

# YIMBY Law

1260 Mission St  
San Francisco, CA 94103  
[hello@yimbylaw.org](mailto:hello@yimbylaw.org)



YIMBY LAW

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6/4/2021

San Mateo County Board of Supervisors  
400 County Center  
Redwood City, CA 94063

David Canepa <[dcanepa@smcgov.org](mailto:dcanepa@smcgov.org)>; Carole Groom <[cgroom@smcgov.org](mailto:cgroom@smcgov.org)>; Don Horsley <[dhorsley@smcgov.org](mailto:dhorsley@smcgov.org)>; Warren Slocum <[WSlocum@smcgov.org](mailto:WSlocum@smcgov.org)>; Dave Pine <[dpine@smcgov.org](mailto:dpine@smcgov.org)>; <[boardfeedback@smcgov.org](mailto:boardfeedback@smcgov.org)>;  
Via Email

Re: 2050 Santa Cruz Avenue

San Mateo County Board of Supervisors,

This letter is intended to inform the Board of Supervisors of the restrictions within state law relating to local permitting bodies' review of residential development projects. Specifically, we would like to emphasize that any punishments related to permit violations should not exceed those which are outlined within the county code and cannot impose any condition on the project that would limit the ability of the project to achieve it's proposed density.

We will not delve too far into the details of the tree removal and permit violation that occurred, that is not the part of the proceedings that concerns us. Rather this letter is intended to ensure that the Board of Supervisors is aware of the legal obstacles involved with more extreme punishments for the permit violation. Specifically, we are concerned that the Board may consider forcing the project applicant to agree not to develop one or more of the proposed homes on the site. This would be an unfortunate outcome and also an unlawful one.

The Housing Accountability Act § 65589.5 does not specifically account for situations where a permit violation has taken place. However, it does limit the types of conditions that may be imposed upon a project, regardless of their purpose, and the amount of discretion that a local permitting body may exercise in the consideration of a project.

*(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:*

*(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.*

*(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.*

...

*(h) The following definitions apply for the purposes of this section:*

...

*(7) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.*

Fundamentally, the county may not impose conditions on this development that force it to be developed at a lower density than proposed. If requiring lower density of development were a prescribed punishment for tree removal permit violations then perhaps the situation would be different but this is not the case. Any punishment, beyond those required by the county's ordinance, that affects the project's ability to be developed at the proposed density is unlawful.

The county is well within its rights to assess a penalty for the actions that took place. However, these penalties cannot affect the ability of the project to meet its proposed density. Doing so would constitute a violation of the Housing Accountability Act. We hope that the Board of Supervisors will take all of this into consideration as they consider how to handle this matter going forward.

Yimby Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,



Sonja Trauss  
Executive Director  
YIMBY Law

From: [REDACTED]  
To: [CMO BoardFeedback](#)  
Cc: [Ron Snow](#)  
Subject: June 8th Agenda #5: Tree Removal (PLN2020-00443) at 10 Cardinal Ct.)  
Date: Monday, June 7, 2021 4:42:50 PM

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Dear Supervisors

At the May 17th BOS meeting pertaining to this item, Warren Slocum raised the question of **“What are the consequences of approving the Appeal?”**. Steve Monowitz responded **“That should the Board like to require additional mitigation, that would necessitate that the appeal be taken up and the Board assume jurisdiction over the permit and adjust the conditions accordingly.”**. Steve and Counsel both indicated that the Board’s and County’s hands were tied if the neighbor’s appeal was denied.

Steve’s mention of **additional mitigation — this is what is needed**. The neighborhood was harmed by the developers destruction of the tree. The neighbors were stripped of the rights of due process. The developer thumb their noses at County authority, our rules of law, and the spirit and goal of the County Tree Ordinances. Neighbors deserve mitigation that benefits the neighborhood and restores, to some degree, their faith in County government and the esthetics and ambience of neighborhood’s green canopy and environment.

The recommendation given to the Board by planning is woefully inadequate. It certainly does nothing to address the harm done the neighborhood, nor does it address the concerns of the neighbors, nor does it support County goals of protecting our green canopy and trees. Unless the neighbor’s appeal is upheld, it is another strike against our tree ordinance and a strike against the Board of Supervisors ability to prevent this behavior in the future.

We don’t wait to the NEXT time a bridge collapses before we act. We don’t wait until the NEXT toxic spill before we put in safe guards. I am urging the Board to **act now** to support our ordinances against developer actions like the ones that have occurred here. The developer had options to change layouts and ask for setback relief and other measures to preserve the tree. My hope is that the Supervisors will not skip out on this item by having County postpone doing something until NEXT time it happens. It is outrageous that a developer is allowed an ‘After-the-Fact’ tree, especially in cases like this where they knowingly and willfully broke the law.

