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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 CITY AND COUNTY OF SONOMA

10 FRIENDS OF NORTHWEST SEBASTOPOL, a
11 California nonprofit mutual benefit corporation,

12 Petitioner,

13 v.

14 CITY OF SEBASTOPOL, acting by and through
the Sebastopol City Council,

15 Respondent.

16
17 SONOMA APPLIED VILLAGES SERVICES, a
California nonprofit mutual benefit corporation;
18 and ST. VINCENT DE PAUL DISTRICT
COUNCIL OF SONOMA COUNTY,
19 INCORPORATED, a California nonprofit mutual
benefit corporation,

20 Real Parties in Interest.
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Case No.

22 VERIFIED PETITION FOR WRIT OF
23 ADMINISTRATIVE MANDAMUS (CCP §
24 1094.5)
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1 **INTRODUCTION**

2 1. Petitioner FRIENDS OF NORTHWEST SEBASTOPOL (“Friends”) represents the
3 interests of dozens of members who live, attend school, and own businesses and/or work in the
4 neighborhood surrounding 845 Gravenstein Highway (the Site) in the City of Sebastopol.

5 2. Respondent CITY OF SEBASTOPOL acting by and through the SEBASTOPOL
6 CITY COUNCIL (“City” or “Council”), recently granted a land use permit to Real Party in Interest
7 SONOMA APPLIED VILLAGES SERVICES (“SAVS”) to operate an encampment for campers,
8 trailers, and other recreational vehicles on the Site, without requiring a land use application or
9 performing any of the analysis of the proposed land use required by the Sebastopol Zoning Code or
10 any of the environmental review required by the California Environmental Quality Act, Cal. Public
11 Resources Code section 21000 et seq. (“CEQA”), without notice to neighboring property owners,
12 residents, and businesses, and in violation of the Sebastopol Zoning Code’s express prohibition on
13 living in recreational vehicles anywhere within the City. SAVS intends the encampment to host
14 unhoused persons living in recreational vehicles, as the sole such facility in the City.

15 3. The illegal vehicle encampment at the Site will subject Friends’ members and other
16 neighbors to significant amounts of trash discarded in the public streets, illegal drug use and drug
17 deals, public urination and defecation, thefts, assaults and threats of assault against passersby,
18 environmental harms, and significant public health and safety threats flowing from all of the above.

19 4. Friends seeks a writ of mandate setting aside the City’s decision to permit the illegal
20 vehicle encampment at the Site, and a stay of that decision pending final resolution of this
21 proceeding.

22 5. Friends acknowledges the importance of safe shelter for the unhoused and would not
23 object (after an orderly City decision made in compliance with the Zoning Code and CEQA) if the
24 City distributed recreational vehicle parking spaces in low numbers throughout the City at multiple
25 appropriate places, to provide parking off of public streets *and* reduce the impact of large RV
26 encampments and the harms they impose on the community. Friends *does* object to the entire burden
27 of such encampments being concentrated on one neighborhood around the Site based on a
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1 thoroughly illegal permitting decision.

2 **PARTIES**

3 6. Petitioner Friends is a California nonprofit mutual benefit corporation in good
4 standing, representing the beneficial interests of homeowners and renters, parents of school children,
5 business owners and operators, and property owners in the neighborhood of the Site, both within
6 City limits and in the immediately surrounding unincorporated parts of Sonoma County. Friends’
7 purpose is to advocate for informed, safe, and lawful land use in the community. Friends is the
8 successor in interest to an unincorporated association of the same name.

9 7. Friends’ specific purpose is to “[a]dvocate for informed, safe, and lawful land use in
10 the community”, which includes advocating for the interests of residents, school parents, business
11 owners/operators, and workers in the neighborhood of the Site who object to and are harmed by the
12 City’s decision to permit SAVS to operate an illegal recreational vehicle encampment at the Site.
13 Friends’ membership includes residents and businesses located within 600 feet of the Site, and some
14 adjacent to the Site, who were entitled to but denied formal notice of the proposed permit under the
15 City’s Zoning Code.

16 8. Respondent City is a municipal corporation located in Sonoma County. At all times
17 mentioned in this Petition, Respondent City has been and is the agency charged with administering
18 the Sebastopol Zoning Code and the lead agency under CEQA.

