Healy [mailto:mthealy@sbcglobal.net]  
**Sent:** Saturday, March 01, 2014 11:02 AM  
**To:** Brown, John  
**Cc:** Hines, Heather  
**Subject:** Fw: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

John,

I'm guessing this will be difficult to square with the traffic study.

Mike

----- Forwarded Message -----

**From:** Arash Salkhi <asalkhi@hotmail.com>  
**To:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Saturday, March 1, 2014 10:07 AM  
**Subject:** RE: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

Yes. That is what they asked on their Bay Area Air Quality application.

Thanks,

Arash

---

Date: Fri, 28 Feb 2014 16:46:13 -0800  
From: mthealy@sbcglobal.net  
Subject: Re: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954  
To: asalkhi@hotmail.com

Thanks. Does that mean that 25.71 mg/y is what Safeway asked for?

Mike

---

**From:** Arash Salkhi <asalkhi@hotmail.com>  
**To:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Friday, February 28, 2014 4:38 PM  
**Subject:** FW: Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

Mike - Below is the link that provides the information from BAAQMD.

Thanks for all your help,

Arash

---

**From:** Franklin Dickey [<mailto:fdickey@baaqmd.gov>]

**Sent:** Friday, February 28, 2014 8:36 AM

**To:** [asalkhi@hotmail.com](mailto:asalkhi@hotmail.com)

**Subject:** Safeway Fuel Center #3011 - S. McDowell Blvd & Maria Drive, Petaluma, CA 94954

Good morning Arash, here is the information you requested in regards to the Safeway Fuel Center #3011 located at S. McDowell Blvd & Maria Drive, Petaluma, CA 94954. Frank

[http://www.baaqmd.gov/~media/Files/Engineering/Public%20Notices/2013/405215/G200026\\_nsr\\_405215\\_eval\\_082213.ashx?la=en](http://www.baaqmd.gov/~media/Files/Engineering/Public%20Notices/2013/405215/G200026_nsr_405215_eval_082213.ashx?la=en)

Frank Dickey

Case Settlement Specialist

Bay Area Air Quality Management District - Legal Unit

939 Ellis Street San Francisco, CA 94109

Office: 415-749-4663 Fax: 415-749-5103

[fdickey@baaqmd.gov](mailto:fdickey@baaqmd.gov) | [www.baaqmd.gov](http://www.baaqmd.gov)



Re: How?? How could you have voted for this?

From: Michael Healy (mthealy@sbcglobal.net)

To: rldt@aol.com

Date: Monday, July 9, 2018 10:37 AM PDT

Robert& Linda:

The vote in favor of the Safeway gas station was probably the most disappointing vote to me in my years on the city council and planning commission. I did not like the proposal at all, but I voted for it because I had to. The City doesn't always have the discretion to reject proposals we don't like, and this was one of those situations. The zoning for the project site allows gas stations as a principally permitted use, meaning that Safeway did not need a discretionary conditional use permit. The only two issues before the planning commission were (1) design review, (e.g., color schemes, landscaping, etc.) and (2) approving a mitigated negative declaration confirming no adverse environmental impacts. Within the MND, the 2 primary issues were air quality and traffic. There were detailed expert analyses on both, concluding no adverse impacts. The school district retained air quality experts to review the air quality analysis & concluded it was correct.

In response to your specific question, there are no California regulations specifying how close a gas station can be to a school. There probably should be, but there aren't.

Under these circumstances, if the City had not approved the gas station, Safeway would have sued and won. And the City would likely have been ordered to pay Safeway's attorney's fees.

This point wasn't in the recent Argus article, but when the Safeway gas station first surfaced a few years ago, Kathy Miller & I proposed an urgency moratorium to prevent new gas stations in town until the city council could amend the zoning ordinance to, for instance, require a CUP for any new gas station. That failed to gain support at the city council, & at that point it was pretty much a foregone conclusion that the Safeway gas station would eventually be approved. So if you want to blame someone, blame the councilmembers who refused to support the urgency moratorium.

Regards,  
Mike Healy

From: Stephen Gale stephengale1@yahoo.com  
Subject: Fw: SCDP Campaign HQ Grand Opening  
Date: August 19, 2018 at 11:19 PM  
To: [REDACTED]



Janice Cader Thompson janicecader@gmail.com

Forwarded FYI.

I was letting all Democratic Party electeds know about the grand opening and this was an unexpected response.

Stephen

Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Sunday, August 19, 2018, 8:12 PM, Michael Healy <mthealy@sbcglobal.net> wrote:

Stephen,

I don't get the impression that the SCDPCC has any idea of the steaming pile of horse poop of a local political mess it has stepped into with the choice of this HQ. The building you will be using is scheduled to be torn down soon for a Safeway fueling center 100 feet from an elementary school serving a 90%+ Hispanic population. The parents, the school district & the neighborhood are all outraged. Yet Safeway & the landlord persist.

I will not be attending the grand opening or having anything to do with the HQ while it is in operation. Many in Petaluma will regard this choice of a HQ as a slap in the face.

I will see you at Howarth Park next weekend.

Best,  
Mike

On Sunday, August 19, 2018 6:22 PM, Stephen Gale  
<stephengale1@yahoo.com> wrote:

Hello Mike,

I wanted to make sure you have the Grand Opening of the Sonoma County Democratic Party's Coordinated Campaign Headquarters on your calendar. The grand opening is Sunday, September 2 at 1:00 PM. Festivities and short speeches from elected officials and endorsed candidates will take place through 3:00 PM.

The address is 1420 E. Washington St., Petaluma. Music of Resistance and Revival will be performed by Planet Wave.

If you have campaign signs to post in the windows or on the walls, please bring them in advance of the event. Please confirm your attendance with the Campaign Manager for the SRDP this year, [REDACTED], [REDACTED].

The link to the Facebook event page is here: [HQ Grand Opening](#)  
Look forward to seeing you there !!!

Best,  
Stephen





## Heather Hines

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**From:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Monday, August 20, 2018 12:51 PM  
**To:** Hines, Heather  
**Subject:** Re: Scroll down to the highlighted one -- I'm putting this down to "Don't believe everything on the internet"....

Warning: Use caution before clicking any attachments. THIS EMAIL is from OUTSIDE OUR EMAIL SYSTEM.  
Yeah, I didn't think so. But the whole council has it, just so you know.  
Mike

On Monday, August 20, 2018 12:49 PM, "Hines, Heather" <HHINES@ci.petaluma.ca.us> wrote:

Oh my gosh!  
That is not a quote from me.  
That's infuriating!

**From:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Monday, August 20, 2018 12:48 PM  
**To:** Hines, Heather <HHINES@ci.petaluma.ca.us>  
**Subject:** Scroll down to the highlighted one -- I'm putting this down to "Don't believe everything on the internet"....

Warning: Use caution before clicking any attachments. THIS EMAIL is from OUTSIDE OUR EMAIL SYSTEM.

**Crump, Katie** <KCRUMP@ci.petaluma.ca.us>

To  
Chris Albertson [Teresa Barrett](#) [dave glass](#) [Mike Healy](#) ['Gabe Kearney'](#) ([gkearney@me.com](#)) and 2 more...  
CC  
Brown, John  
Today at 11:23 AM  
FYI

**From:** [mail@changemail.org](mailto:mail@changemail.org) <[mail@changemail.org](mailto:mail@changemail.org)>  
**Sent:** Friday, August 17, 2018 2:11 PM  
**To:** - City Clerk <[-CityClerk@ci.petaluma.ca.us](mailto:-CityClerk@ci.petaluma.ca.us)>  
**Subject:** 100 more people signed "Petaluma City Council: Support Petaluma Safeway Gas Station!"

Warning: Use caution before clicking any attachments. THIS EMAIL is from OUTSIDE OUR EMAIL SYSTEM.

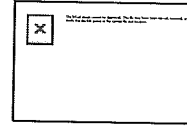
New signatures

**Petaluma City Council** – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign's supporters.



**Petaluma City Council: Support Petaluma Safeway Gas Station!**

Petition by Support Petaluma Safeway Gas · 100 supporters



**100 more people signed**

**Cyndi Merrill**

Petaluma, CA · Aug 17, 2018

We need options for cheaper gas in Petaluma.

**Allan Estrella**

Rohnert Park, CA · Aug 17, 2018

We need an alternative to Costco gas & save us a trip to Rohnert Park.

**Carla Agles**

Petaluma, CA · Aug 16, 2018



Petaluma residents need and deserve this!

**cesar gonzalez**

novato, CA · Aug 16, 2018

most needed

**Heather Hines**

Santa Rosa, CA · Aug 16, 2018

There's no such thing as too many gas stations!

Natalie Mattei

---

**From:** Lauri Anderson <landerson@petk12.org>  
**Sent:** Friday, May 04, 2018 4:25 PM  
**To:** Gary Callahan  
**Cc:** Cliff De Graw; Chris Thomas  
**Subject:** Re: Safeway Gas Station

Hello there,

I left a message for Chris and haven't heard back. Please let me know our District messaging on this issue so I can keep communication consistent. I have also been contacted by Council member Mike Healy and 4 Cs director Tracy about this matter.

Thanks,

Lauri C. Anderson  
Principal  
McDowell Elementary School  
Petaluma City Schools  
(707) 778-4745

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On Thu, May 3, 2018 at 8:24 AM, Gary Callahan <gcallahan@petk12.org> wrote:

Carol informed us on this a Chris reached out to counsel on this. Give Chris a call and she can explain it in better detail.

Gary

On Wed, May 2, 2018 at 4:48 PM, Lauri Anderson <landerson@petk12.org> wrote:

FYI, it looks like on Tuesday City Council will be considering putting a gas station at the Safeway next to McDowell, little league, 4Cs, NBCC, etc.

Thoughts?

Best,

Lauri C. Anderson  
Principal  
McDowell Elementary School  
Petaluma City Schools  
(707) 778-4745

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----- Forwarded message -----

From: **Carol Waxman** <[cwaxman@petk12.org](mailto:cwaxman@petk12.org)>

Date: Wed, May 2, 2018 at 2:01 PM

Subject: Re: Safeway Gas Station

To: Lauri Anderson <[landerson@petk12.org](mailto:landerson@petk12.org)>, Maureen Rudder <[mrudder@petk12.org](mailto:mrudder@petk12.org)>

Cc: Nancy Emanuele <[nemanuele@petk12.org](mailto:nemanuele@petk12.org)>, Vicki Mayster <[vmayster@petk12.org](mailto:vmayster@petk12.org)>, Karla Lounibos <[klounibos@petk12.org](mailto:klounibos@petk12.org)>, Ana Cordova Belik <[abelik@petk12.org](mailto:abelik@petk12.org)>, Catherine Crotty <[ccrotty@petk12.org](mailto:ccrotty@petk12.org)>

Hi Lauri,

I think it would be very important to have some teachers and parent representatives attend the Planning Commission meeting and speak during public comment. Preschool, elementary and sports fields are filled with "sensitive receptors", so locating a gasoline dispensing facility right across the street needs to be thoroughly studied and reviewed by CEQA and the Air Quality Control Board.

Are there any mention of reports available on recent environmental studies for this proposed project? I think it would be good to advise the School Board and the Superintendent too. I assume 4 Cs, NBCC and the users of the ball field have been notified as well??

Please let me know if you will have any pre-meeting to discuss strategy, or need help with any follow up contacts.

Thanks,

Carol

Carol T. Waxman  
Principal  
Petaluma Adult School  
200 Douglas St.  
Petaluma, CA 94952  
707.778.4766 o  
707.975.3462 c  
[cwaxman@petk12.org](mailto:cwaxman@petk12.org)

On Wed, May 2, 2018 at 12:14 PM, Lauri Anderson <[landerson@petk12.org](mailto:landerson@petk12.org)> wrote:

Hello there,

I received a message from City Council member Mike Healy and a phone call from Maureen Rudder about the consideration of the city put a Safeway gas station on the corner by NBCC and 4Cs. Just thought you would want to be in the know, as I understand there is a history here. Any thoughts?

Have a great day!

Lauri C. Anderson  
Principal  
McDowell Elementary School

## Natalie Mattei

---

**From:** Chris Thomas <cthomas@petk12.org>  
**Sent:** Wednesday, June 13, 2018 6:56 PM  
**To:** Mike Healy  
**Subject:** Re: Washington Square Safeway, McDowell School Petaluma  
**Attachments:** image001.png

Hi Mike,

I saw your email, but it has been a hectic days, so I didn't have a chance to call. Can I call you tomorrow afternoon?

Thanks for understanding.

Chris

On Wed, Jun 13, 2018, 10:23 AM Michael Healy <mthealy@sbcglobal.net> wrote:

Hi Chris,

Could you give me a call when you have a moment?

Thanks,

Mike

w: 762-8768

On Tuesday, June 12, 2018 3:31 PM, Chris Thomas <cthomas@petk12.org> wrote:

Hello Natalie,

Thank you for your email. Please note, I have actually left you two voice mail messages over the past several days trying to connect. In addition, I have spoken with Heather Hines with the planning department on next steps. My understanding from Heather is that the City will be encouraging Safeway to coordinate and schedule a public forum/outreach, which we have offered to host at McDowell School sometime in late August or September. As we have discussed, our school session ended June 1st and many of our students, families and staff are typically not readily available during the summer. We feel it is important that the McDowell School community and the neighborhood are provided an appropriate forum to ask questions and get answers from Safeway on this project that has the potential to have a significant impact on our school and the adjacent neighborhood.

In addition, now that we received a copy of Safeway's response to our concerns regarding the HRA, we are having our consultant review it and are hoping to have a response to that as well.

If you want to meet to discuss how to proceed or how to coordinate or when to schedule, I am happy to meet with you. I have copied Heather on this email so she

has an opportunity to provide input as well. It may be prudent for the three of us to meet to discuss how to proceed.

Please let me know.

Thank you.

Chris

On Tue, Jun 12, 2018 at 2:59 PM, Natalie Mattei <[Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com)> wrote:

Gary and Chris,

I'm reaching out to see if you'd like to meet in person this week to discuss any additional questions you may have regarding the Safeway gas station proposal at Washington Square. I will make myself available to accommodate your calendars. Chris and I have spoken a number of times now, as well as in person after the May 8<sup>th</sup> Planning Commission meeting. However I thought it appropriate to extend the invitation to Gary as well.

Best regards,  
Natalie

**Natalie Mattei**

Senior Real Estate Manager

**Albertsons Companies**

11555 Dublin Canyon Road

Pleasanton, CA 94588

(925) 226-5754 Office | (925) 413-4455 Mobile

[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)



[www.albertsonscorporatesrealstate.com](http://www.albertsonscorporatesrealstate.com)

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Tue 6/12/2018 3:31 PM

Chris Thomas <cthomas@petk12.org>

Re: Washington Square Safeway, McDowell School Petaluma

To: Natalie Mattei

Cc: gcallahan@petk12.org; Hines, Heather; Lori Hiras

Bcc: Philip J. Henderson; Mike Healy

1 2 3 4 5 6 7 8 9

Hello Natalie,

Thank you for your email. Please note, I have actually left you two voice mail messages over the past several days trying to connect. In addition, I have spoken with Heather Hines with the planning department on next steps. My understanding from Heather is that the City will be encouraging Safeway to coordinate and schedule a public forum/outreach, which we have offered to host at McDowell School sometime in late August or September. As we have discussed, our school session ended June 1st and many of our students, families and staff are typically not readily available during the summer. We feel it is important that the McDowell School community and the neighborhood are provided an appropriate forum to ask questions and get answers from Safeway on this project that has the potential to have a significant impact on our school and the adjacent neighborhood.

In addition, now that we received a copy of Safeway's response to our concerns regarding the HRA, we are having our consultant review it and are hoping to have a response to that as well.

If you want to meet to discuss how to proceed or how to coordinate or when to schedule, I am happy to meet with you. I have copied Heather on this email so she has an opportunity to provide input as well. It may be prudent for the three of us to meet to discuss how to proceed.

Please let me know.

Thank you.