The cutting of one of the largest and tallest trees in the neighborhood damage the environment and the natural habitat of the wildlife in the area. It is clear that the developers reprehensible actions, their false claims, and their continued breach of County ordinances and formal procedures, show a willful disregard to the citizens of the County and our community specifically. The developers presentation to the Board on May 17th was full of incorrect data, false statements, and misleading innuendo. The same was true at the February Planning Commission meeting where similar false statements were abundant. It was also unacceptable at the May 17th meeting for the Board to then give additional minutes to the developer during Public Comment. They had their 10 minutes for presentation and to then have them inject themselves into the public comment for additional time is a demonstration of their disregard

for proper protocol and procedure.

Further, the **developer has disregarded the moratorium that County placed on the development** of the Lot. They have continued to develop the land, complete the underground pipe inspections, cleared, graded, compacted, and conducted surveying tasks and marking on the lot. All against what we understand was to be a stop work order via the moratorium.

**My hope is that the Supervisors will take action and make a positive difference for the neighbors and the citizens of San Mateo County by upholding the neighbor's appeal and denying the tree removal permit. It is only this action that provides County the means to remedy this egregious action of the developer and restore some measure of recovery by a mitigation plan that can more properly address the harm done to the neighborhood and community. It can set a precedent that will cause developers to think twice before ignoring County ordinances.**

**Please consider the inadequate and failed recommendation that was provided for this item:**

- The \$10,000 to County Parks does not address the harm done to the neighborhood and there are plenty of opportunities for the mitigation plan to address that harm done, by taking action on and around the properties being developed.
- Doesn't acknowledge that the rights of the community were stripped nor the right of due process taken from the neighbors.
- The recommendation by Planning doesn't address the damage done to the existing trees, one of which appears to have died and others that show significant signs of stress.
- We have not seen the County arborists report that was to have been conducted for the trees on the properties.
- The recommendation does not address that the developer has ignored the stop work moratorium and continued to develop, grade, compact, and survey the Lot.
- Neighbors should be invited to participate in defining the mitigation plan. County Planning has not demonstrated competence in protecting its citizenry from the destructive actions of this developer. Nor has Planning upheld its responsibility and spirit for the County Tree ordinances.
- County should consider adopting a policy that such grievous actions by developers, where an After-the-Fact permit is required, should be an automatic denial of the permit so that County then has the ability to more properly and thoroughly address the harm done with actions that benefit the local community.
- The proposed 2 year escrow provision is so poorly written that it is unclear who will pay for replacement trees if needed and what would happen if the unhealthy or dead trees were not replaced. It would probably be cheaper for the developer to give up the \$3k rather than to replant and care for the trees for another 2 years. Would then County assume the replacement costs and assurances?

We are asking the Board of Supervisors to support the community and the County tree ordinances and do the following:

- Approve the neighbor's Appeal and deny the tree removal permit.
- Please have County Planning include the neighbors in the mitigation planning process.
- Have the actions of the tree cutting company investigated and pursue legal action.



**From:** [REDACTED]  
**To:** [Don Horsley](#)  
**Cc:** [REDACTED]; [Warren Slocum](#); [Carole Groom](#); [Dave Pine](#); [David Canepa](#); [Michael Callagy](#); [CMO BoardFeedback](#)  
**Subject:** RE: June 8th BOS: Don, our community needs your support  
**Date:** Monday, June 7, 2021 5:00:35 PM

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CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Dear Supervisor Horsley:

Thank you for responding to Ron Snow's message.

That the neighbors "did not get an opportunity to make the case to preserve the tree," which you agree is true, is the heart of the matter. Their rights were nullified by the developer's disrespect, a disrespect that encompassed the law, the county, the neighborhood, and the Supervisors, who enacted the tree ordinances.

Recommendation A on tomorrow's agenda asks the Supervisors to find that "the tree that was removed was in a location that warranted removal given the limitations it placed on the property owner's ability to construct a residence equivalent to other residences in the neighborhood."

That conclusion is based on believing that all clocks stopped when Planning's granted the permit and that the grant is immune from review forever. That's the only basis for concluding that the tree's location 'warranted removal.'

But time did not stand still. Two things happened on a single day: (1) the neighbors filed an appeal, and (2) the developer chopped down the tree during a storm, in the dark, and in an unsafe manner that betrayed that they were acting in stealth with knowledge of wrongdoing.

The developer's action - the wielding of that ax - is consistent with only one conclusion: the developer knew that Planning's conclusion was flawed, feared that the Planning Commission would reverse the grant, and decided it would risk the least by taking the law into its own hands, betting that the County would slap its wrist at worst.

The developer's actions also prevented the Planning Commission, and now the Board, from reviewing Planning's original grant on its merits. There has been no review whatsoever, and apparently never will be.

Yet, if in fact Planning made a one-sided analysis, taking as gospel the developer's unsubstantiated assertions, exaggerations and worse, and ignoring the underlying policies in the tree ordinance, then the permit was wrongly granted. Without review, the Board cannot rely on the original grant, and therefore the conclusion in Recommendation A that the removal was warranted. Recommendation A is, on this record, without foundation and must be rejected.

\*\*\*

Your conclusion that what has happened was 'due process' is, well,

strange. Would the County want to make that case in the court of public opinion or a court of law?

