



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and Development
Department No.: 053
For Agenda Of: May 24, 2022
Placement: Departmental
Estimated Time: 1 hr. on May 24, 2022
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director(s) (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Development Review Division
(805) 568-2518
SUBJECT: Stassinos, Concerned Carpinterians, and Save Arroyo Paredon Appeal, Case No. 22APL-00000-00006, of the Planning Commission Approval of the 3508 Via Real Cannabis Cultivation Project, Case Nos. 19DVP-00000-00020, 22CUP-00000-00005, and 19CDP-00000-00027, First Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Staff recommends that your Board take the following actions to deny the appeal and uphold the County Planning Commission's (Commission) approval of the Project:

- a) Deny the appeal, Case No. 22APL-00000-00006;
- b) Make the required findings for approval of the Project, Case Nos. 19DVP-00000-00020, 22CUP-00000-00005, and 19CDP-00000-00027, as specified in Attachment 1, including CEQA findings;
- c) Determine that the previously certified Program EIR (17EIR-00000-00003) constitutes adequate environmental review and no subsequent Environmental Impact Report or Negative Declaration is required pursuant to CEQA Guidelines Sections 15162 and 15168 (c)(2) (Attachments 3 and 4); and

- d) Grant *de novo* approval of the Project, Case Nos. 19DVP-00000-00020, 22CUP-00000-00005, and 19CDP-00000-00027, subject to the conditions of approval (Attachment 2).

Summary Text:

On March 6, 2019, the Applicant, Ivan Van Wingerden, submitted an application for a cannabis operation consisting of 4.15 acres of nursery and mixed-light cannabis cultivation. Cannabis is currently being cultivated onsite based on an affidavit of legal nonconforming use. The northern portion of the property abuts the Arroyo Paredon top-of-bank and Environmentally Sensitive Habitat (ESH) buffer. All as-built development within the ESH buffer will be demolished as part of the Proposed Project. New native riparian landscaping will be planted to restore the ESH buffer areas onsite.

On March 2, 2022, the Commission granted approval of the Proposed Project. On March 14, 2022, Jill Stassinis, on her own behalf and on behalf of Concerned Carpenterians and Save Arroyo Paredon, filed a timely appeal of the Commission's approval. The Proposed Project meets all Article II Coastal Zoning Ordinance requirements as they relate to cannabis activities.

A. Proposed Project

The Proposed Project includes a request for a Development Plan for proposed structural changes to onsite development, a Minor Conditional Use Permit for a proposed packing and shipping facility, and a Coastal Development Permit for all structural development on-site as well as for the proposed cannabis cultivation use. Since the Commission's approval, the Applicant has proposed minor modifications to their Project description. The Proposed Project now includes a new 105,669-gallon buffer water tank outside of required setbacks instead of the previously proposed 57,530-gallon buffer water tank within the southern property line setback. The buffer water tank will run in connection with the boiler to provide hot water to maintain the climate in the greenhouses. Additionally, three as-built 5,283-gallon wastewater tanks will be removed from the site. The modified Project description is provided below (deleted text shown in strikethrough font and new text shown in underlined font). The project descriptions for each entitlement are included in the Conditions of Approval (Attachment 1).

The Proposed Project includes a request to allow 4.15 acres of cannabis cultivation, consisting of 3.96 acres (172,660 sq. ft.) of mixed-light mature cannabis planting, growing, and harvesting in two existing 3.96-acre permitted greenhouses and 0.19 acres (8,276 sq. ft.) of processing within 0.28 acres of processing, packing, and shipping buildings consisting of permitted and as-built development located between the two greenhouses. Processing will consist of drying, trimming, storage, and packaging. Other activities occurring in the central building will be cannabis and equipment storage, employee breakroom, bathrooms and administrative offices. Cannabis will be taken offsite by a licensed third-party distributor.