Chris

On Tue, Jun 12, 2018 at 2:59 PM, Natalie Mattei <Natalie.Mattei@albertsons.com> wrote:

Gary and Chris,

I'm reaching out to see if you'd like to meet in person this week to discuss any additional questions you may have regarding the Safeway gas station proposal at Washington Square. I will make myself available to accommodate your calendars. Chris and I have spoken a number of times now, as well as in person after the May 8<sup>th</sup> Planning Commission meeting. However I thought it appropriate to extend the invitation to Gary as well.

Best regards,

Natalie

Natalie Mattei

Senior Real Estate Manager

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[www.albertsonscorporatesrealstate.com](http://www.albertsonscorporatesrealstate.com)



## Natalie Mattei

---

**From:** Chris Thomas <cthomas@petk12.org>  
**Sent:** Friday, June 15, 2018 2:46 PM  
**To:** Mike Healy  
**Subject:** Fwd: EXTERNAL: Re: Washington Square Safeway, McDowell School Petaluma

----- Forwarded message -----

From: **Gary Callahan** <[gcallahan@petk12.org](mailto:gcallahan@petk12.org)>  
Date: Thu, Jun 14, 2018 at 3:17 PM  
Subject: Re: EXTERNAL: Re: Washington Square Safeway, McDowell School Petaluma  
To: Natalie Mattei <[Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com)>  
Cc: Chris Thomas <[cthomas@petk12.org](mailto:cthomas@petk12.org)>, "Hines, Heather" <[hhines@ci.petaluma.ca.us](mailto:hhines@ci.petaluma.ca.us)>, Lori Hirasa <[lhirasa@petk12.org](mailto:lhirasa@petk12.org)>, "Francois, Matthew" <[MFrancois@rutan.com](mailto:MFrancois@rutan.com)>, Sheri Chlebowski <[schlebowski@petk12.org](mailto:schlebowski@petk12.org)>

Natalie -

Thank you for your email. I am going to try to explain our situation as simply as we can as the contents of your email seem to be directed more towards memorializing what Safeway is asserting has been done on this matter since 2013.

Here are the issues:

It is not 2013, but 2018. Maureen Rudder has not been the Principal of McDowell Elementary for three years (retirement). Steve Bolman retired from the Superintendent position three years ago. Three chief business officials have been cycled through the system since 2013. All of the facilities and maintenance administrators have either retired or changed school districts. There are no department or superintendent records that support the assertions listed above by Safeway. I am not saying that they did not occur; I am merely stating our reality.

The second issue is that our families and staff do have concerns about a gas station placement on said property. This was not flagged by district administration; it came to us in droves of inquiries from parents and staff prior to the May Planning Commission meetings.

It is now June 14th and families have been out of school for two weeks. Most of our constituents leave for a variety of summer commitments and we have not had the majority of our McDowell Staff available for over a week. I applaud you for holding open house events on June 19th and 23rd but from the District's standpoint the concerns over health and safety of our constituents remains unchanged. We are continuing to finish our data gathering and it is very possible the District's opinion on this development will not change. The fact that we were not aware of these public forums until today feels like Safeway is rushing this process through.

If Safeway has been working on this project for 5 years (60 months) then I am sure they understand the concerns of the school district who have been essentially "working" on this for less than two months. We have not had Safeway's negative declaration for 90 days. May 3rd was the first time the District was made aware of this.

Chris Thomas is the lead on this project and will remain so. I am sure she will be available to meet once our information has been collected. This may not fit your timeline and we respect this. Frankly, I believe Safeway has put the City Planning Commission and City Council in a very difficult position by not coming to the School District once the project was restarted in 2016. It is never a great situation when business and community are at odds with the City in the middle. I applaud the Planning Commission for all of their work.

Regards,

Gary

On Thu, Jun 14, 2018 at 1:10 PM, Natalie Mattei <[Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com)> wrote:

Chris,

Thanks for your reply. I'm pleased to hear that ESA is revisiting their analysis in light of information indicating that the basis of their conclusion was an inflated estimate of fuel throughput (25 million gallons), nearly three times our expected level (8.5m gallon). However, as our response was provided on May 7, 2018, I am surprised to hear from you that ESA has not yet completed this subsequent review given that more than a month has passed. I trust that they will finish shortly, and that you will relay their findings in a timely manner both to us, your constituents, and the Planning Commission.

In light of your email, I think it is worth revisiting the rather long timeline upon which the public discussion of this project has followed. The School district has been aware of this project since 2013, when a notice describing the project and providing public comment period was provided in August 2013. Safeway's representative on the project from 2012 to 2015, Mary Davi, is now retired, but I was able to reconnect with her to confirm her outreach efforts. Indeed it was a priority for her to meet with the school and preschools, and she vividly remembered being invited to watch the movie Frozen and have popcorn with the kids. After Mary's retirement and my transition into the project, I spoke with Mike Healy who indicated I should speak with the principal Maureen Rudder, which I did.

Upon learning of your letter to the City of Petaluma date May 7, 2018, I immediately called to discuss your concerns. During that call, you indicated that a number of Hispanic families had contacted you on May 3 and requested the School Board's opinion of the Safeway gas station. I indicated I would be happy to talk with the families to answer any questions. You advised the families spoke English as a second language, specifically Spanish, wherein I was still happy to reach out as I have conversational fluency in Spanish. At the May 8<sup>th</sup> Planning Commission, you spoke during Public Comment and stated that it was Mike Healy that contacted you on May 3, not a handful of Hispanic families. Nevertheless, I offered yet again, several weeks ago now, to meet with the aforementioned families and you declined to make the introduction. Additionally, when I spoke with you, Lauri Anderson, and Maureen Rudder in-person after the May 8<sup>th</sup> hearing, I offered to meet with school representatives at any time, before or after school and weekends. You indicated any and all communications should run through you and the School Board, which took everyone there by surprise. Along with my efforts to connect with the School Board post-hearing, I did email and call Lauri Anderson offering to meet at her convenience.

As I'm sure you also are aware, the public and school have had the MND to review for nearly 90 days - more than three times the legally-required review period. City staff provided notice of the MND to District staff on April 5, 2018. As stated earlier, the response to ESA's comments on the HRA (dated May 7, 2018) were provided to the City on May 8, 2018, and additional responses to the comments on the HRA were provided timely to City staff.

Despite this considerable period of opportunity for public comment and outreach, Safeway continues to provide forums to educate residents on the project. We will be holding open houses on June 19th and June 23rd to provide more details on the project and answer residents questions. Please let me know if you'd like more information on these events as we would welcome your constituents to attend.

Lastly, I would once again reiterate my desire to meet with you and Gary prior to the June 26th Planning Commission. Please advise on your availability at your earliest convenience.

Thank you in advance for your consideration.

Natalie

**Natalie Mattei**

Senior Real Estate Manager

**Albertsons Companies**

11555 Dublin Canyon Road

Pleasanton, CA 94588

(925) 226-5754 Office | (925) 413-4455 Mobile

natalie.mattei@safeway.com | LinkedIn



[www.albertsonscorporatesrealstate.com](http://www.albertsonscorporatesrealstate.com)

**From:** Chris Thomas [<mailto:cthomas@petk12.org>]

**Sent:** Tuesday, June 12, 2018 3:31 PM

**To:** Natalie Mattei <[Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com)>

**Cc:** [gcallahan@petk12.org](mailto:gcallahan@petk12.org); Hines, Heather <[hhines@ci.petaluma.ca.us](mailto:hhines@ci.petaluma.ca.us)>; Lori Hiras <[lhira@petk12.org](mailto:lhira@petk12.org)>

**Subject:** EXTERNAL: Re: Washington Square Safeway, McDowell School Petaluma

Hello Natalie,

Thank you for your email. Please note, I have actually left you two voice mail messages over the past several days trying to connect. In addition, I have spoken with Heather Hines with the planning department on next steps. My understanding from Heather is that the City will be encouraging Safeway to coordinate and schedule a public forum/outreach, which we have offered to host at McDowell School sometime in late August or September. As we have discussed, our school session ended June 1st and many of our students, families and staff are typically not readily available during the summer. We feel it is important that the McDowell School community and the neighborhood are provided an appropriate forum to ask questions and get answers from Safeway on this project that has the potential to have a significant impact on our school and the adjacent neighborhood.

In addition, now that we received a copy of Safeway's response to our concerns regarding the HRA, we are having our consultant review it and are hoping to have a response to that as well.

If you want to meet to discuss how to proceed or how to coordinate or when to schedule, I am happy to meet with you. I have copied Heather on this email so she has an opportunity to provide input as well. It may be prudent for the three of us to meet to discuss how to proceed.

Please let me know.

Thank you.

Chris

On Tue, Jun 12, 2018 at 2:59 PM, Natalie Mattei <[Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com)> wrote:

Gary and Chris,

I'm reaching out to see if you'd like to meet in person this week to discuss any additional questions you may have regarding the Safeway gas station proposal at Washington Square. I will make myself available to accommodate your calendars. Chris and I have spoken a number of times now, as well as in person after the May 8<sup>th</sup> Planning Commission meeting. However I thought it appropriate to extend the invitation to Gary as well.

Best regards,

Natalie

**Natalie Mattei**

Senior Real Estate Manager

**Albertsons Companies**

11555 Dublin Canyon Road

Pleasanton, CA 94588

(925) 226-5754 Office | (925) 413-4455 Mobile

[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)

Mon 6/18/2018 9:43 AM

Chris Thomas <cthomas@petk12.org>

Re: Petaluma Safeway open house

To : Ellis, Evelyn

Cc : Lauri Anderson; Hines, Heather

Bcc : Mike Healy

1 2 3 4 5 6 7 8 9

Hi Evelyn,

Thank you for the information. We will pass it along to our families and staff although we know at this time of year many may not be available.

Warmly,

Chris

On Mon, Jun 18, 2018 at 8:42 AM, Ellis, Evelyn <EELLIS@ci.petaluma.ca.us> wrote:

Hello,

Safeway will be holding two open houses for the proposed Safeway gas station at Washington Square. For more information, please visit:

June 19th: <https://www.eventbrite.com/e/washington-square-safeway-gas-station-community-open-house-tickets-47039432208?aff=Oppo>

June 23rd: <https://www.eventbrite.com/e/washington-square-safeway-gas-station-community-open-house-tickets-47040680943?aff=Oppo>

Please feel free to distribute.

Thank you,

Natalie

Natalie Mattei

---

**From:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Monday, June 25, 2018 1:10 PM  
**To:** Chris Thomas  
**Subject:** Re: Fw: 10 more people signed "Petaluma Planning Commissioners: Support Petaluma Safeway Gas Station!"

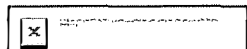
Now Safeway has Brian Sobel calling around. Good grief.

On Monday, June 25, 2018 12:19 PM, Chris Thomas <cthomas@petk12.org> wrote:

Yes, that is funny! Also, Santa Rosa and San Francisco. Thanks. Chris

On Mon, Jun 25, 2018 at 10:33 AM, Michael Healy <mthealy@sbcglobal.net> wrote:  
Too funny - someone from Hawaii signed the Safeway petition.

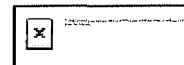
On Monday, June 25, 2018 10:30 AM, "[mail@changemail.org](mailto:mail@changemail.org)" <[mail@changemail.org](mailto:mail@changemail.org)> wrote:



New signatures

**Mike Healy** – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign's supporters.

Petaluma Planning Commissioners: Support Petaluma  
Safeway Gas Station!



Petition by Support Petaluma Safeway Gas · 10 supporters

**10 more people signed  
in the last 2 hours**

[View petition activity](#)

RECENT SUPPORTERS



**Ashley Martin**

Petaluma, CA · Jun 25, 2018



**David Gallardo**

Santa Rosa, CA · Jun 25, 2018



**Eva Nelson**

San Francisco, CA · Jun 25, 2018



**Laura Kepaa**

Honolulu, HI · Jun 25, 2018



**Kori Fagen**

, · Jun 25, 2018

**[View all 10 supporters](#)**

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On Change.org, decision makers like you connect directly with people around the world to resolve issues. Respond to let the people petitioning you know you're listening, say whether you agree with their call to action, or ask them for more information. [Learn more.](#)

This notification was sent to mthealy@sbcglobal.net, the address listed as the decision maker contact by the petition starter. If this is incorrect, please [post a response](#) to let the petition starter know.

**Change.org** · [548 Market St #29993, San Francisco, CA 94104-5401, USA](#)

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Thank you.

Tue 6/26/2018 1:39 PM

Chris Thomas <cthomas@petk12.org>

Re: Fw: Safeway Gas Station Outreach: Public Opinion Survey Results

To: Michael Healy

Bcc: Gary Callahan

1 2 3 4 5 6 7 8 9

Very interesting. Unfortunately, it is all in how you ask the question. Of course the majority of Petaluman's want cheaper gas...the question is, should it be located adjacent to an elementary campus and preschool. I don't see that in this survey. I guess they must be nervous about tonight's meeting!

I am wondering if it is within the City Planning Commission jurisdiction to require that Safeway fund air quality monitoring during and after construction at the school site for a period of time in order to provide the staff and families with greater assurances that the actual data (vs. the theoretical data) reflect that the campus is safe. Just a thought. Staff and families have continued to communicate their concerns in spite of the Health Risk Assessment information.

Thanks!

Chris

On Tue, Jun 26, 2018 at 1:17 PM, Michael Healy <mthealy@sbcglobal.net> wrote:

It doesn't stop....  
Mike

On Tuesday, June 26, 2018 1:00 PM, Nick Carter <nicks@Fulcrumproperty.com> wrote:

Dear Planning Commissioners,

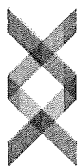
As part of a multi-faceted outreach effort following the May 8th Planning Commission meeting, Washington Square Associates LLC and Fulcrum Property (respectively owner and manager of Washington Square) commissioned a public opinion survey between June 21-24, 2018 of over 500 likely voters in Petaluma regarding the Safeway gas station proposal.

The survey was conducted by FM3 Research, one of the most respected, experienced, and independent public policy opinion research firms in the state. Enclosed is a memo prepared by FM3 summarizing the results.

As the memo details, public awareness of the Safeway project is very high and a significant majority of respondents consistently support the gas station project.

I am available at your convenience should you have any questions.

Nick



FULCRUM

NICK CARTER  
VICE PRESIDENT / REAL ESTATE INVESTMENT

1530 J STREET SUITE 200  
SACRAMENTO, CA 95814

916 / 383 3333



Natalie Mattei

---

**From:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Monday, September 17, 2018 3:18 PM  
**To:** Chris Thomas  
**Subject:** Re: Fw: Petaluma Safeway Gas Station - correspondence regarding Petaluma City Schools

Give me a call if you have a chance. 762-8768.

On Monday, September 17, 2018 3:04 PM, Chris Thomas <cthomas@petk12.org> wrote:

Hi Mike,

I do not believe this is accurate. Thanks for the heads up ! Chris

On Mon, Sep 17, 2018, 2:10 PM Michael Healy <mthealy@sbcglobal.net> wrote:  
Just FYI, in case your ears were ringing.  
Mike

On Monday, September 17, 2018 11:25 AM, Natalie Mattei <Natalie.Mattei@albertsons.com> wrote:

Dear Mayor and Council Members:

We understand that you received a letter on Thursday September 13th from Ms. Lauri Anderson, Principal of McDowell Elementary School. **Upon review of the letter, Safeway and Fulcrum identified several errors and omissions that do not portray the facts accurately.** Out of respect for your time and the considerable volume of paperwork that you've already been provided on late notice, we will be brief and focus on two specific items.

### **1. Omission of ESA Peer Review Study.**

Ms. Anderson's letter speaks to potential project risks without any mention the ESA peer review commissioned by Petaluma City Schools in May 2018 to assess the HRA completed by our consultant Illingworth & Rodkin.

- ESA's initial analysis included flawed assumptions that led to overstated air quality impacts. Our understanding is that these findings greatly influenced how McDowell shaped initial impressions of the project to parents and teachers.
- ESA subsequently corrected their report after Illingworth flagged the errors, leading Ms. Chris Thomas of Petaluma Safeway Schools to write that the District now **"accept[ed] Illingworth's responses to the air quality impacts."** [See attached]
- In a July 20, 2018 telephone call with Ms. Anderson, we requested her to ensure parents and teachers received the corrected information on air quality impacts. She declined.
- On August 20, 2018, Petaluma City Schools held a meeting where ESA presented its corrected findings. While both parents and teachers were apparently invited, no parents attended.