There was certainly a process, as a procedural matter, at the Planning Commission and the Board, and continuing now with the Planning recommendations. That process, however, failed to reach the level of \_due process\_ because of procedural and substantive error.

The County here runs the risk of being painted with the same brush as the developer. And as Commissioner Garcia - himself a developer - said at the Planning Commission hearing, developers like the one in this case give developers a bad name. The County's reputation is at stake. Its ability to prevent conduct similar to what has happened here is a joke if it does not make the punishment fit the crime.

\*\*\*

The Supervisors talk about respecting the rights of property owners, but your actions speak otherwise: In San Mateo County, some property owners are more equal than others.

In this case, the rights of the neighbors to continue to live in a neighborhood of beautiful mature trees has been shoved under the bus. It cannot be gainsaid that their property rights in their homes and as residents of San Mateo County have been compromised by the acts of the developer. A contribution to the County Parks, even if it were a substantial fraction of the profits that will be made on this parcel (which it is not), will not make the property owners whole.

Th developer -- and the actual owners, whose presence was notably absent before the Planning Commission, but decided to argue 'it's not about the tree' to the Supervisors, and you know what they took extra time after their lawyer had used up their allotted time to insinuate that it \_was\_ about -- will make hundreds of thousands of dollars profit, if not more, on this parcel of land.

It is painfully ironic that part of the development's appeal to buyers will be that it is in a neighborhood with beautiful mature trees. That is so only because of the time, money and care provided by the neighbors at their own homes to maintain and respect their land. Meanwhile, the neighbors' neighborhood is much less attractive than it was before this development.

Please, before accepting the recommendations from Planning, consider the reality of what has happened, and how not just the developer and the owners, but the County itself, will look to anyone who hears the story.

Thank you.

Roberta J. Morris



cc: Original recipients and cc, plus rest of Board, County Manager Callagy, and CMO\_BoardFeedback

On Mon, 7 Jun 2021, Don Horsley wrote:

> I did read this latest message. The neighbors (or at least the neighbors  
> who appealed) did get due process. There has been a hearing before the  
> Planning Commission and one before the Board of Supervisors with the  
> next hearing tomorrow. I do agree that they did not get an opportunity  
> to make the case to preserve the tree.

>

> From: Ron Snow [REDACTED] >  
> Sent: Monday, June 7, 2021 2:20 PM  
> To: Don Horsley <dhorsley@smcgov.org>  
> Cc: Ron Snow [REDACTED]  
> Subject: Re: June 8th BOS: Don, our community needs your support

>

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> Don,

> Thank you. I had written to you and Warren as you both seem to have a good focus on community and on the protections our community seek and deserve. I also wrote that email before I had seen the recommendations from Planning for the agenda item tomorrow.

>

> The recommendation given to you by planning is woefully inadequate. It certainly does nothing to address the harm done the neighborhood, nor does it address the concerns of the neighbors, nor does it support County goals of protecting our green canopy and trees. Unless the neighbor's appeal is upheld, it is another strike against our tree ordinance and a strike against the Board of Supervisors ability to prevent this behavior in the future.

>

> Further, the developer has disregarded the moratorium that County placed on the development of the Lot, a further thumbing of their noses to County authority. They have continued to develop the land, complete the underground pipe inspections, cleared, graded, compacted, and conducted surveying tasks for marking on the lot. All against what we understand was to be a stop work order via the moratorium.

>

> Please consider the inadequate and failed recommendation that was provided for this item:

>

> \* The \$10,000 to County Parks does not address the harm done to the neighborhood and there are plenty of opportunities for the mitigation plan to address that harm done, by taking action on and around the properties being developed.

> \* Doesn't acknowledge the that the rights of the community were stripped nor the right of due process taken from the neighbors.

> \* The recommendation by Planning doesn't address the damage done to the existing trees, one of which appears to have died and others that show significant signs of stress.

> \* We have not seen the County arborists report that was to have been conducted for the trees on the properties.

> \* The recommendation does not address that the developer has ignored the stop work moratorium and continued to develop, grade, compact, and survey the Lot.

> \* Neighbors should be invited to participate in defining the mitigation plan. County Planning has not demonstrated competence in protecting its citizenry from the destructive actions of this developer. Nor has Planning upheld its responsibility and spirit for the County Tree ordinances.

> \* County should consider adopting a policy that such grievous actions by developers, where an After-the-Fact permit is required, should be an automatic denial of the permit so that County then has the ability to more properly and thoroughly address the harm done with actions that benefit the local community.

> \* The proposed 2 year escrow provision is so poorly written that it is unclear who will pay for replacement trees if needed and what would happen if the unhealthy or dead trees were not replaced. It would probably be cheaper for the developer to give up the \$3k rather than to replant and care for the trees for another 2 years. Would then County assume the replacement costs and assurances?

> Consideration:

> We don't wait to the NEXT time a bridge collapses before we act. We don't wait until the NEXT toxic spill before we put in safe guards. I urge you to act now to support our ordinances against developer actions like the ones that have occurred here. The developer had options to change layouts and ask for setback relief and other measures to preserve the tree. Do not skip out on this item by having County postpone doing something until NEXT time. It is outrageous, and I think you agree, that a developer is allowed an 'After-the-Fact' tree, especially in cases like this.