19 9. Real Party in Interest SAVS is a California nonprofit mutual benefit corporation.
20 SAVS is named here in its capacity as the holder of the permit for the Site, issued by Respondent
21 City. SAVS holds a lease for the Site from its owner and intends to operate the encampment (which
22 it may not do without Respondent City’s permit), and therefore has an interest in the outcome of this
23 petition to set aside the permit.

24 10. Real party in Interest St. Vincent De Paul District Council of Sonoma County,
25 Incorporated (“St. Vincent De Paul”) is a California nonprofit mutual benefit corporation. St.
26 Vincent De Paul is named here in its capacity as owner of the Site, and landlord to SAVS, which
27 may be unable to pay rent to St. Vincent De Paul if the permit is set aside. Therefore St. Vincent De
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1 Paul has an interest in the outcome of this petition.

2 **JURISDICTION AND VENUE**

3 11. A superior court has jurisdiction over claims brought under Code of Civil Procedure
4 section 1094.5, which provides for courts to inquire into the validity of an administrative order or
5 decision such as a decision to permit a land use.

6 12. Venue is proper in the County of Sonoma under Code of Civil Procedure section
7 394(a) because this action is against a city located in the county.

8 **FACTS**

9 13. The Site is zoned in a General Commercial (CG) district. Sebastopol Municipal
10 Zoning Code § 17.10.020. Further citations to “Code” are to the Sebastopol Municipal Zoning Code,
11 available online at: <https://sebastopol.municipal.codes/SMC/17>. The Code forbids living or working
12 in recreational vehicles anywhere within City limits. Code § 17.100.070(C)(4). A recreational
13 vehicle (“RV”) is a motor home, travel trailer, truck camper, or camping trailer designed for human
14 habitation. Code § 17.08.119.

15 14. Currently and for the past several years, an illegal RV encampment has been settled
16 on the public street and sidewalks on Morris Street in the City. The Morris Street RV encampment
17 features significant amounts of trash discarded in the public streets, use of the sidewalks for storage
18 of personal property, illegal drug use and drug deals, public urination and defecation, leaking septic
19 tanks in and around vehicles, assaults and threats of assault against passersby, and significant public
20 health and safety threats related to and flowing from all of the above.

21 15. On November 30, 2021, Respondent City, through the City Council, issued a permit
22 to Real Party in Interest SAVS to operate an RV encampment at the Site. The permit took the form
23 of a provision in a memorandum of understanding between the City and SAVS, approved on
24 November 30, 2021, by the City, that provided the City’s permission for SAVS’ operation of an RV
25 encampment at the Site.

26 16. SAVS first publicly proposed use of the Site for an RV encampment to the City just a
27 few days (certainly less than twelve days) before the November 30, 2021, City Council meeting.
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1 17. Prior to that date, SAVS submitted no land use application to operate an RV
2 encampment (or for any use) at the Site. See Code § 17.400.030(A) (property owner shall submit
3 permit application for any land use requiring a permit under the Code).

4 18. The City Planning Department did no publicly available written review of the
5 proposed RV encampment at the Site “in accordance with the review procedures established by this
6 Chapter and the environmental review procedures of the CEQA.” Code § 17.400.030(D). Nor did the
7 Planning Department “prepare a report ... describing the project along with a recommendation.” *Id.*
8 (Planning staff report and recommendation required for all land use permit applications).

9 19. No notice of the proposed action was mailed by the City to any owners of real
10 property within 600 feet of the Site, or to owners of property adjacent to the Site, prior to the City’s
11 November 30, 2021, decision to issue the RV encampment permit. No notice of the proposed action
12 was posted at the site or published in any newspaper by the City. See Code § 17.400.050 and Table
13 17.400-2 (12 days minimum public comment period for variances and temporary uses), §
14 17.460.020(B)(2) (notice to be mailed to all property owners within 600 feet of proposed project or
15 published in paper).

16 20. The City’s notice for the City Council’s November 30, 2021, meeting described the
17 proposed action as permitting an RV encampment on “City Owned Property.” The Site is and will
18 not be owned or leased by the City or any public entity during its use by SAVS as an RV
19 encampment.