- Dissatisfied with ESA's revised findings, the District requested ESA to perform additional work to seek new flaws in the HRA. ESA declined, leading the district to shop for a more malleable consultant willing to prepare a critical assessment.

## **2. False statements regarding project outreach.**

Ms. Anderson's letter states that she is "*not aware of any of Safeway's efforts between 2014 and 2018 to seek the opinions specifically of McDowell's staff, students, or families on the matter.*" **This is demonstrably false.** Safeway representatives met with Ms. Anderson on June 19 to seek opinions of McDowell stakeholders. On several occasions this summer, we contacted Ms. Anderson and others specifically to request assistance with outreach to McDowell families. Attached for your review:

- July 22, 2018 email to Ms. Anderson requesting guidance on how to schedule opportunities to connect with McDowell families in early September. We received no response.
- July 22, 2018 email to Ms. Thomas updating her on our conversation with Ms. Anderson requesting additional help in scheduling time to connect with families. We received no response.
- August 16, 2018 email to School Board President Sheri Chlebowski seeking guidance on the lack of responsiveness from Ms. Anderson and Ms. Thomas. Ms. Chlebowski graciously responded to our email and pledged in a follow-up phone conversation to remedy the lack of responsiveness.

Taken together, these facts suggest a lack of interest in facilitating balanced and fact-based dialogue regarding our project. We respectfully request that you consider this information as you evaluate the project and appeal.

Natalie

### **Natalie Mattei**

Senior Real Estate Manager

**Albertsons Companies**

11555 Dublin Canyon Road

Pleasanton, CA 94588

(925) 226-5754 Office | (925) 413-4455 Mobile

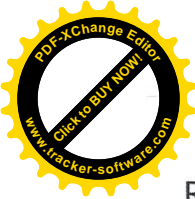
[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)

[www.albertsonscompaniesrealestate.com](http://www.albertsonscompaniesrealestate.com)

---

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## Re: Heads Up

---

From: Michael Healy (mthealy@sbcglobal.net)

To: Matt.Brown@arguscourier.com

Date: Thursday, October 11, 2018 10:39 AM PDT

---

Janice may actually be on to something. The word I'm hearing is that the little neighbor group is being supported by a consortium of big oil companies who don't care for Safeway's business model. Not just the yard signs & crisp red tee shirts, but also the Sacramento law firm cranking out as much paper as Safeway's lawyers. Fun times indeed.

On Thursday, October 11, 2018 10:32 AM, "Brown, Matt" <Matt.Brown@arguscourier.com> wrote:

Fun times.

---

**From:** Michael Healy [mailto:mthealy@sbcglobal.net]  
**Sent:** Thursday, October 11, 2018 10:31 AM  
**To:** Brown, Matt <Matt.Brown@arguscourier.com>  
**Subject:** Re: Heads Up

Yet another data dump.

On Thursday, October 11, 2018 10:28 AM, "Brown, Matt" <[Matt.Brown@arguscourier.com](mailto:Matt.Brown@arguscourier.com)> wrote:

Thanks. I heard that.

---

**From:** Michael Healy [<mailto:mthealy@sbcglobal.net>]  
**Sent:** Thursday, October 11, 2018 10:16 AM  
**To:** Brown, Matt <[Matt.Brown@arguscourier.com](mailto:Matt.Brown@arguscourier.com)>  
**Subject:** Heads Up

It looks like the Safeway item will be continued again.  
Mike

**Subject:** Re: Safeway Gas Station

**From:** Michael Healy (mthealy@sbcglobal.net)

**To:** mrudder28@gmail.com;

**Date:** Wednesday, May 2, 2018 3:08 PM

Yes, I reached out to them.  
Mike

On Wednesday, May 2, 2018 3:05 PM, Maureen Rudder <mrudder28@gmail.com> wrote:

Hi Mike,  
Thanks for the "heads up" regarding this. Do you think the preschools have been notified?  
I'm not sure who is currently running 4Cs and Northbay Children's Center.  
I hope to go to the meeting next Tuesday.  
Maureen

On May 2, 2018, at 2:16 PM, Michael Healy <mthealy@sbcglobal.net> wrote:

On Wednesday, May 2, 2018 11:10 AM, Michael Healy <mthealy@sbcglobal.net> wrote:

Lauri,

Just a heads up, the Petaluma Planning Commission will be considering approvals for the Safeway gas station next Tuesday at 7:00 at city hall. The Agenda, with links to the staff reports, is here:

[http://petaluma.granicus.com/GeneratedAgendaViewer.php?view\\_id=31&event\\_id=43126](http://petaluma.granicus.com/GeneratedAgendaViewer.php?view_id=31&event_id=43126)

Regards,  
Mike Healy  
Petaluma City Council

## Hines, Heather

---

**From:** Hines, Heather  
**Sent:** Monday, May 07, 2018 2:33 PM  
**To:** 'Natalie Mattei'; mfrancois@rutan.com  
**Subject:** RE: EXTERNAL: FW: Concern regarding Proposed Gas Station near McDowell School

Natalie,

Public notice was sent to the school district as the property owner of record of the neighboring site.

All legal noticing requirements were met.

However, as you saw the district has indicated they didn't get noticing.

I would imagine that this will be a concern expressed by the Commission at tomorrow night's hearing and that there may be a hesitation to make a decision without allowing additional time for the school and district to respond to the proposed project.

Heather

### Heather Hines, Planning Manager

M-Group Consulting Planner

Serving the City of Petaluma

11 English Street, Petaluma, CA 94952

Phone: (707) 778-4316

Hours: M-Th 8am-5pm, closed Fridays



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**From:** Natalie Mattei [mailto:Natalie.Mattei@albertsons.com]  
**Sent:** Monday, May 07, 2018 12:01 PM  
**To:** Hines, Heather <HHINES@ci.petaluma.ca.us>; mfrancois@rutan.com  
**Subject:** RE: EXTERNAL: FW: Concern regarding Proposed Gas Station near McDowell School

Heather,

Can you please confirm the City sent a public notice as required? Thank you.

### Natalie Mattei

Senior Real Estate Manager

**Albertsons Companies**

11555 Dublin Canyon Road

Pleasanton, CA 94588

(925) 226-5754 Office | (925) 413-4455 Mobile

[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)



[www.albertsoncompaniesrealestate.com](http://www.albertsoncompaniesrealestate.com)

**From:** Hines, Heather [<mailto:HHINES@ci.petaluma.ca.us>]  
**Sent:** Monday, May 07, 2018 10:13 AM  
**To:** Natalie Mattei <[Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com)>; mfrancois@rutan.com  
**Subject:** EXTERNAL: FW: Concern regarding Proposed Gas Station near McDowell School

**Public Comment**

**From:** Cooper, Claire  
**Sent:** Monday, May 07, 2018 7:25 AM  
**To:** Brown, John <[JBROWN@ci.petaluma.ca.us](mailto:JBROWN@ci.petaluma.ca.us)>; Crump, Katie <[KCRUMP@ci.petaluma.ca.us](mailto:KCRUMP@ci.petaluma.ca.us)>; Hines, Heather <[HHINES@ci.petaluma.ca.us](mailto:HHINES@ci.petaluma.ca.us)>  
**Subject:** FW: Concern regarding Proposed Gas Station near McDowell School

**From:** Chris Thomas [<mailto:cthomas@petk12.org>]  
**Sent:** Friday, May 04, 2018 5:31 PM  
**To:** Mike Healy <[mthealy@sbcglobal.net](mailto:mthealy@sbcglobal.net)>  
**Cc:** Gary Callahan <[gcallahan@petk12.org](mailto:gcallahan@petk12.org)>; Lauri Anderson <[landerson@petk12.org](mailto:landerson@petk12.org)>; - City Clerk <[CityClerk@ci.petaluma.ca.us](mailto:CityClerk@ci.petaluma.ca.us)>; Sheri Chlebowski <[schlebowski@petk12.org](mailto:schlebowski@petk12.org)>  
**Subject:** Concern regarding Proposed Gas Station near McDowell School

Hi Councilman Healy,

My name is Chris Thomas, Chief Business Official for Petaluma City Schools and long-time resident of Petaluma. It has been brought to our attention that there is a resolution on the City Council Meeting agenda for May 8 to Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Report for installation of a proposed gas station across the Street (Maria Drive) from McDowell School. Although the resolution states that the City's Notification of Intent to Adopt the Mitigated Negative Declaration was mailed out on or before April 5, 2018 to all residents and property owners within 500 feet, as the property owner for this school and related programs, we do not have any record of receiving such notification regarding this action and have serious concerns about the potential impact of this project on our Elementary School, students, and school community. We would request that this agenda item be deferred to a future meeting so that we have more time to assess this project, any potential impacts on the school, and be better prepared to provide appropriate input to the City Council.

In addition, this meeting conflicts with our Board of Education meeting so cabinet level members will not be able to attend the Council Meeting on the 8th to voice our concerns.

Thank you for your consideration and we look forward to hearing from you.

Regards,

Chris Thomas  
Chief Business Official  
707-778-4621

Notice to Recipient:

Petaluma City Schools  
(707) 778-4745

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----- Forwarded message -----

From: **Michael Healy** <mthealy@sbcglobal.net>  
Date: Wed, May 2, 2018 at 11:10 AM  
Subject: Safeway Gas Station  
To: "landerson@petk12.org" <landerson@petk12.org>

Lauri,

Just a heads up, the Petaluma Planning Commission will be considering approvals for the Safeway gas station next Tuesday at 7:00 at city hall. The Agenda, with links to the staff reports, is here:  
[http://petaluma.granicus.com/GeneratedAgendaViewer.php?view\\_id=31&event\\_id=43126](http://petaluma.granicus.com/GeneratedAgendaViewer.php?view_id=31&event_id=43126)

Regards,  
Mike Healy  
Petaluma City Council

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Thank you.

## Hines, Heather

---

**From:** Hines, Heather  
**Sent:** Monday, May 07, 2018 4:57 PM  
**To:** 'cthomas@petk12.org'  
**Subject:** FW: Safeway  
**Attachments:** Peer Review of HRA.pdf; Safeway Fuel Center.pdf

Mr. Thomas,

Thank you for your comment letter, we have forwarded the letter and the Peer Review to the Planning Commission for their consideration.

I also wanted to verify with you that our records indicate a public notice was sent in April to the School District at the address on file as the property owner (200 Douglas Street). I have noted your request to be notified of all CEQA documents in the future and will add you to our interested parties list for all such hearings regardless of proximity to a school site.

If I can be of further assistance please do not hesitate to contact me directly.

Heather

### Heather Hines, Planning Manager

M-Group Consulting Planner  
Serving the City of Petaluma  
11 English Street, Petaluma, CA 94952  
Phone: (707) 778-4316  
Hours: M-Th 8am-5pm, closed Fridays



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**From:** Crump, Katie  
**Sent:** Monday, May 07, 2018 4:28 PM  
**To:** Hines, Heather <HHINES@ci.petaluma.ca.us>  
**Subject:** FW: Safeway

FYI

**From:** Chris Thomas [<mailto:cthomas@petk12.org>]  
**Sent:** Monday, May 07, 2018 3:58 PM  
**To:** - City Clerk  
**Cc:** citymgr; Mike Healy; [mayordavidglass@gmail.com](mailto:mayordavidglass@gmail.com); [councilman.albertson@gmail.com](mailto:councilman.albertson@gmail.com); [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net); [councilmemberkearney@me.com](mailto:councilmemberkearney@me.com); [davekingpcc@gmail.com](mailto:davekingpcc@gmail.com); Gary Callahan; Sheri Chlebowski; Mike Baddeley; Phoebe Ellis; Ellen Webster; Frank Lynch  
**Subject:** Fwd: Safeway



Hello Commissioners,

Please find a letter of concern and comments from Petaluma City Schools on the Safeway Fuel Center.

Regards,

Chris Thomas  
Chief Business Official.  
707-778-4621

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Thanks.  
Fred

**From:** Barry Young <[BYoung@baaqmd.gov](mailto:BYoung@baaqmd.gov)>  
**Sent:** Wednesday, December 12, 2018 5:08 PM  
**To:** Natalie Mattei <[natalie.mattei@albertsons.com](mailto:natalie.mattei@albertsons.com)>  
**Cc:** Pamela Leong <[PLeong@baaqmd.gov](mailto:PLeong@baaqmd.gov)>; Fred Tanaka <[Ftanaka@baaqmd.gov](mailto:Ftanaka@baaqmd.gov)>  
**Subject:** Re: Copies of permits

Hi Natalie,

Please contact Fred Tanaka to request a copy of the permits at [ftanaka@baaqmd.gov](mailto:ftanaka@baaqmd.gov).

Barry G. Young  
Senior Advanced Projects Advisor  
Bay Area Air Quality Management District  
(415) 749-4721

---

**From:** Natalie Mattei <[natalie.mattei@albertsons.com](mailto:natalie.mattei@albertsons.com)>  
**Sent:** Wednesday, December 12, 2018 12:32 PM  
**To:** Barry Young  
**Subject:** Copies of permits

Hi Barry,

If I'm seeking a copy of a Permit to Operate or Authority to Construct for a non-Safeway gas station, can I reach out to you or another BAAQMD contact to request it? I wasn't sure if I had to go through the Public Records request on the BAAQMD website. I talked with Aneesh yesterday and he wasn't sure of the policy and directed me to you.

Thank you,  
Natalie

**Natalie Mattei**  
Senior Real Estate Manager  
**Albertsons Companies**  
11555 Dublin Canyon Road  
Pleasanton, CA 94588  
(925) 226-5754 Office | (925) 413-4455 Mobile  
[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)



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## Francois, Matthew

---

**From:** Fred Tanaka <Ftanaka@baaqmd.gov>  
**Sent:** Thursday, December 13, 2018 4:21 PM  
**To:** Natalie Mattei  
**Cc:** Barry Young  
**Subject:** RE: EXTERNAL: RE: Copies of permits

Natalie,

I am not aware if there was a change in practice. This is just the proper way to manage and handle records as a responsible agency.

Fred

**From:** Natalie Mattei <Natalie.Mattei@albertsons.com>  
**Sent:** Wednesday, December 12, 2018 5:45 PM  
**To:** Fred Tanaka <Ftanaka@baaqmd.gov>  
**Cc:** Barry Young <BYoung@baaqmd.gov>  
**Subject:** RE: EXTERNAL: RE: Copies of permits

Barry, thank you for connecting me with Fred.

Fred, thank you for the clarification. Is this a recent policy? If so, what year was it enacted?

**Natalie Mattei**  
Senior Real Estate Manager  
**Albertsons Companies**  
11555 Dublin Canyon Road  
Pleasanton, CA 94588  
(925) 226-5754 Office | (925) 413-4455 Mobile  
[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)



[www.albertsonscompaniesrealestate.com](http://www.albertsonscompaniesrealestate.com)

**From:** Fred Tanaka <Ftanaka@baaqmd.gov>  
**Sent:** Wednesday, December 12, 2018 5:40 PM  
**To:** Natalie Mattei <Natalie.Mattei@albertsons.com>  
**Cc:** Barry Young <BYoung@baaqmd.gov>  
**Subject:** EXTERNAL: RE: Copies of permits

Natalie,

Unless you are the official contact for the facility or get permission from the facility in question, these types of requests should be submitted through a public records request.

You can make that request online at <http://www.baaqmd.gov/contact-us/request-public-records>

If you have difficulties with the Public Records portal, you can contact Public Records at [publicrecords@baaqmd.gov](mailto:publicrecords@baaqmd.gov).

Janice Cader Thompson  
732 Carlsbad Court  
Petaluma, CA 94954  
707 774-5912

January 15, 2019

**RECEIVED**

**JAN 15 2019**

**CITY CLERK**

Claire Cooper  
City Clerk  
City of Petaluma  
11 English Street  
Petaluma, CA 94952

Re: Conflict of Interest Safeway Fuel Center

Dear Claire Cooper,

Concerning the Safeway Fuel Center project. In light of the Petaluma City Council's Brown Act violations and after reading EXHIBIT H., correspondence between Brian Sobel and Councilmember Michael Healy. I am sharing an email I received on the 19<sup>th</sup> of August 2018 from Stephen Gale: Councilmember Michael Healy's response to an invitation for the Grand Opening of the Democratic Headquarter located in Petaluma. The language in Healy's response shows his dislike for Marc Friedman, Safeway and a bias against the Safeway Fuel Center. The building he referred to in his email was not the building used for the Democratic headquarters.