>

> Thank you for reading our emails and your support of the neighbors.

>

> Cheers,

> Ron

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> On Jun 6, 2021, at 4:01 PM, Don Horsley <dhorsley@smcgov.org<<mailto:dhorsley@smcgov.org>>> wrote:

>

> Ron,

>

> I did read your message.

>

> From: Ron Snow [REDACTED]

> Sent: Friday, June 4, 2021 3:08 PM

> To: Don Horsley <dhorsley@smcgov.org<<mailto:dhorsley@smcgov.org>>>

> Cc: Ron Snow <ronsnow@univpark.org [REDACTED]>

> Subject: June 8th BOS: Don, our community needs your support

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>

> Dear Supervisor Horsley, RE: Tree Removal Permit (PLN2020-00443) at 10 Cardinal Ct.

>

> I copied you and an email to Warren Slocum that supports the approval of the neighbors appeal pertaining to the after the fact tree removal permit (10 Cardinal Ct, West Menlo Park). Warren had raised the question of "what are the consequences of approving the Appeal?". Steve Monowitz responded "That should the Board like to require additional mitigation, that would necessitate that the appeal be taken up and the Board assume jurisdiction over the permit and adjust the conditions accordingly.". Steve and Counsel both indicated that the Board's and County's hands were tied if the neighbor's appeal was denied.

>

> It is clear that the developers reprehensible actions, their false claims, and the breach of County ordinances and formal procedures, show a willful disregard to the citizens of the County and our community specifically. The developers presentation to you and the other supervisors on May 17th was full of incorrect data, false statements, and misleading innuendo. The same was true at the February Planning Commission meeting where similar false statements were abundant. It was also unacceptable for the Board to then give additional minutes to the developer during Public Comment. They had their 10 minutes for presentation and to then have them inject themselves into the public comment for additional 4 minutes is a demonstration of their disregard for proper protocol and procedure.

>

> Don, you can make a positive difference for the neighbors and the citizens of San Mateo County by upholding the neighbor's appeal and denying the tree removal permit. It is only this action that provides County the means to remedy this egregious action of the developer and restore some measure of recovery by a modified building and mitigation plan that can more properly address the harm done to the neighborhood and community.

>

> I urge you and the other Board of Supervisors to support the community and the County tree ordinances and do



June 7, 2021

Members of the Board of Supervisors  
County of San Mateo

Sent via email

Re: Support for Ordinance Strengthening Regulation of Gun Dealers

Dear Members of the Board of Supervisors,

On behalf of Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”), I write to express our support for proposed amendments to Chapter 3.52 of the San Mateo County Ordinance Code which would strengthen local oversight of gun and ammunition dealers, including improving the county’s efforts to prevent gun trafficking by unscrupulous dealers. Now led by former Congresswoman and gun violence survivor, Gabby Giffords, Giffords Law Center provides legal and technical assistance in support of gun violence prevention to federal, state, and local legislators nationwide.

Expanded oversight of gun dealers via a comprehensive licensing system is necessary to ensure that sellers of lethal weapons comply with the law and public safety. Currently, the county requires firearms dealers to obtain a license to operate but attaches very few conditions to acquisition of the license. This ordinance would enact a comprehensive licensing system that provides needed oversight of local gun and ammunition sellers by giving local officials law enforcement greater ability to monitor dealers’ compliance with local, state and federal laws. Local oversight of gun dealers is necessary because the federal Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) does not have the resources to properly oversee the nearly than 130,000 federally licensed gun dealers in the U.S.<sup>i</sup> The California Department of Justice is similarly restrained in its ability to police the more than 2,000 gun dealers operating in California.<sup>ii</sup> Dealer licensing ordinances are constitutional and currently in effect in at least 102 California communities.<sup>iii</sup>

Videotaping sales can help law enforcement solve and prevent gun-related crimes. No state or federal law currently requires San Mateo County gun and ammunition dealers to videotape sales. The proposed ordinance would require dealers to record transfers of firearms or ammunition so that the facial features of the purchaser are clearly visible. Video recordings will provide valuable evidence to law enforcement officers who are enforcing gun laws and prosecuting gun crimes. Video surveillance also will likely prevent crimes at the store itself, such as straw purchases (when a legal buyer purchases a firearm or ammunition on behalf of a person who is prohibited from doing so), burglaries and robberies. Though straw purchases are a leading source of crime guns, they often appear legal on paper without security cameras to visibly capture the sale. Videotaping ordinances are currently in effect in at least

seven California communities - Campbell,<sup>iv</sup> El Cerrito,<sup>v</sup> Emeryville,<sup>vi</sup> Pleasant Hill,<sup>vii</sup> San Carlos,<sup>viii</sup> Santa Cruz County,<sup>ix</sup> and San Francisco City and County.<sup>x</sup>

Inventory reporting requirements will provide law enforcement with more opportunities to detect illegal gun activity. ATF has found that dealers and pawnbrokers were associated with the largest number of trafficked guns and concluded that “[Federally licensed gun dealers’] access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law.”<sup>xi</sup> Requiring gun dealers to periodically report their inventory will help deter dealers from altering their inventory to cover up illegal transactions. At least [nine California jurisdictions](#) currently require dealers to periodically report their inventory to local officials or law enforcement.