There will be up to 50 full-time, year-round line or contract employees, Monday through Saturday. Planting and harvesting will take place continually throughout the year. Hours of operation will be from 6:30 a.m. to 3:30 p.m. Monday through Friday, and 6:30 a.m. to 11:00 a.m. on Saturday. There will continue to be 39 parking spaces located onsite. The premises will be fenced by 8-ft.-tall fencing consisting of 7-ft.-tall chain link fence with privacy slats topped with one foot of outward leaning strands of barbed wire. Existing chain link fencing located within the environmentally sensitive habitat (ESH) buffer area will be replaced with barbed wire wildlife-friendly fencing where the ESH buffer area is being restored.

Exterior lighting will be downward facing, fully shielded, and mounted at a maximum height of 8 ft. The greenhouses have a mechanized blackout screen system within the growing area to prevent interior night lighting (between sunset and sunrise) from being visible outside of the structure.

The cannabis operation will be equipped with the leading active odor control technology(s) currently available to prevent cannabis nuisance odors from drifting offsite and impacting protected receptors (i.e. residential zoning). These odor control systems are described in detail within the Proposed Project's certified Odor Abatement Plan. Changes to the Odor Abatement Plan will be processed in coordination with the County and may require changes to this permit or a new permit. The Applicant has agreed to observe a set of Community Odor Guidelines that were developed through collaboration between the Cannabis Association for Responsible Producers (CARP Growers) and The Coalition for Responsible Cannabis (Coalition). These Guidelines are not part of the Project Description and not enforceable by the County, but reflect a collaborative effort to ensure that cannabis cultivation can be a sustainable element of Carpinteria's unique community, and are a foundation of the Coalition's decision to support this Project.

The Proposed Project includes a request to increase the height of one permitted 87,120-sq.-ft. (2-acre) greenhouse from 15-ft.-1-in. to 22-ft. and one permitted 85,378-sq.-ft. (1.96-acre) greenhouse from 17-ft.-5-in. to 22-ft., install one new ~~105,669-gallon~~ ~~57,530-gallon~~ buffer water tank for use with the boiler, install one new 25,360-gallon water tank, legalize existing as-built development, demolish portions of existing development.

The following development will be legalized:

- One 1,585-sq.-ft. as-built addition used for walkways and hallways connected to the processing building
- 2,784 sq. ft. of as-built employee support services areas consisting of a 362-sq.-ft. bathroom, a 778-sq.-ft. break room on the ground level and a 1,644-sq.-ft. office on the mezzanine level of the processing building
- One 58-sq.-ft. as-built equipment storage shed
- One 2,362-sq.-ft. as-built irrigation room proposed to also be used as a boiler room
- One 1,089-sq.-ft. as-built processing building
- One 2,421-sq.-ft. as-built cannabis storage structure
- One 25,360-gallon water tank
- Three 36,984-gallon water tanks
- ~~Three 5,283-gallon wastewater tanks~~

The following development will be demolished:

- One 105,669-gallon as-built water tank
- One 3,663-sq.-ft. as-built boiler and processing room
- 35,750 sq. ft. of as-built greenhouse
- 3,240 sq. ft. of permitted greenhouse
- 326 sq. ft. of as-built storage containers
- Three 5,283-gallon wastewater tanks

The Proposed Project includes a request for a setback modification to reduce the 100-ft. setback from the Arroyo Paredon top-of-bank and the 20-ft. setback from the southern property line required by the Carpinteria Agricultural Overlay in order to allow the following development:

- Portions of two existing and permitted nonconforming greenhouses within the 100-ft setback to be increased in height to 22-ft.-tall
- One as-built 25,360-gallon water tank located 16 ft. from the southern property line
- Three as-built 36,984-gallon water tanks located 13 ft. from the southern property line
- One new 25,360-gallon water tank located 16 ft. from the southern property line
- ~~One new 57,530-gallon buffer water tank located 18 ft. from the southern property line (proposed to be used in conjunction with the boiler as part of a closed water system)~~

The septic system will be upgraded and a new 715 sq. ft. underground detention system will be constructed for storm water purposes. These activities will require approximately 120 cubic yards of grading. No native trees or vegetation will be removed. New landscaping will be planted to further screen the property and enhance native riparian vegetation in the ESH buffer.