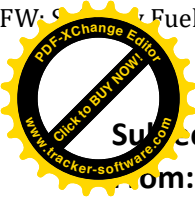
I am asking that Council Member Michael Healy recuse himself from any public hearings, closed sessions and private discussions to include the January 28<sup>th</sup>, 2018 city council meeting, (Safeway Fuel Center).

Sincerely,



Janice Cader Thompson

C.c Mayor Teresa Barrett  
City Attorney, Eric Danly  
Acting City Manager, Scott Brodum



**Subject:** FW: Safeway Fuel Center Project / January 28, 2019 City Council Agenda, Item 5.A

**From:** "Crump, Katie" <KCRUMP@ci.petaluma.ca.us>

**Date:** 1/24/2019, 4:26 PM

**To:** Teresa Barrett <teresa4petaluma@comcast.net>, "Councilmember D'Lynda Fischer" <dlynda@fischerforcouncil.com>, Mike Healy <mthealy@sbcglobal.net>, "'Gabe Kearney' (gkearney@me.com)" <gkearney@me.com>, Dave King <davekingpcc@gmail.com>, Kevin <kevin-mcd@comcast.net>, Kathleen Miller <kathleencmillerooffice@gmail.com>

**CC:** "Brodhun, Scott" <SBRODHUN@ci.petaluma.ca.us>

Attached is documentation just received from Rutan & Tucker regarding Safeway.

Click on the link below to access the file. Note: the document is 239 pages; the letter at the front is 37 pages, which I have printed out and will place in your mailboxes tonight. If you would like the exhibits printed, please let me know. The Clerk's office will be placing this document online.

Thanks  
Katie

---

**From:** Respicio, Maryknol [mailto:mrespicio@rutan.com]

**Sent:** Thursday, January 24, 2019 3:50 PM

**To:** citymgr

**Subject:** Safeway Fuel Center Project / January 28, 2019 City Council Agenda, Item 5.A

You are being provided access to documents by Rutan & Tucker, LLP. You can access the documents for the next 30 days by clicking on the link below. See below for a message from the sender, and for a list of all recipients of this email.

[Access Secured Files Here](#) - Expires Sunday 24 Feb 2019 07:59 AM (UTC)

\* If the link above does not work, copy the following URL to a web browser: <https://rutantucker.thruinc.net/Desktop/Distro/Open/041ZUAGOGRC>

---

Please see attached letter from Matt Francois.

Thank you.

### Maryknol Respicio

Assistant to Matthew D. Francois

Rutan & Tucker, LLP

Five Palo Alto Square, 3000 El Camino Real, Ste. 200

Palo Alto, CA 94306

(650) 320-1500 x7723

[mrespicio@rutan.com](mailto:mrespicio@rutan.com)

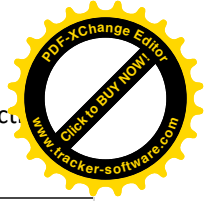
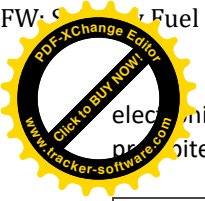
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**To:** [teresa4petaluma@comcast.net](mailto:teresa4petaluma@comcast.net)

**Cc:** [edanly@ci.petaluma.ca.us](mailto:edanly@ci.petaluma.ca.us), [citymgr@ci.petaluma.ca.us](mailto:citymgr@ci.petaluma.ca.us), [hhines@m-group.us](mailto:hhines@m-group.us), [OErvin@m-group.us](mailto:OErvin@m-group.us), [cityclerk@ci.petaluma.ca.us](mailto:cityclerk@ci.petaluma.ca.us), [Natalie.Mattei@albertsons.com](mailto:Natalie.Mattei@albertsons.com), [mark@fulcrumproperty.com](mailto:mark@fulcrumproperty.com), [MFrancois@rutan.com](mailto:MFrancois@rutan.com)

[Reply To All](#)

Thru Tracking: T478-041-93527-74964

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# **Exhibit E**



## KEEP PETALUMA LIVABLE

### Sustainability

As your city council member, I will work to create a sustainable Petaluma. What does “sustainable” mean?

Of course, a sustainable community is one that does all it can to reduce climate change and to enhance resiliency, such as by preparing its citizens for disasters.

A sustainable community is also one that:

- Supports development projects that provide city revenue and have minimal traffic impact
- Has fair and equitable wages
- Provides affordable housing for its workers—*as well as* shelter and services for its homeless
- Encourages a local economy where money circulates *within* the community
- Provides robust alternative modes of transportation
- Values the contributions of *all* its members, including those who speak a different language
- Maintains and enhances its green spaces

I support Measure M because it will provide more than \$700,000 each year to support Petaluma's parks.

### Housing

I will work to bring mixed-use housing along commercial corridors that are close to transportation. This type of housing provides retail revenue, jobs, and services—allowing people to live, work, play, and shop in one place. Mixed-use housing can create a walkable neighborhood and reduces traffic congestion. It also means we don't reserve valuable building space for parking lots of cars.

I support Prop 10 because it allows our renters to stay here while we develop more housing. Increased housing means less competition for available units.



located city asset. I would like to see this be our city center - where all of our city services are located - and we come together as a community.

### **BALANCE CITY OBLIGATIONS WITH COMMUNITY NEEDS**

Our primary revenue stream comes from taxes. Our share is 11 cents for each dollar of property taxes and 1 cent of each dollar spent for sales taxes. We need to find creative revenue streams and create regional partnerships to maintain basic public safety and community services. I propose a sales transfer tax on high-end single family homes to generate revenue to fund our vital city services.

### **Community Services**

In Sonoma County, 5,000 citizens are homeless; about 1 in 10 live in Petaluma. I will advocate for our homeless by supporting COTS in their mission to assist people to transition from homelessness to a permanent home.

### **Police Services**

Among other steps, I will advocate for crime prevention by designing and maintaining our public and private spaces to deter criminal behavior. I will also support development projects that are self-sufficient and do not sap our already scarce resources. I will advocate to bring back community policing on bicycles so that we get to know our police officers and they have a visible presence in our community.

### **PLAN TODAY FOR OUR CITY'S FUTURE**

## **MY STORY**

I moved to Petaluma five years ago charmed by the immediate access to farm fresh food, the active bicycle culture, the historic downtown on the river, and the easy exchanges I experienced meeting people on the street when walking my dog.

Disheartened by the actions being taken in Washington and empowered by the many other women in this country seeking office and affirmative change, I am stepping up and choosing to participate in the political process.



During my long career as an urban planner I had the opportunity to represent my community on the Planning Commission and my clients before numerous city boards and councils. My current role as a volunteer board member of the United States Green Building Council Redwood Chapter provides me the platform to integrate my ideals about the built environment and environs in our county.

Many local residents know me as the former Operations Manager for Daily Acts. Today, I work as an executive team member of the nonprofit Bionutrient Food Association (BFA), whose mission is “to increase quality in the food supply.” From my work, I know that creating affirmative change in our complex environment is an ongoing process - a marathon, not a sprint. My work inspires me every day to make that change a reality.

I represent the BFA on the Sonoma County Food System Alliance (SCFSA), a coalition of diverse stakeholders working to envision and create a healthy, sustainable, local food system through leadership and collective action. The SCFSA is currently exploring the opportunity to add a Healthy Communities element to the Sonoma County General Plan.

I will work toward keeping Petaluma livable, building community, and balancing the city's obligations with the needs of the community. I want to plan today for our City's future.

D'Lynda Fischer  
*Candidate, Petaluma City Council*

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**PETALUMA CITY COUNCIL**



**HOT TOPICS**

# SAFEWAY GAS STATION

POSTED MARCH 9, 2019 [DLHF](#)

Shall there be a gas station built in Safeway parking lot?

**Yes**

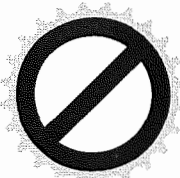
**No**

D'LYNDA FISCHER

dlyndaf@gmail.com

Proudly powered by WordPress | Theme: Sydney by aThemes.

# **Exhibit F**



**Heather Hines**

---

**From:** Hines, Heather  
**Sent:** Wednesday, May 29, 2013 6:06 PM  
**To:** Arash Salkhi; 'Steve von Raesfeld'  
**Subject:** RE: Discussion re Safeway Gas Station

How about the following Wednesday, June 19<sup>th</sup>, same time?

---

**From:** Arash Salkhi [mailto:asalkhi@hotmail.com]  
**Sent:** Tuesday, May 28, 2013 9:26 PM  
**To:** Hines, Heather; 'Steve von Raesfeld'  
**Subject:** RE: Discussion re Safeway Gas Station

Heather - That day I will be out of town. Can we make it for the following week, I will be available to meet anytime?

Thanks,

Arash

---

**From:** Hines, Heather [mailto:HHINES@ci.petaluma.ca.us]  
**Sent:** Tuesday, May 28, 2013 1:12 PM  
**To:** Steve von Raesfeld; asalkhi@hotmail.com  
**Subject:** Discussion re Safeway Gas Station

Arash,

Does 3:00 p.m. on Wednesday, June 12<sup>th</sup> work to discuss potential impacts of a Safeway gas station?

Let me know.

Heather

**HEATHER HINES**  
Planning Manager  
T: 707.778.4316  
E: hhines@ci.petaluma.ca.us

City of Petaluma  
Community Development - Planning Division  
11 English St  
Petaluma, CA 94952

For faster response to planning and zoning questions, please e-mail us at [petalumapanning@ci.petaluma.ca.us](mailto:petalumapanning@ci.petaluma.ca.us)

**Hines, Heather**

---

**From:** Brown, John  
**Sent:** Monday, August 25, 2014 5:39 PM  
**To:** Hines, Heather  
**Subject:** FW: Proposed Safeway Fuel - Estimated Tax Revenue

I sent one of my own, to let them know I am interested too.  
Thanks, JB

**From:** Hines, Heather  
**Sent:** Monday, August 25, 2014 3:16 PM  
**To:** Brown, John  
**Subject:** FW: Proposed Safeway Fuel - Estimated Tax Revenue

FYI

**From:** Mary Davi [mailto:Mary.Davi@safeway.com]  
**Sent:** Monday, August 25, 2014 3:15 PM  
**To:** Hines, Heather  
**Subject:** RE: Proposed Safeway Fuel - Estimated Tax Revenue

We will be working with our Fuel and our Marketing Departments to develop an evaluation of the impact on the existing gas stations so that we will have a rebuttal for the PC hearing. I'll review this with you when we have something meaningful.

When I heard the earthquake news early Sunday morning and the reporter was talking about North Bay, I was concerned that Petaluma might have been affected, but I guess your area didn't even feel it. I don't think there was any damage in my area (although it sure woke me up at 3:00 a.m.), our stores in Sonoma County and surrounding areas all had damage and our poor little Napa store is closed with very severe structural damage.

Mary D.

**From:** Hines, Heather [mailto:HHINES@ci.petaluma.ca.us]  
**Sent:** Monday, August 25, 2014 12:33 PM  
**To:** Mary Davi  
**Subject:** RE: Proposed Safeway Fuel - Estimated Tax Revenue

Mary,

One of the concerns that we have heard repeatedly is about the cannibalization of existing fuel sales in Petaluma to the new Safeway gas station.

Your data shows anticipated sale of 8.5 million gallons of fuel per year. Do you have any data illustrating how much of that is anticipated to be new fuel sales and how much will be sales taken from existing fuel stations? I think this will be one of the first questions asked about the data.

Thanks.

Heather

## Hines, Heather

---

**From:** Mary Davi <Mary.Davi@safeway.com>  
**Sent:** Tuesday, August 26, 2014 8:41 AM  
**To:** Brown, John  
**Cc:** Mark Friedman; Steve Berndt; Wendy Gutshall; Hines, Heather  
**Subject:** RE: Proposed Safeway Fuel - Estimated Tax Revenue

We will be working with our Fuel and our Marketing Departments to develop an evaluation of the impact on the existing gas stations so that we will have a rebuttal for the PC hearing. We don't yet have results, but I will certainly review them with you when available.

---

**From:** Brown, John [mailto:JBROWN@ci.petaluma.ca.us]  
**Sent:** Monday, August 25, 2014 5:38 PM  
**To:** Mary Davi  
**Cc:** Mark Friedman; Steve Berndt; Wendy Gutshall; Hines, Heather  
**Subject:** RE: Proposed Safeway Fuel - Estimated Tax Revenue

Mary, thank you for that. When we spoke on the 6<sup>th</sup>, I was interested in seeing these numbers, adjusted for "cannibalization". I would view these as gross numbers, the net would represent new business rather than business shifted from other gas stations in Petaluma to Safeway.

I imagine Safeway has an estimate for that number, can you share it please?

Thanks.

John Brown

City Manager

City of Petaluma, CA

---

**From:** Mary Davi [mailto:Mary.Davi@safeway.com]  
**Sent:** Monday, August 25, 2014 12:17 PM  
**To:** Brown, John  
**Cc:** Mark Friedman; Steve Berndt; Wendy Gutshall; Hines, Heather  
**Subject:** Proposed Safeway Fuel - Estimated Tax Revenue

Thank you for your assistance in coordinating the August 6<sup>th</sup> meeting with staff, Mr. Friedman and Safeway representatives. Based on the discussions at the meeting, we resubmitted our application August 13<sup>th</sup>. With the input from your staff, I believe we have been successful in addressing all the City's issues as stated in the May 28<sup>th</sup> Incompleteness Letter.

Steve asked me to work with the Safeway associate who prepared the Sales Tax chart to streamline the format and delete any extraneous data. Therefore, attached is the restated Estimated Taxes Generated statement dated August 22, 2014. Although the statement has been clarified, the resulting Estimated City Revenue of \$439,744 expected to be generated by our Fuel Center is unchanged.

Thanks again for your assistance.

**Mary W. Davi**  
Real Estate Manager  
Safeway Inc.  
5918 Stoneridge Mall Road  
Pleasanton, CA 94588  
925-467-3510 Direct  
925-467-2007 Fax



## Ervin, Olivia

---

**From:** Robbe, Tiffany  
**Sent:** Wednesday, May 09, 2018 12:26 PM  
**To:** Ervin, Olivia  
**Subject:** RE: Petaluma Addendum Example

Yes, that the use question is not really on the table does make it tricky!

**From:** Ervin, Olivia  
**Sent:** Wednesday, May 09, 2018 11:56 AM  
**To:** Robbe, Tiffany <TROBBE@ci.petaluma.ca.us>  
**Cc:** Lisa Davison <LDavison@m-group.us>  
**Subject:** Re: Petaluma Addendum Example

Safeway was continued last night. Huge neighborhood and school turnout speaking against the project due to health risk exposure of the children and traffic.

It's tricky because PC does not have to consider use (it's allowed by right).

**Olivia Ervin, Environmental Planner**  
M-Group Consulting Planner  
Serving the City of Petaluma  
707.778.4556  
oervin@ci.petaluma.ca.us

---

**From:** Robbe, Tiffany  
**Sent:** Wednesday, May 9, 2018 9:26 AM  
**To:** Ervin, Olivia  
**Cc:** Lisa Davison  
**Subject:** RE: Petaluma Addendum Example

Here it is  
What did the PC do with Safeway?

**From:** Ervin, Olivia  
**Sent:** Wednesday, May 09, 2018 8:52 AM  
**To:** Robbe, Tiffany <TROBBE@ci.petaluma.ca.us>

## Lisa Davison

---

**From:** Olivia Ervin  
**Sent:** Friday, May 18, 2018 9:22 AM  
**To:** Lisa Davison  
**Subject:** Safeway Response to Comments  
**Attachments:** Attachment 2 Response to Comments.docx

Lisa,

I need you to prepare response to comments memo for Safeway. The Public IS/MND is here on box. I am trying to recall the most recent R2C that was prepared, I pulled the attached, which was for the Citywide Creeks project (we also did the response to comments for Pacifica on a subdivision, but I think the attached is the best base).