20 21. The same notice did *not* include the statement required by Cal. Government Code
21 section 65009(b)(2), which is necessary if the City wishes to defend its action based on failure to
22 exhaust. The notice also says nothing about CEQA and does not disclose any intent by the City to
23 rely on a CEQA exemption. *See Los Angeles Dept. of Water & Power v. County of Inyo*, 67
24 Cal.App.5th 1018, 1033-34 (2021) (no CEQA exhaustion required where notice of proposed action
25 fails to disclose intent to rely on exemption).

26 22. No environmental document of any kind required by CEQA was prepared by the City
27 prior to its November 30, 2021, decision to issue the RV encampment permit for the Site to SAVS.
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1 23. The City has not filed or posted any Notice of Determination of any CEQA
2 document.

3 24. Several Friends members found out by word of mouth about SAVS' proposed use of
4 the Site a day before or the day of the November 30, 2021, City Council meeting (the Tuesday night
5 following the Thanksgiving holiday). A number of Friends members appeared at the City Council
6 meeting on November 30, 2021, (held over the internet) and objected to the lack of adequate notice
7 and the adverse impacts that the proposed RV encampment would have on their homes,
8 neighborhood, businesses, and school children.

9 25. The lack of notice, lack of any Planning Department analysis of the proposed RV
10 encampment, and lack of any environmental review document, each deprived these Friends members
11 of a meaningful opportunity to comment on the proposed use of the Site and prevented the
12 development of more detailed objections that Friends members would have raised.

13 26. Given at least the minimum notice, and a minimally adequate analysis and report of
14 the proposed encampment, required by the Zoning Code, Friends members would have testified at
15 the hearing that the proposed use violates the Zoning Code and would require at least a variance and
16 more likely an amendment to the Zoning Code.

17 27. They would also have testified that the environmental impacts of human waste at the
18 Site would have to be analyzed and mitigated under CEQA since there is understood to be no active
19 sewer service at the Site, and further that at least traffic, scenic, and neighborhood character impacts
20 be identified, analyzed, and mitigated.

21 28. The Site is the former location of a gas station that has long been closed, with no
22 evidence that the underground fuel storage tanks were cleaned up, posing additional environmental
23 questions that could have been raised before the City Council had adequate notice been provided and
24 a staff analysis been available.

25 29. Counsel for Friends testified at a subsequent Council meeting in December 2021 to
26 request the Council's reconsideration of the matter and to note that the proposed use violates the
27 Zoning Code and CEQA.

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1 30. An adequate analysis and report under the Zoning Code and adequate advance notice
2 of the proposed action would likely have yielded additional environmental concerns that could have
3 been raised.

4 31. Petitioner Friends will proceed in subsequent requests to the Court, for an ex parte
5 application for stay and for an ex parte application for alternative writ, on a partial administration
6 record that Friends will submit along with those requests. Friends' partial administrative record will
7 include the notice of the City Council's November 30, 2021, hearing, the staff report to the Council
8 for this item on the notice (which report attached the MOU with SAVS in which the RV
9 encampment permit appears), and the approved minutes of the Council's November 30, 2021,
10 hearing and decision to approve the MOU and the permit. Friends is unaware of any other publicly
11 available document authored by the City prior to the decision, which bears on this decision or which
12 would be part of the administrative record of the decision.

13 32. The City-approved RV encampment permit for the Site will allow SAVS to host 22
14 campers, trailers, and other recreational vehicles, which SAVS intends will relocate from the
15 existing illegal RV encampment on Morris Street.

16 33. All of the illegal activity and other harms and threats of harm to public safety and
17 health currently occurring at the Morris Street RV encampment will be imposed on members of
18 Friends and other neighbors of the Site if this Court does not strike down the illegal RV encampment
19 permit.

20 34. The Site sits immediately adjacent to a liquor store and market, and across the street
21 from a grocery store, wine tasting establishment, a bank, restaurants, and many other businesses.

22 35. The Site is less than half a mile from Sebastopol Charter School, to which children in
23 the neighborhood walk past the Site.

24 36. SAVS expects to open the encampment at the Site to RVs by mid-February 2022 or
25 earlier.