Prohibiting firearm sales from operating near residences will help increase neighborhood safety and prevent illegal sales. Firearms dealers are a high-value target for criminals, and have often been magnets for break-ins, theft, and destruction of property.<sup>xii</sup> In 2017, ATF reported that between 2015 and 2016, gun thefts from federally licensed dealers increased by a staggering 58.6%.<sup>xiii</sup> The number of firearms stolen from licensed dealers in 2015 was 4,271; in 2016, that number increased sharply, to 7,488.<sup>xiv</sup> Prohibiting gun dealers from operating out of their homes or residential areas is likely to prevent crime in the neighborhoods where gun dealers would otherwise operate. A 2009 study analyzed ATF data showing that guns “are often found to have been used for criminal purposes not far from the gun dealer where they were first obtained,” and “almost one-third (32.2%) of traced crime guns are recovered by police within 10 miles of the [dealer] where they were first purchased.”<sup>xv</sup> By keeping gun dealers out of residential locations with little community or law enforcement oversight and placing them in public, commercial spaces, dealers will likely be further deterred from engaging in illegal transactions.

Premises security requirements will make it less likely that gun dealers are burglarized and stolen guns end up on the street. Gun dealers are a high-value target for criminals, and have often been magnets for break-ins, theft, and destruction of property. In 2017, ATF issued a report demonstrating that between 2015 and 2016, gun thefts from California federally licensed dealers increased by a staggering 173.8%.<sup>xvi</sup> An increasing number of these incidents have been so-called “smash-and grab” robberies, where perpetrators drive their car into a gun store’s doors, front windows, or gates to gain entry. A sampling of these incidents from 2016 includes:

- 18 handguns stolen from Independence Armory in Petaluma, CA. March, 2016.<sup>xvii</sup>
- Handguns and rifles stolen from Red Seal Arms Guns and Ammo in Ventura, CA. March, 2016.<sup>xviii</sup>
- 107 guns stolen from Nor Cal Gun Vault, Rocklin, CA. May, 2016.<sup>xix</sup>
- Attempted smash-and-grab robberies from Laguna Guns and Accessories and CS Tactical/MTG Firearms in Elk Grove, CA. No guns stolen. May, 2016.<sup>xx</sup>
- 30 handguns stolen from American Firearms in Fresno, CA. June, 2016.<sup>xxi</sup>
- Rifle stolen from Rocklin Armory in Rocklin, CA. July, 2016.<sup>xxii</sup>

- More than 15 guns stolen from STS Guns in Folsom, CA. July, 2016.<sup>xxiii</sup>
- Approximately 20 handguns stolen from Mustang Firearms, Grass Valley, CA. August, 2016. At least 12 similar incidents have taken place in the greater Sacramento area in the six months prior, resulting in between 230 and 240 stolen firearms.<sup>xxiv</sup>

Existing California law provides some minimum standards regarding how dealers may secure their firearms inventory when they are not open for business.<sup>xxv</sup> Currently, dealers with a firearms inventory may choose between one of three options. They may:

1. Store their firearms in “a secure facility” (defined as a building that meets certain specifications, including certain types of locks on doors; steel bars on windows; and bars, grating, or an alarm system on other openings),<sup>xxvi</sup>
2. Store their firearms in locked safes or vaults within the dealer’s premises; or
3. Secure their firearms with a hardened steel rod or cable through the trigger guard of each firearm, as specified.

These current security standards have proven insufficient to guard against thefts, especially repeated “smash-and-grab” incidents involving the theft of hundreds of lethal weapons.

[At least 37 local jurisdictions](#) in California have adopted ordinances requiring firearm dealers to meet additional site security and safe storage standards. Consistent with Giffords Law Center’s model gun dealer ordinance, the proposed ordinance requires dealers to store their firearms and ammunition in a “secure facility,” as defined by state law, as well as storing firearms and ammunition in additional ways to prevent theft when the store is both open and closed for business. The requirement that dealers place bollards in front of their premises will help prevent smash n’ grabs and thefts. ATF recommends that gun dealers incorporate these and other loss prevention measures, such as security cameras and alarm systems, to help reduce the number of firearms stolen from their inventory.<sup>xxvii</sup>

The requirements of the proposed changes are constitutional and legally defensible. Courts have held that local dealer ordinances are not preempted by state law<sup>xxviii</sup> nor do they violate the Second Amendment to the United States Constitution.<sup>xxix12</sup> Notably, the United States Supreme Court stated in *District of Columbia v. Heller*, that the commercial sale of firearms was a presumptively valid area of regulation.<sup>xxx</sup> California law authorizes local governments to require gun dealers to obtain a local permit to operate<sup>xxxi</sup> and impose security requirements on firearms dealers that are stricter than those mandated by state law.