There are number of public comments that were received. You do not need to read them all (probably only ESA's), just list them out:

- Regulatory Agencies: SCH Response (confirmed receipt and only had Caltrans letter), Caltrans and DTSC (on DTSC no formal letter was ultimately submitted but they inquired, received a copy of the Phase I and stated their ratification and that they had no further comments, reminder me to forward the email chain for the record)
- School District (with ESA peer review of HRA)
- Number of neighbors, community members, school personal (teachers, principal, parents etc)

We are not doing itemized response to comments, rather we are going to prepare Master Responses on Health Risk and Traffic, including the following specific items.

- Regulatory Context for Area Source Emissions/Authority to Construct Permit issued for thrust with 25.71 MG/Y (BAAQMD's Role as agency responsible for maintaining AQ standards, how they do this through regulating certain uses, like gas station, that they issue authority to construct permits through a ministerial process that involves a HRA of their own, noticing to neighbors 1,000 feet occurred in 2014 explain who was notified and responses received by BAAQMD for their effort (which is separate from the City's process), and consideration of exposure limits, 25 MG cap was established based on max acceptable exposure risk, see BAAQMD staff report and check out their website for additional detail on their process.
- Existing Condition bolster description of school facility (elementary school with multiple bld, and also multiple programs, seniors early start, etc. Public comment that IS/MND only mentions the school once, let's expand the setting detail for that facility.
- Adequacy of the Health Risk Assessment prepared by I&R for 8.5 MG thru put (1/3 of that allowed by BAAQMD.) A peer review was issued by ESA attacking the methodology used in the HRA, I&R prepared a last minute response to comments, which is already part of the record and can be referenced to support our response, see hardcopy. I want this item to address the approach used by I&R, why it is acceptable that it appropriately applied the guidelines from BAAQMD.
- Concerns Raised by community Health Risk Exposure to Students and Staff at McDowell Elementary School. Numerous public comments received in writing and oral testimony at Planning Commission hearing. We need to clearly explain the thresholds for Health Risk, individual and commutative. Existing risks without the project, new risk introduced by the project, and why it is considered LTS under CEQA. We need to also be sure to clarify the risks for each person, student, teacher and resident, there was confusion that as a student and resident you'd be doubly exposed, that is not the case it looks at worst exposure not combined. (Then I want to think about this going in the direction of a exploring consistency with local Land Use policies, not an AQ impact, but possible conflict with local policy regarding protection of health, compatibility with school (let's discuss once you identify a few policies that may be appropriate).
- CHS 2018 Traffic Memo Clarify Trip Generation (No deductions were taken, trip gen is same as 2014 study, but info was added to show what could have been taken)

- Trip Generation Used Empirical Data collected from other Safeway because it was more conservative than ITE and more closely represents operating conditions.
- Pedestrian Access (safety of McDowell/Maria Intersection) frame this up. We will get collision info from Traffic Sub and expand.

We can chat as you dive in.

Thanks,  
Olivia



Joe, Samantha

**From:** Heather Hines <hhines@m-group.us>  
**Sent:** Wednesday, June 27, 2018 7:41 AM  
**To:** Brown, John  
**Subject:** Checking in

John,

Sorry our paths didn't cross this week.

[REDACTED] will be back in City Hall on Monday of next week.

However, I am available this morning if there is anything that we need to discuss.

Additionally, I will be checking email the remainder of the week if there is anything that comes up.

I returned our edits to the PSA for your consideration.

If you would like me to review the staff report itself please let me know.

I will also be working on outlining a staff report for the Water Street Public Art item and will have that to you by Monday morning for coordination on that front.

Safeway Fuel Center was approved last night. It was a long and extremely painful hearing.

Altura Apartment Trees Enforcement is being issued by Joe Garcia today.

Adobe Road Winery was deemed complete and we are working toward a Planning Commission workshop on July 24<sup>th</sup>.

Eric seems to have a good handle on the Silkmill documents that need signed.

The 76 gas station fees are in your email box for signature.

You are in good hands with Milan to discuss the VMT item for the July 9<sup>th</sup> PC/CC workshop.

Anything I am forgetting?

Heather

**HEATHER HINES | PRINCIPAL**

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**M-LAB:** A THINK TANK FOR CITIES: **JOIN THE CONVERSATION!**



Heather Hines

---

**From:** Dan Goalwin <dgoalwin@barghausen.com>  
**Sent:** Saturday, July 07, 2018 7:42 AM  
**To:** Hines, Heather; Ed Hale  
**Cc:** Josh Harlan; Mark Peterson; Marc Strauch  
**Subject:** RE: ARCO Preliminary Review Comments -- PLPR 18-0003 BCE #18042  
  
**Importance:** High

Thanks Heather. We will look at those videos.

Is it possible for us to access the file for the Chevron across Petaluma Blvd Land Use approvals on line? We would like to look at those before our meeting if possible.

Daniel B. Goalwin  
Director of Architectural Services  
Barghausen Consulting Engineers, Inc  
18215 72<sup>nd</sup> Ave South  
Kent, WA 98032  
Phone 425-656-7441  
Cell 206-396-8589

**From:** Hines, Heather <HHINES@ci.petaluma.ca.us>  
**Sent:** Friday, July 06, 2018 4:03 PM  
**To:** Ed Hale <ehale@barghausen.com>  
**Cc:** Josh Harlan <jharlan@barghausen.com>; Dan Goalwin <dgoalwin@barghausen.com>; Mark Peterson <mpeterson@barghausen.com>; Marc Strauch <Marc.s@strauchco.com>  
**Subject:** ARCO Preliminary Review Comments -- PLPR 18-0003

Ed,

Attached please find the City's preliminary review comments for the proposed ARCO gas station, including convenience store and carwash on Industrial Avenue.

I look forward to meeting with you next week to follow up on any questions you may have about the points touched on in the letter.

I would encourage you and your team to review videos of the recent public hearings for the Safeway Fuel Center that was before the Planning Commission in May and July.

There was considerable concerns about the conflict between a new gas station and an adjacent school that you should closely consider given the proximity of your project site to a school.

Have a great weekend.

Heather



## Heather Hines

---

**From:** Hines, Heather  
**Sent:** Monday, June 25, 2018 6:39 PM  
**To:** Brown, John  
**Subject:** RE: Safeway Fuel Center

I wish there was a more succinct way to answer the question.

**From:** Brown, John  
**Sent:** Monday, June 25, 2018 6:36 PM  
**To:** Hines, Heather <HHINES@ci.petaluma.ca.us>  
**Subject:** RE: Safeway Fuel Center

Wow – that was thorough. Thanks for getting that together for me today.  
Appreciate it.  
JB

---

**From:** Hines, Heather  
**Sent:** Monday, June 25, 2018 6:09 PM  
**To:** Brown, John  
**Subject:** Safeway Fuel Center

John,

You requested a response to the question of “what are the California regulations of how many feet away a gas station can be built in proximity to schools and homes”. The answer is not quite as direct as the question is asked, but please see the following.

There is not a specific regulation that states a maximum distance that a gas station can be built next to sensitive receptors. The California Air Resource Board’s (CARB) handbook, from 2005, provides nonbinding advisory recommendations to avoid siting new sensitive land uses within 300 feet of an existing gasoline dispensing facility. These guidelines are for the siting of new schools facilities, daycare centers, and other sensitive receptors (homes) not the other way around. This is because new sensitive land uses, such as schools, do not require air quality permits (they are not regulated, so general guidelines for locating new schools away from existing source emitters are provided). Whereas a new area source emitters, such as a new gas station, does require air quality permits which will evaluate the appropriateness of the proposed location and proximity to sensitive receptors. The required air quality permits are issued by the regional Bay Area Air Quality Management District and the review that BAAQMD does is taken into account to determine whether a new area source emitter such as a gas station is allowed in a specific location.

For area source emitters that would be permitted by BAAQMD (e.g., gas stations and back-up diesel generators) the project’s type, size, or planned level of use are used to help estimate anticipated particulate matter (PM2.5) and Toxic Air Contaminant (TAC) emissions. Screening or modeling conducted as part of the BAAQMD permit application can be used to determine cancer and non-cancer risk and PM2.5 concentrations for comparing to the applicable Thresholds of Significance. BAAQMD can assist in determining the level of emissions associated with the new source.



In accordance with BAAQMD guidelines, screening was conducted and based on risks of nearby sensitive receptors (school, residents) the BAAQMD issued a Authority to Construct Permit with a maximum throughput of 25.7 million per year for the proposed Safeway Fuel Center Project. Further, a project specific Heath Risk Assessment analyzed exposure risks for the maximum exposed individual (in accordance with BAAQMD guidelines 2017), and concluded concentration levels would be below thresholds of significance. This is described in greater detail in the Response to Comments that is published as part of the Planning Commission packet and available online at [http://petaluma.granicus.com/MetaViewer.php?view\\_id=31&event\\_id=43129&meta\\_id=398925](http://petaluma.granicus.com/MetaViewer.php?view_id=31&event_id=43129&meta_id=398925)

Please let me know if you have additional questions.

Heather

**Heather Hines, Planning Manager**

M-Group Consulting Planner

Serving the City of Petaluma

11 English Street, Petaluma, CA 94952

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7/17/2018

RE: Petaluma Safeway - Heather Hines

## RE: Petaluma Safeway

Baig, Yousef <Yousef.Baig@arguscourier.com>

Mon 7/2/2018 4:21 PM

To: Brown, John <JBROWN@ci.petaluma.ca.us>;

Cc: Heather Hines <hhines@m-group.us>;

OK; thanks. I feel like that's fairly in line with how we've been reporting on it the past however many years. I'm not sure what the architect was seeking in terms of the wording, or by alleging the city reports are wrong. The end result is 16 places for cars to get gas, whether it's referred to as "pumps," "dispensers," "fuel stations" – whatever. That's not why it struggled to get approval ...

**From:** Brown, John [mailto:JBROWN@ci.petaluma.ca.us]  
**Sent:** Monday, July 02, 2018 1:44 PM  
**To:** Baig, Yousef <Yousef.Baig@arguscourier.com>  
**Cc:** Heather Hines (hhines@m-group.us) <hhines@m-group.us>  
**Subject:** FW: Petaluma Safeway

Per your inquiry, Heather's answer, below

---

**From:** Heather Hines [mailto:hhines@m-group.us]  
**Sent:** Monday, July 02, 2018 1:40 PM  
**To:** Brown, John  
**Subject:** Re: Petaluma Safeway

It is eight dispensers, each with two fueling positions.  
There can be 16 cars all pumping gas at the same time.  
Our impact fees are assessed by fueling positions, so this was an important distinction for the project.

Heather

**HEATHER HINES | PRINCIPAL**  
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**From:** Baig, Yousef [mailto:Yousef.Baig@arguscourier.com]  
**Sent:** Monday, July 02, 2018 11:35 AM  
**To:** Brown, John  
**Subject:** FW: Petaluma Safeway

Just to be sure, there are SIXTEEN total gas dispensers – not eight, right? Otherwise, this guy (I'm assuming the architect) is alleging years of city staff reports and Argus coverage has been incorrect and gone unchecked, which I have a hard time believing.



RE: Petaluma Safeway - Heather Hines

**From:** Werelius, Stig [mailto:Stig.Werelius@stantec.com]  
**Sent:** Monday, July 02, 2018 11:12 AM  
**To:** Baig, Yousef <Yousef.Baig@arguscourier.com>  
**Cc:** Burns, John <john.burns@arguscourier.com>; Brown, Matt <Matt.Brown@arguscourier.com>  
**Subject:** RE: Petaluma Safeway

I understand your point, but the biggest problem is that the community is worried that this will be an operation like Costco with a ton of dispensers. The city got it wrong as well and caused this concern years ago with its first staff report. Their wording is not clear at all. It says 16 dispensers when there are actually only 8.

Repeating and republishing a mistake is not very professional, especially for a publication that is supposed to inform the public. If you are going to inform, inform correctly and clearly. 8 dispensers a big difference from 16 dispensers.

This isn't about "ways to word", it is a blatant mistake that is being presented to a public as fact. It doesn't come close to arriving at the same point.

Respectfully,

Direct: (707) 774-8333  
Fax: (707) 765-9908

Stantec Architecture Inc.  
1383 North McDowell Boulevard Suite 250  
Petaluma CA 94954-7118 US

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**From:** Baig, Yousef <Yousef.Baig@arguscourier.com>  
**Sent:** Monday, July 02, 2018 10:58 AM  
**To:** Werelius, Stig <Stig.Werelius@stantec.com>  
**Subject:** RE: Petaluma Safeway

Thanks for the email, Stig. To me, there's a lot of ways to word this that arrive at the same point, and I don't think it warrants a correction. The city's staff report ([link below](#)) says 16 dispensers at eight fueling stations. The article said 16 pumps. You're saying eight dispensers.

## Pascoe, Samantha

---

**From:** Bill Wolpert <wolpert@sonic.net>  
**Sent:** Friday, August 10, 2018 4:58 PM  
**To:** 'Bernie Album'; 'tonya parnak'  
**Subject:** RE: Scope of Appeal

Bernie and Tonya-

Sorry, I have looked through all of my reference material and I do not have the previous General Plan. The closest I came was finding some committee submittals for the Historic Districts to be included in the 2008 GP update.

Good luck with the appeal.

-Bill



### GREEN BUILDING ARCHITECTS

William B. Wolpert, Architect  
7 Fourth Street, Studio 61  
Petaluma, CA 94952  
707.789.0822  
GreenBuildingArchitects.com  
*Check out our new website!*

**From:** Bernie Album <allbernie5@gmail.com>  
**Sent:** Friday, August 10, 2018 3:02 PM  
**To:** tonya parnak <tonyaparnak@yahoo.com>  
**Cc:** William Wolpert <wolpert@sonic.net>  
**Subject:** Re: Scope of Appeal

Yes for Bill Wolpert. We know each other well. I am very connected with Teresa Barret but not permitted to contact her with anything to do with the 16-pumps because of my being a party of the appeal to come before City Council 9/17. Bill is looking for information we need from the 2013 Petaluma General Plan.  
Bernie

On Fri, Aug 10, 2018 at 12:09 PM, tonya parnak <tonyaparnak@yahoo.com> wrote:

But not in touch with Teresa Barrett, correct? Are you in touch with Bill Wolpert and his architect friend, just out of curiosity?? Tonya

-----  
On Fri, 8/10/18, Bernie Album <allbernie5@gmail.com> wrote:

Subject: Re: Scope of Appeal  
To: "tonya parnak" <tonyaparnak@yahoo.com>  
Date: Friday, August 10, 2018, 11:46 AM

Got  
it. I am in touch with everyone you noted. We will continue

focused on our goal using as much as we can to stop the 16 pump monster. Thanks, Bernie

On Fri, Aug 10, 2018 at 11:33 AM, tonya parnak <tonyaparnak@yahoo.com> wrote:  
Hi  
Bernie,

We all only have so much focus - I find myself making typos and reversals so easily! (I have to remind myself to proofread and not be in a hurry, but that's so time consuming.) What you're doing, reading through the documents, is the "deepest weeds" I can think of when you're not familiar with the terminology and haven't done it as a career, etc.. Ranks as one of my least favorite things to do!!