1 45. The Sebastopol Zoning Code forbids living in recreational vehicles anywhere within
2 the City limits, see Code section 17.100.070(C)(4), but the permit allows an encampment of 22 RVs
3 at the Site. The Zoning Code forbids land uses that violate the Code. See Code §§ 17.04.080 (except
4 as otherwise allowed by the Zoning Code, no uses shall be established, substituted, expanded,
5 constructed, altered, moved, or otherwise changed ... except in conformity with the Zoning Code);
6 17.400.060 (“Zoning consistency shall be required for ... the use of vacant land or for change in the
7 character of the use of land, within any district established by this code.”).

8 46. The encampment is not in conformity with or consistent with the Zoning Code. No
9 variance from the Zoning Code was sought or granted for the encampment.

10 47. The RV encampment which the City permitted is not a homeless shelter which might
11 otherwise be permitted under the Zoning Code. The Zoning Ordinance provision defining homeless
12 shelters excludes any land use involving “separate units” from being legally classified as homeless
13 shelters. Code § 17.08.100 (defining “homeless shelter”). The Zoning Code’s specific prohibition on
14 living in RVs anywhere throughout the City, see Code § 17.100.070(C)(4), also controls over any
15 more general provision in the Code’s definition of homeless shelter. The permitted RV encampment
16 is not a homeless shelter under the Zoning Ordinance and is not a permitted use under the Site’s
17 zoning.

18 48. Nor is the RV encampment a homeless shelter under state law. See Cal. Government
19 Code § 8694.4(a) (allowing the development of “homeless shelters” without zoning compliance).
20 The California “shelter crisis” statute limits the inclusion of RV encampments in its definition of
21 “homeless shelters” to city or county owned or leased parking lots. Cal. Government Code §
22 8694.4(c)(1). The Site is not City owned or leased. It is owned by Real Party in Interest St. Vincent
23 De Paul and leased by Real Party in Interest SAVS. Since the Site is not City owned or leased, it is
24 not a homeless shelter under the California “shelter crisis” statute.

25 49. The City failed to proceed in the manner required by law.

26 50. The City’s failure was prejudicial.

27 51. The approval should be set aside.

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SECOND COUNT

(Failure to Proceed In The Manner Required By Law – Violation of Permit Procedures)

52. Petitioner incorporates by reference paragraphs 1 through 51 above.

53. The City issued the permit without SAVS having filed a permit or other land use application with the City’s Planning Department, as required by Zoning Code section 17.400.030(A).

54. The RV Camp Permit was issued by the City Council without the City Planning Department preparing and issuing an analysis and report required by Zoning Code section 17.400.030(D) as a prerequisite to the grant of a land use permit.

55. The City’s failure was prejudicial.

56. Therefore, the decision to issue the RV Camp Permit was a prejudicial abuse of discretion in that Respondent failed to proceed in the manner required by law.

THIRD COUNT

(Failure to Proceed In The Manner Required By Law – Notice Violation)

57. Petitioner incorporates by reference paragraphs 1 through 56 above.

58. The City issued the permit without written notice being provided in the manner required by the Zoning Code, sections 17.400.050 and 17.460.020 and Table 17.400-2, with the result that many residents and businesses in the neighborhood of the Site were not able to meaningfully participate in the City Council’s hearing before the decision.

59. The required advance notice before a permit that would require a variance under the Zoning Code is at least 12 days, and notice for variances is required to be sent by mail to owners of all properties within 600 feet of the Site. Even a temporary use of a year under the Zoning Code requires 12 days-notice to adjacent property owners. See Code § 17.400.050 and Table 17.400-2, *id.* at § 17.460.020(B)(2).

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DATED: January 21, 2022

BRISCOE IVESTER & BAZEL LLP

By: /s/ Tony Francois
Tony Francois
Attorneys for Petitioner FRIENDS OF
NORTHWEST SEBASTOPOL

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VERIFICATION

I am the president of the petitioner Friends of Northwest Sebastopol in this proceeding. The facts alleged in the above petition are true and correct of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: January 21, 2022

By: 
Zachary Imbrogho
President, Friends of Northwest Sebastopol