The proposed ordinance enacts commonsense measures already employed by responsible dealers. Accordingly, we urge you to support the proposed gun dealer regulation.<sup>xxxii</sup>

Sincerely,



Allison Anderman  
Senior Counsel

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## **ABOUT GIFFORDS LAW CENTER**

For over 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence.

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<sup>i</sup> “Report of Active Firearms Licenses- License Type by State Statistics,” Bureau of Alcohol, Tobacco, Firearms and Explosives, January 10, 2020, <https://www.atf.gov/firearms/docs/undefined/ffltypebystate01-10-2020pdf/download>.

<sup>ii</sup> “Federal Firearms Listings,” Bureau of Alcohol, Tobacco, Firearms and Explosives, accessed June 1, 2020, <https://www.atf.gov/firearms/listing-federal-firearms-licensees>.

<sup>iii</sup> “Communities on the Move: Local Gun Safety Legislation in California,” Giffords Law Center to Prevent Gun Violence, accessed June 1, 2020, <https://lawcenter.giffords.org/resources/communities-on-the-move-local-gun-safety-legislation-in-california/#dealers>

<sup>iv</sup> Campbell Municipal Code § 5.45.060(7)(c).

<sup>v</sup> El Cerrito Municipal Code § 6.90.030.

<sup>vi</sup> Emeryville Municipal Code § 5-30.16(g)(3).

<sup>vii</sup> Pleasant Hill Municipal Code § 9.35.110(M)(3).

<sup>viii</sup> San Carlos Municipal Code § 5.13.080(H).

<sup>ix</sup> Santa Cruz County Municipal Code § 5.62.090(G)(3).

<sup>x</sup> San Francisco Police Code § 613.10(o)(3).

<sup>xi</sup> Garen Wintemute, “Firearm Retailers’ Willingness to Participate in an Illegal Gun Purchase,” 87 J. Urb. Health (2010): 7, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2937134/>.

<sup>xii</sup> According to the Special Agent in Charge of ATF’s Sacramento office, “When people break into homes or businesses, guns are often the target. ... [O]f the commodities that we find that people that are involved in criminal activity are looking for, guns are very high on the list.” Lynn Walsh, Dave Manoucheri and Mari Payton, “Stolen Guns Fuel Underground Market For Criminals in California,” NBC7 San Diego, Aug. 9, 2016, <http://www.nbcsandiego.com/investigations/Stolen-Guns-Fuel-Underground-Market-For-Criminals-in-California-389352802.html>.

<sup>xiii</sup> “Federal Firearms Licensees (FFL) Burglary and Robbery Statistics - Calendar Year 2012 – 2016,” Bureau of Alcohol, Tobacco and Firearms, April 26, 2018, <https://www.atf.gov/resource-center/federal-firearms-licensees-ffl-burglary-and-robbery-statistics-calendar-year-2012>.

<sup>xiv</sup> *Id.*

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- <sup>xv</sup> See Garen Wintemute, “Firearm Retailers’ Willingness to Participate in an Illegal Gun Purchase,” 87 J. Urb. Health (2010): 7, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2937134/>.
- <sup>xvi</sup> See, “Federal Firearms Licensees (FFL) Burglary and Robbery Statistics - Calendar Year 2015,” Bureau of Alcohol, Tobacco and Firearms, accessed June 1, 2020, <https://www.atf.gov/firearms/docs/report/2015-summary-firearms-reported-lost-and-stolen/download>; “ATF Releases 2016 Summary of Firearms Reported Lost and Stolen from FFLs,” Bureau of Alcohol, Tobacco and Firearms, April 11, 2017, <https://www.atf.gov/news/pr/atf-releases-2016-summary-firearms-reported-lost-and-stolen-ffls>.
- <sup>xvii</sup> Paul Payne, “Burglars ram Petaluma gun store, steal 18 handguns,” The Press Democrat, March 5, 2016, <https://www.pressdemocrat.com/news/5338025-181/break-in-at-petaluma-gun-store>.
- <sup>xviii</sup> “Burglary suspects crash car into front of gun store in Ventura,” KABC-TV L.A., March 27, 2016, <https://abc7.com/1265128/>.
- <sup>xix</sup> Andrew Westrope, “Rocklin gun robbery followed by 2 attempts in Elk Grove,” The Placer Herald, May 11, 2016.
- <sup>xx</sup> *Id.*
- <sup>xxi</sup> Sontaya Rose, “30 handguns stolen from Fresno County gun store,” KFSN-ABC Fresno, June 21, 2016, <https://abc30.com/1395039/>.
- <sup>xxii</sup> Kimberly Veklerov, “Suspects arrested in 2 gun-store thefts,” S.F. Chronicle, July 13, 2016, <https://www.sfchronicle.com/crime/article/Gun-store-smash-and-grabs-lead-feds-cops-to-8376478.php>
- <sup>xxiii</sup> Sarah Heise, “Several detained in connection with Rocklin gun store burglary,” KCRA-NBC, July 13, 2016, <https://www.kcra.com/article/several-detained-in-connection-with-rocklin-gun-store-burglary/6429614#>.
- <sup>xxiv</sup> Bill Lindelof, “Another gun shop is burglarized, this time in Grass Valley,” Sacramento Bee, August 3, 2016, <https://www.sacbee.com/article93534827.html> (noting that [t]he incidents added to a growing trend of such burglaries in the greater Sacramento area).
- <sup>xxv</sup> Cal. Penal Code § 26890(a).
- <sup>xxvi</sup> Cal. Penal Code § 17110.
- <sup>xxvii</sup> See e.g., “Loss Prevention for Firearms Retailers,” Bureau of Alcohol, Firearms, and Tobacco, January 2016, <https://www.atf.gov/firearms/docs/guide/loss-prevention-firearms-retailers/download>.
- <sup>xxviii</sup> *Suter v. City of Lafayette*, 67 Cal. Rptr. 2d 420, 428 (Cal. Ct. App. 1997). Although one provision of Lafayette’s ordinance was held to be preempted, the California legislature responded to the decision by enacting Penal Code section 26890(b), specifically authorizing local governments to impose security requirements on dealers that are stricter than state law.
- <sup>xxix</sup> *Teixeira v. County of Alameda*, 2013 U.S. Dist. LEXIS 36792 (Feb. 26, 2013), appeal docketed, No. 13-17132 (9th Cir. Oct. 23, 2013).
- <sup>xxx</sup> 128 S. Ct. 2783, 2817, n.2 (2008).
- <sup>xxxi</sup> Cal. Penal Code § 26705.
- <sup>xxxii</sup> Cal. Penal Code § 26890(b).