Unfortunately, I don't have any contacts with BAAQMD. The CA state guidelines for new schools that I read through and sent potential sections for followup to JoAnn were from my contact with Bill Wolpert, a 350Petaluma member and one of the Planning Commissioners who voted against approval at the Planning Commission meeting. When I asked, he emailed to one of his fellow architects who works on school plans, who then emailed me the link to the CA state guidelines for new schools. Just as info, not worth much, I do know that Teresa Barrett has been on the "stationary" sources of poor air quality, on the BAAQMD, but then she's currently on the City Council and running for mayor, which makes her verboten/forbidden as a contact. It's the staff at the BAAQMD that would do the research anyway, not a member of the board.

cheers and onward,

Tonya

---

On Fri, 8/10/18, Bernie Album <allbernie5@gmail.com> wrote:

Subject: Re: Scope of Appeal

To: "tonya parnak" <tonyaparnak@yahoo.com>

Cc: "Adriann Saslow" <madamesaslow@gmail.com>,  
"Frances Frazier" <ffrazier@petk12.org>,  
"Glenn Rubenstein" <glenn.rubenstein@gmail.com>,  
"JoAnn McEachin" <joannmceachin@gmail.com>,  
"Richard Sachen" <richard@rsachen.net>,  
"Vicki Mayster" <vmayster2@gmail.com>

Date: Friday, August 10, 2018, 10:42 AM

Tonya, Yikes, I just noted I

reversed EIR (Google for  
definition) to REI on my reply to

Glenn. So far I may be the only one losing it from  
reading

all the documents. We are managing to review the  
materials

we have and figuring out what we need for our  
presentation

to our city council. Thanks for making  
suggestions

and reading the emails. Our most important need

that you may be able to help with,  
is getting the BAAQMD to

review the document(s) they provided Safeway in 2013  
and

provide us with new document(s) based on their  
updated

2017 standards. You already did that with your BAAQMD

contacts but it would be good for us to know what, if

anything, they are in the process of doing. I only had  
one

reply from Arneesh two weeks ago that their engineers were

researching the 2013 documents. Can you find out what is

happening?Bernie

On Thu, Aug 9, 2018 at 6:42

PM, tonya parnak <tonyaparnak@yahoo.com>

wrote:

Hi

Bernie,

I have a lot of sympathy with how mind-boggling it is to

read through all the material! It was hard for me to get

through the Ca state new school guidelines! I don't

know if you saw my suggestion to divide it up and have

different people take on a section? Or did you try that

and get no volunteers?

I'm in support, but don't have enough time to

volunteer while I'm focusing on the 350 S.F. March on

Sept. 8th.

Onward,

Tonya

On Thu, 8/9/18, Bernie Album <allbernie5@gmail.com>

wrote:

Subject: Re: Scope of Appeal

To: "Glenn Rubenstein" <glenn.rubenstein@gmail.com>

Cc: "Adriann Saslow" <madamesaslow@gmail.com>,

"Frances Frazier" <ffrazier@petk12.org>,

"JoAnn McEachin" <joahnmceachin@gmail.com>,

"Moirra Sullivan" <msullivan64@hotmail.com>,

"Richard Sachen" <richard@rsachen.net>,

"Tonya Parnak" <tonyaparnak@yahoo.com>,

"Vicki Mayster" <vmayster2@gmail.com>

Date: Thursday, August 9, 2018, 4:43 PM

Glenn, It is not an ERI which is an

outside environment agency

that does the study for a lot

of money. What the city has here is a checklist  
completed

by

the city and is not acceptable as a substitute for an

official, legally defined EIR. I can get a

professional

opinion for us after we do a Google search for REI

definition, if we still need one. FYI & Scott

Alfonso, The act of the city reaching out to

Safeway constituted the act

called collusion. Not colluding

would have been the city employing it's own attorney

for

unbiased legal advise instead of the biased legal

opinions

of a biased attorney employed by Safeway. An EIR cost

\$1000s

and Safeway didn't want to spend the

money.Scott needs to look up the definition for

collusion. The City and

Safeway worked together to change

the zoning code, illegally in my opinion, and design

mitigations to get around numerous other code

requirements

too numerous for me to decipher. That is why we would need

a



lawyer should need to go to court. Good that you

are reading through all

this material. It has become mind

boggling for me as well as very disturbing. I wonder  
how

far

will will get with this considering who we are up  
against.

Discussion Tuesday needed for all of us to

agree. Bernie

On Thu, Aug 9, 2018 at 3:56

PM, Glenn Rubenstein <[glenn.rubenstein@gmail.com](mailto:glenn.rubenstein@gmail.com)>

wrote:

What

is the difference between an Environmental Impact Report

and

the 53 pages of "Effects of Environmental Impacts"

that

the City of Petaluma put together earlier this year in

their

Safeway Fuel Center report?

<http://cityofpetaluma.net/cdd/>

pdf/temp/ SafewayFuelCenterDraftIS-MND.

pdf

There are

other appendixes here, including the Health Risk Assessment,

but no dedicated EIR:

<http://cityofpetaluma.net/>

[cdd/major-projects.html](#)

Scott Alonso did say there was no

collusion risk we reached out to the City Attorney  
for

legal

clarification and guidance on the scope of our  
appeal.

Sent

from my iPhone

On Aug 7, 2018, at

2:17 PM, Bernie Album <[allbernie5@gmail.com](mailto:allbernie5@gmail.com)>

wrote:

I sent this earlier with

attachments as a Google link. Here it is so it can be read

without a Google link. Bernie

After reviewing the

recent documents from the 6/26/18 Petaluma Planning

Commission Meeting the following appeal points occurred

to

me: (see attachments A,C,D below)

1. The city did not legally change the 2013 Zoning

Code to include a fueling/gas/service Station.

\*there is a code for a fueling station

in a commercial zone directly next to Safeway and in

the

same

mall (Washington Square Plaza). The are currently

two

fueling station in that

zone,

The project application is in a commercial zone that

does not include a fueling station and

should

have been denied 2013 and should be denied today in

2018.

The Safeway project is not compatible

with other uses in the zone because it is listed

as as allowed in another zone.

(Application filed July 25,2018)

2. An EIR is required and there is no evidence

that one has ever been

completed.3. BAAQMD report does not clearly

show that the

project gas station meets

CEQA 2018

standards so as not to cause adverse impacts  
on

the

environment hazardous air emissions

of the Health San Code Section 42301.6(a)

and Section 44303

Public notice

in 2013 was inadequate Attachment\_C\_-\_  
Project\_Plans.

pdf

and not current in 2018.

Shall include written prior

notice

30 days Final Action. Public Notice to

parents,school children,residence and businesses

20184. The

City improperly collated with

Safeway in 2013 to amend a

commercial zoning with no fueling station to

include a fueling/gas/service

station.

5. The City failed to show that the economic

impact of other related business would not

be

negatively impacted. The mitigations listed in the

event

this occurs to monitor, are not

enforceable with consequences. Cal Code

Reg. & 15064 and 15131

6. The Petaluma City Schools did not clearly

sign-off or approve the Safeway Gas Station to be  
next

to

McDowell Elementary School.



QUESTION TO

ASK:1. Is it

permissible to change the zoning code after an  
application

for a project is submitted?

2. Is it legal to provisionally approve a permit for

a fueling station when the provision process takes  
over

4

and

the effected parents,students,residents and

businesses could be or are different?

OPPOSE SAFEWAY GAS PLANNING COMMITTEE CAN

DO: Educate

the public that starting in 2013 the Petaluma City  
Council

and Planning Commission voted

to collude with Safeway to amend the 2013 zoning

Code with no fueling station, to include a  
fueling/gas

service station in order to allow the Petaluma City  
Council

to approve a 16 pump fueling station in the McDowell

Elementary School and Little League location. It  
should

also

be noted that the City approved building permits for  
a

large

PDU (Artisan Homes) complex and additional apartments  
to

the

same neighborhood 2015-2018 increasing significant

residential homes and traffic in the Maria Dr. &

McDowell intersection with the future Safeway Fuel.

Center

project. The cost for possible cheaper gas is not worth

the

cost for the safety and health of our children and the

increased traffic congestion in this area of Petaluma.



**From:** "Brown, John" <JBROWN@ci.petaluma.ca.us>  
**Subject:** Comments Regarding Safeway Fuel Project  
**Date:** September 18, 2018 at 7:18:02 PM PDT  
**To:** "dbreen@baagmd.gov" <dbreen@baagmd.gov>  
**Cc:** "Danly, Eric" <edanly@ci.petaluma.ca.us>, "Hines, H" <HHines@m-group.us>, "Ervin, O" <OErvin@m-group.us>, "Crump, Katie" <KCRUMP@ci.petaluma.ca.us>

Dear Mr. Breen:

We received your September 17, 2018 correspondence regarding the subject project, which we forwarded to appropriate City staff and provided to the Petaluma City Council.

I called your office yesterday upon its receipt, to discuss with you the public hearing scheduled for last night's Council meeting. I left a message with Ms. de Guzman, your executive assistant, but did not receive a return call. I wanted to discuss our strategy going into last night's meeting, and the revised recommendation for a meeting continuance.



At the meeting, due to the receipt of a large volume of last-minute correspondence, some of which includes new information that will require time to evaluate, the City Council continued the public hearing date to October 15, 2018.



Petaluma appreciates BAAQMD's input, and my staff will be in contact with you to discuss your comments in detail.

We will use the contact information supplied in yesterday's correspondence.

Thank you for your letter; if you have any questions or concerns, please do not hesitate to call me at 707 776-3765.

Sincerely,

John C. Brown  
City Manager  
City of Petaluma, CA

**From:** Aloha de Guzman [mailto:agalimba@baaqmd.gov]

**Sent:** Monday, September 17, 2018 2:57 PM

**To:** citymgr

**Cc:** Jack Broadbent; Brian Bunger; Damian Breen; Gregory H. Nudd; Teresa Barrett ; Shirlee Zane; Michelle Whitman ; Christine Culver; Vanessa Johnson

**Subject:** Comments Regarding Safeway Fuel Center Project

**Importance:** High

Dear Mr. Brown,

Attached for your reference is a letter from the Bay Area Air Quality Management District regarding the above subject matter. If you have any questions or concerns, please feel free to contact Mr. Damian Breen at (415) 749-5041 or [dbreen@baaqmd.gov](mailto:dbreen@baaqmd.gov)

Thank you!

Regards,  
*Aloha de Guzman*  
Executive Assistant

Bay Area Air Quality Management District  
Executive Office  
375 Beale Street, Suite 600 | San Francisco, CA 94105  
Office: 415.749.4782 | Cell: 415.745.5633  
[adeguzman@baaqmd.gov](mailto:adeguzman@baaqmd.gov) | [www.baaqmd.gov](http://www.baaqmd.gov)

City of Petaluma records, including emails, are subject to the California Public Records Act. Unless exemptions apply, this email, any attachments and any replies are subject to disclosure on request, and neither the sender nor any recipients should have any expectation of privacy regarding the contents of such communications.

Begin forwarded message:

**From:** Christopher Fisher <[chris@theraucousrooster.com](mailto:chris@theraucousrooster.com)>

**Subject:** A procedural question re: city council and the Safeway gas station project



## Heather Hines

---

**From:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Monday, August 20, 2018 12:51 PM  
**To:** Hines, Heather  
**Subject:** Re: Scroll down to the highlighted one -- I'm putting this down to "Don't believe everything on the internet"....

Warning: Use caution before clicking any attachments. THIS EMAIL is from OUTSIDE OUR EMAIL SYSTEM.  
Yeah, I didn't think so. But the whole council has it, just so you know.  
Mike

On Monday, August 20, 2018 12:49 PM, "Hines, Heather" <HHINES@ci.petaluma.ca.us> wrote:

Oh my gosh!  
That is not a quote from me.  
That's infuriating!

**From:** Michael Healy <mthealy@sbcglobal.net>  
**Sent:** Monday, August 20, 2018 12:48 PM  
**To:** Hines, Heather <HHINES@ci.petaluma.ca.us>  
**Subject:** Scroll down to the highlighted one -- I'm putting this down to "Don't believe everything on the internet"....

Warning: Use caution before clicking any attachments. THIS EMAIL is from OUTSIDE OUR EMAIL SYSTEM.

**Crump, Katie** <KCRUMP@ci.petaluma.ca.us>  
**To**  
Chris Albertson Teresa Barrett dave glass Mike Healy 'Gabe Kearney' (gkearney@me.com) and 2 more...  
**CC**  
Brown, John  
Today at 11:23 AM  
FYI

**From:** mail@changemail.org <mail@changemail.org>  
**Sent:** Friday, August 17, 2018 2:11 PM  
**To:** - City Clerk <-CityClerk@ci.petaluma.ca.us>  
**Subject:** 100 more people signed "Petaluma City Council: Support Petaluma Safeway Gas Station!"

Warning: Use caution before clicking any attachments. THIS EMAIL is from OUTSIDE OUR EMAIL SYSTEM.

New signatures

**Petaluma City Council** – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign's supporters.



## Petaluma City Council: Support Petaluma Safeway Gas Station!

Petition by Support Petaluma Safeway Gas · 100 supporters



**100 more people signed**

**Cyndi Merrill**

Petaluma, CA · Aug 17, 2018

We need options for cheaper gas in Petaluma.

**Allan Estrella**

Rohnert Park, CA · Aug 17, 2018

We need an alternative to Costco gas & save us a trip to Rohnert Park.

**Carla Agles**

Petaluma, CA · Aug 16, 2018



Petaluma residents need and deserve this!



**cesar gonzalez**

novato, CA · Aug 16, 2018

most needed

**Heather Hines**

Santa Rosa, CA · Aug 16, 2018

There's no such thing as too many gas stations!





De, Samantha

**From:** Brown, John  
**Sent:** Thursday, October 11, 2018 3:59 PM  
**To:** Chris Albertson  
**Subject:** FW: Gas Station

OK, maybe you aren't the only one who got pissed off before he sent send. You could probably tell from the tone of the rest of the email, the word "Not" was missing in the second sentence in my original response to you, which should have read: "The need for delay is NOT being caused by the planners, or the city attorney's office, and both Safeway and the opponents have known that October 15<sup>th</sup> is not a decision making date for at least a week, if not two.

Our people are not to blame for the delay, but I am responsible for moving the date to 12/3, because I understand the council wants 11/19 to remain light.

Over and out.

---

**From:** Brown, John  
**Sent:** Thursday, October 11, 2018 3:53 PM  
**To:** 'Chris Albertson'  
**Subject:** RE: Gas Station

Chris, we got the document Safeway has been promising us, last night, after hours. The need for delay is being caused by the planners, or the city attorney's office, and both Safeway and the opponents have known that October 15<sup>th</sup> is not a decision making date for at least a week, if not two. The only issue that remains is the date continuation goes to, as I described to you in an early email. I also described the reasons for December 3<sup>rd</sup> and not November 19<sup>th</sup>.

Anyone who wants to be pissed off about this delay, or criticize the process is entitled to their feelings. I'm following what I believe to be Council wishes regarding agenda management, but more to the point, we are doing good staff work here that brings the most finished product we can to the council for decision making.

**From:** Chris Albertson [mailto:councilman.albertson@gmail.com]  
**Sent:** Thursday, October 11, 2018 3:21 PM  
**To:** Brown, John  
**Subject:** Gas Station

Hey John --

How's your day going? Well, here is another "gas station related" question :

Why is this discussion being bumped out another (almost) 2 months?? The topic was on the agenda in September and it was bumped then. People showed up ready with their signs and red tee-shirts. Now, we plan to bump the topic out AGAIN?? Why?? Hopefully, this delay is not the making of our legal or planning offices. I F .... we received a large "document dump" from one side or the other at this late hour, not allowing any reasonable amount of time for council to review the documents, then any delay is on them. That being said, when people arrive and hear of another delay, the pro & con parties to this discussion will not be there to accept blame .... the City Council will get hammered for a delay they did not cause.

*This is no way to run a railroad !!* For the record, I could say that I'm pissed about this situation and I will say that I am disappointed about this situation.

**From:** Natalie Mattei  
**Sent:** Tuesday, March 26, 2019 6:11 PM  
**To:** Heather Hines <[hhines@m-group.us](mailto:hhines@m-group.us)>  
**Subject:** Valero - 532 E. Washington, Petaluma - vapor intrusion

Heather,

As you know, Planning Commission approved the Valero project at 532 E. Washington on July 10, 2018. Staff determined the project, which is immediately adjacent to El Roy's Restaurant and an apartment complex, was exempt from CEQA because it was an existing use that was expanding, less than 10,000 sq.ft., and in an area that was not environmentally sensitive.

As background, Valero sought a CUP and SPAR approval in 2014. Per the attached email exchange that you recently provided in response to Safeway's Public Records Act request dated November 19, 2018, Planning had conversations with Fire in September 2014 to determine the status of Valero's environmental remediation (which would affect whether the project qualified for a CEQA exemption). Cary Fergus in Fire stated *"this has been a "sensitive" for the owner (Arash Salkhi) and would do what you need for your report but recommend keeping it to a minimum as it really is a separate issue."* You responded, *"I would agree."* The project was subsequently approved unanimously at the October 14, 2014 Planning Commission.

Notwithstanding the foregoing, the attached news articles from the Press Democrat and Argus-Courier on November 24, 2014 detailed gas leaks and violations against the gas station.

Mr. Salkhi allowed his entitlements to expire, thus prompting his resubmittal for a CUP and SPAR in early 2018. As noted, he was approved unanimously on July 10, 2018. During the hearing, Commissioner Gomez and Vice Mayor Healy realized that the underground gas tanks were being relocated, but neither questioned the implications of that relocation (the tank relocations were shown in small print on the site plan but not identified in the Staff Report nor in the Staff presentation).

Looping back to your Public Records Act production, Planning's interaction with Fire regarding Valero prompted me to look on Geotracker and view 532 E. Washington's history. As noted in the two letters attached, Salkhi was granted closure with the understanding that the site was an existing, operating gas station. The closure letter notes that *"Vapor intrusion to Indoor Air Criteria is met by the exemption as the site is an active fueling station."* Both letters state that corrective action should be reviewed in the event of property development/land use changes. The attached map from Salkhi's file with RWQCB outlines vapor extraction wells onsite.

Given there appeared to be a vapor intrusion issue at 532 E. Washington that was locked in place under the existing gas station but subject to re-evaluation in the event of development, was additional environmental review conducted by Valero to address vapor intrusion and/or other potential environmental concerns as a result of their proposed improvements? If not, was additional environmental review to address vapor intrusion and/or other potential environmental concerns as a result of the applicant's proposed improvements requested by Planning in early 2018?

Thank you,  
Natalie

**Natalie Mattei**

Senior Real Estate Manager

**Albertsons Companies**

11555 Dublin Canyon Road

Pleasanton, CA 94588

(925) 226-5754 Office | (925) 413-4455 Mobile

[natalie.mattei@safeway.com](mailto:natalie.mattei@safeway.com) | [LinkedIn](#)



[www.albertsonscorporatesrealstate.com](http://www.albertsonscorporatesrealstate.com)

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# Petaluma gas station owner fined \$50,000 for violations

PAUL PAYNE

THE PRESS DEMOCRAT | November 24, 2014



[Follow this story](#)

The owner of a North Coast gas station chain will pay almost \$50,000 in civil penalties for violations of underground storage tank laws at his Petaluma station, the District Attorney's Office said Monday.

The violations against Arash Salkhi, who owns Santa Rosa Grand Petroleum, were found in a December inspection of his Valero station at 532 E. Washington Blvd., prosecutor Ann Gallagher White said.

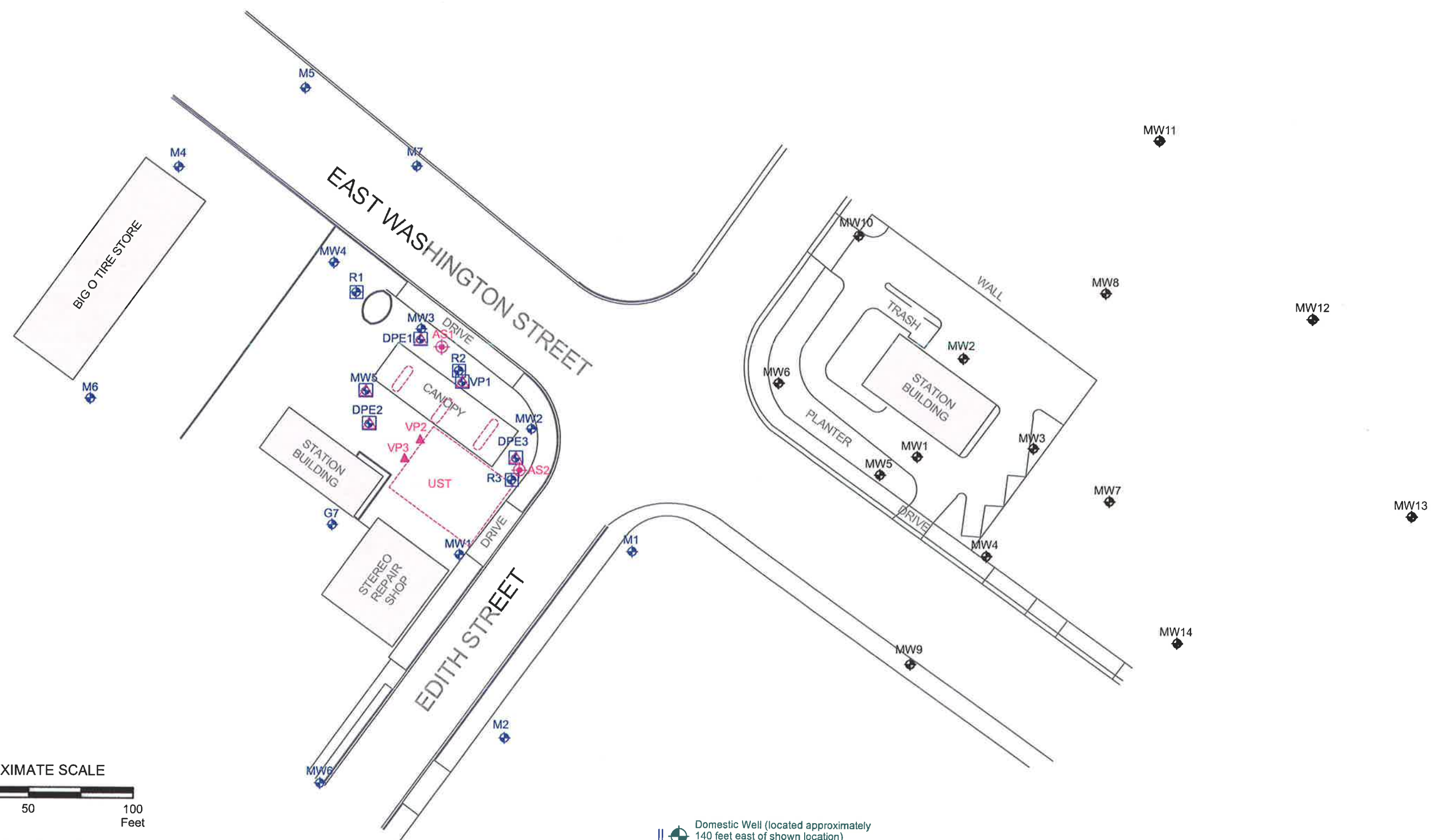
Inspectors from the Petaluma Fire Department determined he did not have records showing he was monitoring tank alarms and the tanks were not working properly, White said.

Also, Salkhi failed to test secondary containment systems that would protect groundwater, she said.

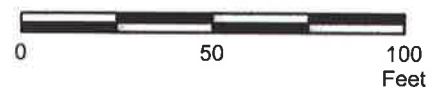
The station was red-tagged and closed until necessary repairs could be made. White, who is part of a consumer and environmental law prosecution team, brought civil enforcement proceedings.

Of the total penalty, about \$36,000 will go to Petaluma fire for investigative costs and training. The balance will go to the District Attorney's Office and the county's general fund, White said.

You can reach Staff Writer Paul Payne at 568-5312 or [paul.payne@pressdemocrat.com](mailto:paul.payne@pressdemocrat.com). On Twitter @ppayne.



APPROXIMATE SCALE



FN 2031 11 R07 GSP\_RPT



GENERALIZED SITE PLAN  
FORMER  
EXXON SERVICE STATION 70240  
532 East Washington Street  
Petaluma, California

**EXPLANATION**

- MW5, MW7  
 Groundwater Monitoring Well
- R3  
 Recovery Well
- VP3  
 Vapor Extraction Well

- DPE3  
 Dual Phase Extraction Well
- AS2  
 Air Sparge Well

PROJECT NO.  
2031  
PLATE  
2





**sonoma county**  
DEPARTMENT OF HEALTH SERVICES

PUBLIC HEALTH DIVISION

Rita Scardaci, PHN, MPH – Director  
Ellen Bauer, PhD, MPP – Division Director

July 22, 2014

City of Petaluma  
Community Development Department  
11 English Street  
Petaluma, CA 94952

Re: 532 Washington St., E, Petaluma  
Leaking Underground Storage Tank Site  
EHS Site #00001438, SFBRWQCB Site #49-0183, Cleanup Fund #6108

The attached copy of the letter to the Regional Water Quality Control Board (RWQCB) recommending closure of the referenced Leaking Underground Storage Tank site is being forwarded to your agency because residual contamination, which may have an impact on site improvements, remains on the site.

In spite of the residual contamination, the site is being recommended for closure because this contamination is not likely to adversely affect human health or the environment. Please note that the RWQCB has a 30-day period to comment on the closure. Comments and/or concerns expressed by RWQCB staff will be reviewed and considered prior to implementing case closure.

This Department can assist you with further information if required. For some property development proposals, evaluation by a qualified environmental consultant, additional investigation, or additional remediation may be recommended.

Your concerns regarding the site closure are appreciated. Please contact me at (707) 565-6571 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darcy M. Bering".

Darcy M. Bering  
Senior Environmental Health Specialist  
Sonoma County Leaking Underground Storage Tank Program

db

Enclosure

c: Mr. John Jang, SFBRWQCB  
Mr. Tim Post, SWRCB Cleanup Fund  
Ms. Jennifer Sedlachek, ExxonMobil Environ. Services Co., 4096 Piedmont Avenue #194  
Oakland, CA 94611  
Mr. Perry Pineda, Shell Oil Products US, 20945 South Wilmington Ave., Carson, CA 90810  
Ali Salkhi Trust & Souri Salkhi Trust, Attn: Ali Salkhi, 10 Bay Way, San Rafael, CA 94901  
Mr. Peter Foster, Address Unknown  
Mr. Carey Fergus, Fire Marshal, City of Petaluma Fire Department  
Cardno ERI, 601 North McDowell Blvd, Petaluma, CA 94949



**sonoma county**  
DEPARTMENT OF HEALTH SERVICES  
PUBLIC HEALTH DIVISION

Rita Scardaci, PHN, MPH – Director  
Ellen Bauer, PhD, MPP – Division Director

June 2, 2015

Ms. Jennifer Sedlachek  
ExxonMobil Environ. Services Co.  
4096 Piedmont Avenue #194  
Oakland, CA 94611

Ali Salkhi Trust & Souri Salkhi Trust  
Attn: Ali Salkhi  
10 Bay Way  
San Rafael, CA 94901

Mr. Perry Pineda  
Shell Oil Products US  
20945 South Wilmington Avenue  
Carson, CA 90810

Re: 532 Washington St., E, Petaluma, CA  
Site #00001438, SFBRWQCB Site #49-0183

Dear Responsible Parties:

This letter confirms the completion of site investigation and remedial action for the underground storage tanks formerly located at the above-described location. Thank you for your cooperation throughout this investigation. Your willingness and promptness in responding to our inquiries concerning the former underground storage tanks are greatly appreciated.

Based on information in the above-referenced file and with the provision that the information provided to this agency was accurate and representative of site conditions, this agency finds that the site investigation and corrective action carried out at your underground storage tank site is in compliance with the requirements of subdivisions (a) and (b) of Section 25296.10 of the Health and Safety Code and with corrective action regulations adopted pursuant to Section 25299.3 of the Health and Safety Code and that no further action related to the petroleum release at the site is required.

Claims for reimbursement of corrective action costs submitted to the Underground Storage Tank Cleanup Fund more than 365 days after the date of this letter or issuance or activation of the Fund's Letter of Commitment, whichever occurs later, will not be reimbursed unless one of the following exceptions applies:

- Claims are submitted pursuant to Section 25299.57, subdivision (k) (reopened UST case); or
- Submission within the timeframe was beyond the claimant's reasonable control, ongoing work is required for closure that will result in the submission of claims beyond that time period, or that under the circumstances of the case, it would be unreasonable or inequitable to impose the 365-day time period.

This notice is issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code. Please contact our office if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christine Sosko".

CHRISTINE SOSKO, REHS  
Director of Environmental Health

## Case Closure Summary

### Leaking Underground Fuel Storage Tank Program

#### I. Agency Information

Date: July 22, 2014

Agency name: Sonoma County Dept. Health Services	Address: 625 Fifth Street
City/State/Zip: Santa Rosa, CA 95404	Phone: (707) 565-6565
Responsible staff person: Darcy Bering	Title: Environmental Health Specialist

#### II. Case Information

Site facility name: Exxon 7-240 (Former)				
Site facility address: 532 Washington Street East, Petaluma, CA 94952				
RB LUSTIS # 49-0183	SWEEPS # NA	LOP #00001438	URF filing date: 6/28/91	Local # NA
Responsible party		Address		Phone number
ExxonMobil Environmental Services Co. Attn: Jennifer C. Sedlachek		4096 Piedmont Avenue #194, Oakland, CA 94611		
Ali Salkhi Family Trust, Attn: Ali Salkhi		10 Bay Way, San Rafael, CA 94901		
Shell Oil Products US, Attn: Perry Pineda		20945 S. Wilmington Ave., Carson, CA 90810-1039		
Peter Foster		Address Unknown		
Tank #	Size in gal.	Contents	Closed-in-place/removed?	Date
1	10,000	Gasoline	Removed/Replaced	1/14/87
2	10,000	Gasoline	Removed/Replaced	1/14/87
3	10,000	Gasoline	Removed/Replaced	1/14/87
4		Waste Oil	Removed* No documentation	1986

#### III. Release and Site Characterization Information

Cause and type of release: Unknown			
Site characterization complete? Yes		Date approved by oversight agency: 7/22/14	
MW installed? Yes	Number: 21	Proper screened interval: Yes, 5'-25', 10'-25', 14'-24', 11'-26', 11-21.5'	
Highest GW depth BGS: 1.00'	Lowest depth: 13.21'	Flow direction: southerly	
Most sensitive current use: Domestic and municipal supply			
Are drinking water wells affected? No*		Aquifer name: Petaluma Valley (2-1)	
Is surface water affected? No		Nearest SW name: Petaluma River ~1,628' west of the site	
Off-site beneficial use impacts (addresses/locations): None			
Report(s) on file? Yes		Where is report(s) filed: Sonoma County Department of Health Services	
Treatment and Disposal of Affected Material			
Material	Amount (include units)	Action (treatment or disposal w/ destination)	Date
Tank	1-4	RP unable to locate records, declaration on file <sup>1</sup>	
Piping	Unknown		
Free product	Unknown, but at least 53 gal	RP unable to locate records, declaration on file <sup>1</sup>	
Soil	a)~ 1730 cubic yds, b) 3 drum	a) disposed of at Redwood Landfill, b) to Belshire, Foothill Ranch	a) 1987 b)10/26/11
Groundwater	a) 25,000 gals, b)112,472,630 c)155 gals, d)100 gals, e) 40 gals	a) City of Petaluma Sewer, b) City of Petaluma Sewer, c) Romic Env., d) Crosby & Overton, e) Instrat	a) 5/26/98 b) 2001-2012 c) 4/6/99 d) 4/28/00 e) 10/7/11
Barrels	0		



### Case Closure Summary

#### III. Release and Site Characterization Information (continued)

Site Address: 532 E. Washington, Petaluma, CA 94952

Maximum Documented Contaminant Concentrations — Before and After Cleanup									
Contaminant	Soil (ppm)		Water (ppm)		Contaminant	Soil (ppm)		Water (ppm)	
	Before	After	Before	After		Before	After	Before	After
TPH (gas)	12000	4400	2,400	3.8	Xylene	620	220	140	.073
TPH (diesel)	NS	56	120	1.4	Ethylbenzene	63	63	28	.072
Benzene	260	23	47	.350	Oil & grease	NS	NS	NS	NS
Toluene	500	120	65	<.0050	Heavy metals	NS	NS	NS	NS
Other					MTBE	NS	41	4.6	.017

Comments (depth of remediation, etc.): NS = Not Sampled or analyzed for. Soil before values are from tank removal side wall sample that was apparently over-excavated. Soil after are residual, but subsequent remediation has been conducted.