**From:** [Rosanne Foust](#)  
**To:** [David Canepa](#); [Don Horsley](#); [Warren Slocum](#); [Carole Groom](#); [Dave Pine](#)  
**Cc:** [Michael Callagy](#); [Peggy Jensen](#); [Heather Forshey](#); [Sherry Golestan](#); [Sukhmani Purewal](#); [Don Cecil](#); [locanada@samceda.org](mailto:locanada@samceda.org)  
**Subject:** June 8th BOS Agenda Item #10 San Mateo County Environmental Health Fee Relief Program  
**Date:** Monday, June 7, 2021 3:03:47 PM  
**Attachments:** [image004.png](#)

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Dear Honorable President Canepa and Members of the Board of Supervisors,

Please accept this email in full support of the decision before you tomorrow on Agenda Item #10:

*RESOLUTION AUTHORIZING THE DIRECTOR OF THE ENVIRONMENTAL HEALTH SERVICES DIVISION ("EHS") OF SAN MATEO COUNTY HEALTH, OR DESIGNEE(S), TO DESIGN AND IMPLEMENT A SAN MATEO COUNTY ENVIRONMENTAL HEALTH FEE RELIEF PROGRAM AT A TOTAL COST NOT TO EXCEED \$5,800,000, INCLUDING A \$650,000 CONTRIBUTION FROM EHS, PURSUANT TO WHICH A ONE-TIME CREDIT EQUAL TO THE COST OF QUALIFYING ANNUAL EHS FEES WOULD BE ISSUED TO CERTAIN EHSREGULATED BUSINESSES THAT HAD SALES REVENUES DIRECTLY IMPACTED BY COVID-19 HEALTH ORDERS AND THAT ARE WITHIN DESIGNATED EHS PERMIT FEE CATEGORIES OR INDUSTRY CATEGORIES*

There are not enough words to say thank you to each of you, the County Manager and his team, County Health and all the many employees who have given so much to so many this past year. Please know all you have done is greatly appreciated and will have lasting positive impacts on our County.

Thank you again.

Best Regards,

Rosanne

Rosanne Foust  
President and CEO  
San Mateo County Economic Development Association (SAMCEDA)

1900 O'Farrell Street, Suite 380  
San Mateo, CA 94403



[www.samceda.org](http://www.samceda.org)



**From:** [REDACTED]  
**To:** [David Canepa](#); [Carole Groom](#); [Don Horsley](#); [Dave Pine](#); [Warren Slocum](#); [CMO BoardFeedback](#)  
**Cc:** [REDACTED]  
**Subject:** public comment on Item 11 - Support for county action to prevent evictions  
**Date:** Monday, June 7, 2021 4:21:24 PM

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Dear Board of Supervisors:

My name is Clara Jaeckel, and I have lived in San Mateo County for 23 years, currently in Redwood City. I am a member of Many Journeys Metropolitan Community Church in San Mateo, and I am a part of Faith in Action Bay Area.

I am deeply concerned about the impending eviction cliff when the current state moratorium ends, and the prospect of 11,000 families in our county facing homelessness.