Groundwater extraction occurred from 1988-1997. DPE, SVE and GW extraction occurred from 6/1/01 through 12/31/12. Approx. 112,472,630 gallons of groundwater was treated and disposed of under permit. Approximately 93.99 lbs of hydrocarbon removed.

Air Sparging was added from 10/28/11 -12/31/12. Approximately 8496.2 lbs of hydrocarbons removed by SVE/DPE.

#### IV. Closure

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan? Yes		
Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan? Yes		
Does corrective action protect public health for current land use? Yes		
Site management requirements: Contingency planning is required for worker safety and waste disposal if excavating in area(s) of residual contamination. The Building Department has been notified. Newly proposed water supply wells may require siting and design by a qualified professional engineer or geologist. Sonoma County Permit and Resource Mgmt. Dept. has been notified.		
Should corrective action be reviewed if land use changes? Yes		
Monitoring wells decommissioned? Yes	Number decommissioned: 7	Number retained: 14 + 10 rem wells
List enforcement actions taken: None		
List enforcement actions rescinded: Not Applicable		

#### V. Local Agency Representative Data

Name: Leslye Choate	Title: Supervising Environmental Health Specialist
Signature: 	Date: 7-22-14

#### VI. RWQCB Notification

Date submitted to RB: July 24, 2014	RB Response: Concur with recommendation for closure
RWQCB staff name: John Tang (John Tang)	Title: WRCE Date: August 19, 2014

#### VII. Additional Comments, Data, etc.

Monitoring wells and remediation wells will be destroyed under permit of this Department prior to site closure.
The site meets the Low Threat Closure Policy as follows: General Criteria are met. Groundwater Specific Criteria is met by 5a.
Vapor Intrusion to Indoor Air Criteria is met by the exemption as the site is an active fueling station. Direct Contact and Outdoor Air Exposure is met by 3a. *A risk assessment was performed in relation to the domestic well located at 223 Edith. The consultant states that the well is not at risk from the release at the site. The well was sampled from 2000-2007. Access to the well was lost in 2007. The well had footnoted diesel detections on 3 occasions as the result was not consistent with diesel standards.
*Declaration is on file indicating no knowledge of improper disposal and that a diligent search was conducted for documentation.



**Heather Hines**

---

**From:** Hines, Heather  
**Sent:** Wednesday, September 10, 2014 12:26 PM  
**To:** Turner, Jacqueline  
**Subject:** RE: Valero Food Mart

I would agree

---

**From:** Turner, Jacqueline  
**Sent:** Wednesday, September 10, 2014 9:01 AM  
**To:** Hines, Heather; Ervin, Olivia  
**Subject:** FW: Valero Food Mart

Forwarding Cary's note so you know what he's thinking.

**Jackie Turner, AICP, LEED AP**  
Principal Planner  
T: 707.778.4314  
E: [JTurner@ci.petaluma.ca.us](mailto:JTurner@ci.petaluma.ca.us)

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Petaluma, CA 94952

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**From:** Fergus, Cary  
**Sent:** Wednesday, September 10, 2014 7:21 AM  
**To:** Turner, Jacqueline  
**Subject:** RE: Valero Food Mart

Hello Jackie:

Just FYI; this has been a "sensitive" for the owner and would do what you need to for your report but recommend keeping it to a minimum as it really is a separate issue.

Thanks  
Cary

---

**From:** Turner, Jacqueline  
**Sent:** Tuesday, September 09, 2014 5:15 PM  
**To:** Fergus, Cary  
**Cc:** Barclay, Corinne  
**Subject:** RE: Valero Food Mart

Thanks so much. Just what we needed to know and we may need the report.

**Jackie Turner, AICP, LEED AP**  
Principal Planner  
T: 707.778.4314



E: [turner@ci.petaluma.ca.us](mailto:turner@ci.petaluma.ca.us)

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**From:** Fergus, Cary  
**Sent:** Tuesday, September 09, 2014 5:02 PM  
**To:** Turner, Jacqueline  
**Cc:** Barclay, Corinne  
**Subject:** RE: Valero Food Mart

Hello Jackie:

To further clarify; in addition to the District Attorney Enforcement case, the Gas Station underground storage tanks were "Red-Tagged" on February 12, 2014 by our Department (Petaluma Fire/CUPA) and the station gas pumps were effectively shut down until all compliance issues were corrected. On March 11, 2014; completed a final inspection and the the Red Tag was lifted and all violations were corrected. The Enforcement case was moved forward to the District Attorney for their past failure to comply.

Summary; The Valero at 532 East Washington is in compliance with UST regulations based on our March 11<sup>th</sup> inspection. We will inspect again in one year. We have documentation/Inspection Reports showing the systems passed if needed.

Sincerely,

Cary D. Fergus  
*Fire Marshal/Battlion Chief*  
*Petaluma Fire Department*

Direct Phone: 707-778-4485

<http://www.cityofpetaluma.net/firedept/prevention.html>

*Visit the Sonoma County Fire Prevention Officers Association website for monthly safety messages and help keep Sonoma County Safe!*  
<http://sonomachiefs.org/firepreventionofficers.html>

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**From:** Turner, Jacqueline  
**Sent:** Tuesday, September 09, 2014 4:47 PM  
**To:** Fergus, Cary  
**Cc:** Ervin, Olivia  
**Subject:** RE: Valero Food Mart

Our staff report states that the project is exempt from CEQA because it is an existing use that is expanding and is under 10,000 square feet. Olivia asked me to ask you to clarify if the owner has resumed the monitoring and testing to prevent underground leaks. If he has not and there is no paperwork, then she will not be able to recommend exemption for the project because we it is underground tank conditions are unknown.





**Jackie Turner, AICP, LEED AP**

Principal Planner

T: 707.778.4314

E: [JTurner@ci.petaluma.ca.us](mailto:JTurner@ci.petaluma.ca.us)

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**From:** Fergus, Cary

**Sent:** Tuesday, September 09, 2014 3:58 PM

**To:** Turner, Jacqueline

**Subject:** RE: Valero Food Mart

Please call me, I just got off the phone with Andrea.

Thanks

Cary

---

**From:** Turner, Jacqueline

**Sent:** Tuesday, September 09, 2014 3:44 PM

**To:** Fergus, Cary; Barclay, Corinne

**Cc:** Ervin, Olivia

**Subject:** Valero Food Mart

Cary and Corinne,

On the Environmental impact questionnaire for Valero, Ron Jacobs and Arash Salkhi checked the box that stated that the site at 532 E. Washington Street was under remediation.

The staff report is under review by the City attorney and he has asked about a CUPA and about violations? What is a CUPA? Is there something we need to ask the applicant to provide regarding remediation?

**Jackie Turner, AICP, LEED AP**

Principal Planner

T: 707.778.4314

E: [JTurner@ci.petaluma.ca.us](mailto:JTurner@ci.petaluma.ca.us)

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# Fuel leak leads to fine for Petaluma Valero owner

EMILY CHARRIER

ARGUS-COURIER STAFF | November 24, 2014



The owner of a Petaluma gas station is on the hook for nearly \$50,000 in fines after the station's fuel storage tanks leaked, threatening local groundwater supplies.

In December 2013, the Petaluma Fire Department did its annual inspection at the Valero gas station on East Washington Street. After detecting a number of violations, firefighters learned that the owner, Arash Salkhi, had failed to keep the required records on the station's fueling tanks. By law, gas station owners must have a variety of systems in place to protect groundwater from fuel leaks, and are required to keep records of their monitoring of the tanks.

The fire department determined that the alarm that is supposed to trigger when a tank begins to leak was not functioning, and the tanks had been leaking fuel for an unknown amount of time. Salkhi also failed to test the station's secondary confinement system, which is required to protect groundwater from fuel leaks.

After shutting down the station, the department handed the case over to the Environmental and Consumer Law Division of the Sonoma County District Attorney's Office, which filed a civil environmental enforcement case against Salkhi.

As part of the resolution to that case, Salkhi agreed to pay \$49,545.40 in penalties and to cover investigation costs. Of that, \$22,500 will go to the Petaluma Fire Department, some of which will be spent training staff on how to monitor underground fuel storage tanks. The District Attorney's Office will get the rest of the funds, \$14,454.40, to reimburse the costs of investigating this case.

"We intend to take every step possible to protect Sonoma County's precious water resources with vigorous enforcement of our underground storage tank laws," District Attorney Jill Ravitch said in a news release.

# **Exhibit G**

## News

# Lafayette council member recuses herself from proposed housing project discussions

Susan Candell, elected in November, actively campaigned against Deer Hill development ballot proposal in June.



The Lafayette City Council members pose for a group photo at the Jan. 28, 2018, meeting. From left, are: Susan Candell, Vice Mayor Mike Anderson, Mayor Cameron Burks, Steven Bliss and Teresa Gerringer. (Jeffrey Heyman/City of Lafayette)

By **JON KAWAMOTO** | [jkawamoto@bayareanewsgroup.com](mailto:jkawamoto@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: March 2, 2019 at 6:39 am | UPDATED: March 2, 2019 at 6:49 am

**LAFAYETTE** — A new City Council member, who actively campaigned last year against the Deer Hill development ballot measure, has recused herself as a plan to build apartments on the site is being considered again by the city.

“With great disappointment and an abundance of caution, I have decided to recuse myself from review and consideration of the Terraces of Lafayette apartment complex project,” Susan Candell read from her statement at Monday’s council meeting. “I made this decision only after my own personal research, consultations with the city attorney and my own attorney and the California Fair Political Practices Commission.

“It is clear I do not have a financial conflict with this project,” said Candell, who was elected to the council in November. “The only restriction is to determine under what I will refer to as common law conflict.”

Development of the 22-acre Deer Hill site, the focal point of a divisive fight in the community, is back after a ballot measure was defeated in June. The ballot measure, known as Measure L, offered a modified plan of 44 houses, a community park, an athletic field, playground, a dog park and a parking lot.

After the election, developer O’Brien Land Company of Menlo Park resubmitted its original application, called the Terraces of Lafayette. Terraces was first proposed in March 2011 and calls for 315 apartments at the southwest corner of Deer Hill and Pleasant Hill roads north of Highway 24.

Public city hearings on the Terraces plan are expected in the spring, but no date has been set, according to Lafayette city spokesman Jeffrey Heyman.

Candell actively campaigned against Measure L, and noted on her City Council election website that her “intense civic involvement began five years ago with the Deer Hill project, first as 315 apartments, then with 44 homes.”

Bryan Wenter, an attorney with Miller Starr Regalia which represents O’Brien Land Company, issued a statement via email Thursday over Candell’s recusal.

“We readily acknowledge that Ms. Candell had a right to oppose the project, in her capacity as a private citizen,” Wenter said. “As you may also know, that opposition was a substantial factor in inspiring council member Candell to run for office, as explained on her campaign website.

“But now that she is an elected official sworn to uphold the law, she was required to recuse herself because the law prohibits elected and appointed officials from having ‘an unacceptable probability of actual bias,’ ” Wenter continued in his email. “The law requires fair and unbiased decision-makers, and in recusing herself from reviewing and considering the Terraces of Lafayette, council member Candell appropriately acknowledged the existence of the conflict of interest we identified.”

Wenter, on behalf of O’Brien, had written the city on repeated occasions since the November election, calling for Candell’s recusal in letters dated Nov. 30, Dec. 5, Jan. 22 and Feb. 13, and in an email dated Jan. 24.



“Yes, I am greatly disappointed by my inability to participate as a City Council member on this project, as I believe the citizens of Lafayette deserve my ability to thoroughly investigate the technical and scientific merits of this project,” Candell said Monday. “In addition, I believe that I can review this project in a neutral and impartial manner.”

Candell said, as a “private citizen,” she maintains “my rights to speak as a member of the public in front of the council with certain narrow limits around the topics I will present, and I may not use my official position to influence a governmental decision.”

The state Fair Political Practices Commission says that a council member with a financial conflict must identify that conflict and leave the meeting room before the item is discussed. However, Candell says she does not have a financial conflict.

Mayor Cameron Burks and Vice Mayor Mike Anderson endorsed Measure L. Burks, Anderson and new council member Teresa Gerringer, who supported Measure L, decided not to recuse themselves on the Terraces project at the Monday meeting. They noted that they consulted with the city attorney.

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The Trust Project

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**Jon Kawamoto** is a reporter covering the Lamorinda area, Danville and San Ramon. He was the Hills weeklies editor, in charge of the Alameda Journal, Berkeley Voice, El Cerrito Journal, The Montclarion and The Piedmonter. He previously worked as an editor with the Los Angeles Times, the Contra Costa Times and the Oakland Tribune. Kawamoto is a central California native and a graduate of Fresno State University.

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Published March 6th, 2019

## Candell to recuse from Deer Hill project, three others reject call to recuse

*By Pippa Fisher*

The Feb. 25 city council meeting got off to a somewhat scripted start with four of the five city council members reading statements - one recusing herself and three others stating their intention not to recuse - as advised by legal counsel on any future discussion or decisions on the Terraces project.

The Terraces, the controversial 315-unit apartment project on a 22-acre parcel on Deer Hill Road, is expected to come before the city for approval this spring.

The development was first proposed in March 2011 but its application was suspended in 2014 in favor of alternative plans for a scaled back development of 44 single-family homes, a dog park, a playing field, a playground and tot lot. Local preservationist group Save Lafayette sued the city resulting in a referendum last June on the future of the revised project. With the defeat of Measure L, the developer O'Brien Homes resumed the original application for the apartments.

The council members' statements were read during the report from the closed session meeting and came following a barrage of letters from the developer's attorney Bryan Wenter of Miller Starr Regalia calling for Council Member Susan Candell to recuse herself from all matters concerning the Terraces, citing as a conflict her "long history actively opposing our clients' proposed 315-unit affordable apartment project in Lafayette and even expressing personal hostility to our clients," in a letter to the city's attorney Robert Hodil of Coblenz, Patch, Duffy and Bass dated Dec. 5, 2018.

Candell, whose springboard to running for office was her involvement opposing first the apartments and then the homes, expressed great disappointment as she announced her recusal on the advice of her private attorney but noted that she retained the right to speak as a member of the public.

Candell pointed out after the meeting, "I was the number one vote getter, but yet, I'm now in the position that I am advised that I cannot represent Lafayette residents in a very important land use decision. I cannot express my disappointment enough."

Candell said that she worked hard to try to retain her rights to not recuse. "I believe my positions were and are based on legitimate principles and that I do not have an improper bias or motive towards the project. I also worked equally as hard to retain my rights to participate as a citizen, which they also tried to take away. According to the FPCC, I did retain my private citizen rights similar to those I would have if I had a financial conflict (which I do not have). I will work within these limitations. However, I will also retain my rights to consider and pursue all legal options."

Following Candell's announcement, Vice Mayor Mike Anderson, Council Member Teresa Gerringer and Mayor Cam Burks all read identical statements that during the closed session they gave consideration to claims (made by a letter from Save Lafayette) that they should also recuse themselves and said that after consultation with the city's attorney they do not believe there is any reason to do so.

Save Lafayette contends that, based on the logic given that Candell should recuse, Burks' involvement as chair of the 'Yes on Measure L' campaign and Gerringer's and Anderson's endorsement and support of the campaign should by the same token require their recusals.

In fact, says Candell, "The letter from Save Lafayette argues that this entire process is biased because the three other council members were not also forced to recuse, even though they worked very closely for a long time with the developer on Measure L.

'Letters were written describing residents' dissatisfaction with council in this matter, which has done absolutely nothing to help support their fellow council member, me, during this process," says Candell.

In a follow-up letter from Wenter to Hodil dated Feb. 28 in which the attorneys address what they describe as Candell's 'material animosity' to the developer citing specific posts from social media, the developer's attorney expresses deep concern that Candell intends to retain her right to speak as a private citizen and requests the name of her personal attorney.

The letter states, "We are deeply concerned about the role Council Member Candell apparently believes she can play opposing the project even as a private citizen, notwithstanding her acknowledged conflict of interest affecting our clients' due process rights, and will address that critical issue separately."

Burks said that it would not be appropriate for him to comment on anything related to city council closed session.

Reach the reporter at: [pippa@lamorindaweekly.com](mailto:pippa@lamorindaweekly.com)

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