In a previous Board of Supervisors meeting, several of you pointed to the state rent relief funding available under SB 91 as a solution. However, this program is not sufficient to meet our county's need. I've been participating in a Faith in Action project calling small landlords in Daly City and Redwood City, and have spoken to a number of landlords who had not even heard about the program. Several others have said they and their tenants find the application process difficult to access and complete, or their tenants are ineligible for various reasons. And some landlords simply refuse to apply.

So the fact that only a tiny percentage of SB 91 funds have been disbursed does not mean relief is no longer needed. Rather, it is a sign that the program needs more outreach and application assistance, and that we need to provide other help to protect residents who are suffering unemployment and financial hardships from the pandemic, but whose situations don't fall under the narrow requirements of the current program. We need eviction protections at the county level to avoid overwhelming our county's homeless support systems.

I support the resolution that encourages the state to extend the eviction moratorium. But as the expiration of the moratorium approaches and thousands of families are under the stress of possible homelessness, we need you to do more.

We ask that you:

- Direct county staff to prepare a county eviction moratorium that lasts until unemployment numbers return to pre-pandemic levels and all of the first round of ERAP money has been distributed.
- Improve the distribution of all the state rent relief money through increased county funding, outreach, and expansion of efforts to help tenants and landlords apply.

Thank you,  
Clara Jaeckel

From: [REDACTED]  
To: [CMO BoardFeedback](#)  
Subject: Fwd: Item #26 Consent  
Date: Sunday, June 6, 2021 6:18:58 PM

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

From: **Jim Coffman** <[REDACTED]>  
Date: Sun, Jun 6, 2021 at 7:25 AM  
Subject: Item #26 Consent  
To: <[boardfeedback@smcgov.org](mailto:boardfeedback@smcgov.org)>

Honorable Members of the Board,

Somebody (or somebodies) deserves public recognition for finding an imaginative and inexpensive workaround for a costly safety requirement at the new Cordilleras MHRC. I know from firsthand experience that this is a sorely needed improvement to the mental health services provided by the County. It would have been a shame if the project was slowed or even halted because of an additional \$4 million dollars needed to build an access road to a water tank. Instead, the PDU and County Fire were able to agree that a \$40,000 ATV would be sufficient for maintenance and emergency response. Rarely in any governmental projects, can you see such innovation, compromise resulting in multimillion dollar cost savings.

Thanks to County PDU and County Fire!

Jim Coffman  
Retired Sheriff's PERT Detective



June 7, 2021

Honorable Board President David J. Canepa  
Members of the San Mateo County Board of Supervisors  
400 County Center  
Redwood City, CA 94063

Dear President Canepa and Members of the Board of Supervisors:

***RE: Support for item 27: Agreement with Colu to Provide a Shop Local Consumer Application to Support Small Businesses in San Mateo County***

We would like to express our individual and collective gratitude for the Board of Supervisors' ongoing support for proposals, programs, and funding to assist small businesses in San Mateo County throughout the COVID-19 shutdowns and pandemic-related economic impacts. Many businesses still operating today have benefitted from County-funded programs through the San Mateo County Strong Fund and a strong coalition of partners including SAMCEDA, San Mateo Credit Union, Chambers of Commerce and Business Associations, and the San Mateo Labor Council.

As we all eagerly await Governor Newsom's lifting of emergency orders on June 15, 2021, we want to applaud the continued focus of the Office of the County Manager and County departments on programs and initiatives to help San Mateo County's small businesses fully recover from the pandemic.

While every small business owner will celebrate the milestone represented by June 15<sup>th</sup>, simply turning the page on a calendar will not eliminate the harsh impacts of the past 14 months on the vast majority of business owners doing whatever they could to save a business they love, employ workers who are often like family, and keep serving loyal customers. San Mateo County's small business owners will grapple with the following financial struggles well into the future:

- Outstanding commercial rent
- Outstanding bills
- Unanticipated costs to meet health order operating requirements or outdoor operations
- Maxed out credit cards
- Cashed in retirement accounts that need to be restored
- Loans of every kind with no clear repayment plans
- Lost revenue due to online shopping
- Higher operating costs moving forward

Our organizations stand ready to support a County-led "shop local" initiative using the Colu software platform to ensure successful pilots in the cities we serve and eventually across all 20 cities and towns and unincorporated communities.

Please approve the Colu software contract on your June 8, 2021, consent agenda and continue working on other initiatives to support small businesses and workforce development post-June 15<sup>th</sup> to ensure a full recovery. Because until everyone has recovered, there is not a real recovery.

Thank you and stay safe,

*Amy Buckmaster*  
President & CEO  
Chamber San Mateo County

*Krystlyn Giedt*  
President & Chief Executive Optimist (CEO)  
Half Moon Bay Coastside Chamber of Commerce & Visitors' Bureau

*Johnny Darosa*  
President  
Peninsula Chinese Business Association

*Cheryl Angeles*  
President & CEO  
San Mateo Area Chamber of Commerce

*Julie Lind Rupp*  
Executive Officer  
San Mateo County Central Labor Council

*Rosanne Foust*  
President & CEO  
SAMCEDA

*Liza Normandy*  
CEO  
South San Francisco Chamber of Commerce