The Proposed Project also includes a request to allow a 12,379 sq. ft. packing and shipping facility located between the two existing permitted greenhouses. The facility consists of two permitted structures totaling 4,500 sq. ft. in size as well as 7,879 sq. ft. of as-built additions that will be legalized with approval of the Development Plan. Uses within the packing and shipping facility will include packing, shipping, processing, packaging, storage, office, restrooms, and employee break areas.

Access to the site will continue to be provided from Via Real via an existing 28-ft.-wide paved driveway across neighboring parcels to the southwest. Wastewater treatment will be provided by an upgraded septic system located in the southern portion of the parcel. Restrooms are located in the processing/central building. Water will continue to be provided by an existing Carpinteria Valley Water District connection. Fire protection will be provided by the Carpinteria/Summerland Fire District, and law enforcement will be provided by the County Sheriff's Office. The property is an 8.96-acre parcel zoned Agricultural I (AG-I-10), shown as Assessor's Parcel Number 005-280-025, located at 3508 Via Real in the Toro Canyon Community Plan in the Carpinteria area, First Supervisorial District.

B. Background:

On March 6, 2019, the Applicant submitted an application to Planning and Development (P&D) to authorize the crop conversion from a cut flower operation to a cannabis operation, as well as to allow changes to onsite structural development.

The subject parcel is currently developed with 211,650 sq. ft. (4.85 acres) of permitted and as-built greenhouses and processing, packing, and shipping buildings. The permitted greenhouses and processing, packing, and shipping buildings were approved in 1973 and 1980. Portions of the permitted and as-built greenhouses and processing, packing, and shipping buildings in the northern portion of the parcel are located within the ESH buffer associated with Arroyo Paredon Creek. All as-built development located in the ESH buffer will be demolished and all development that will remain in the ESH buffer was previously permitted prior to adoption of the Coastal Act and establishment of the ESH buffer. New native and riparian restoration landscaping will be planted to further screen the property and enhance the ESH buffer areas that will be impacted by activities associated with demolishing as-built development and increasing the height of the permitted greenhouses. With the proposed demolition of portions of the greenhouses and

processing, packing, and shipping buildings, the Proposed Project will include a total of 4.15 acres of cultivation activities. The Project includes as-built development outside of the ESH buffer that will be legalized.

The Carpinteria Agricultural Overlay, in which the Proposed Project is located, was adopted in 2004 under Ordinance Amendment 4529 to the Article II Coastal Zoning Ordinance (Article II), and requires 20-ft. setbacks for interior lots and a 100-ft. setback from Arroyo Paredon top-of-bank. The Proposed Project includes a request for a setback modification for a reduction of the 20-ft. setback and 100-ft. setback. Section 35-174.8 of Article II states that at the time a Development Plan is approved, the decision-maker may modify the setback requirements when the decision-maker finds the project justifies such modifications. The Applicant requests setback modifications to reduce the 20-ft. setback from the southern property line solely to accommodate existing and proposed water tanks and to reduce the 100-ft. setback from the Arroyo Paredon top-of-bank to accommodate the proposed height increase of the permitted nonconforming greenhouse, as detailed in the Project Description above. The greenhouse structures are permitted and legal nonconforming to the current Article II and Carpinteria Agricultural Overlay requirements for setbacks. Pursuant to Article II, a legal nonconforming structure shall not be enlarged or expanded. Therefore, the modification will allow for the proposed structural changes and will change the nonconforming status of the structure to conforming.

The as-built and new development in the setback area of the parcel containing cannabis activities is in conformance with and in support of the onsite agricultural operation. The subject parcel is largely built out with the permitted greenhouse and greenhouse-related development, and as a result, there are limited areas outside of the ESH buffer and 100-ft. setback from the top-of-bank to allow additional development needed for the cannabis operation. Further, moving the as-built structures would be disruptive to the operation and onsite infrastructure. With approval of the requested modification, the Proposed Project will comply with the standards of the Carpinteria Overlay District.

The appeal issues and staff's responses are discussed in further detail under Section C of this Board Agenda Letter.

C. Appeal Issues and Staff Responses

The Appeal application (Attachment 5) contains a letter outlining the five appeal issues. Staff reviewed the appeal issues and found they are without merit. Each appeal issue and staff's responses are discussed in detail below.

Appeal Issue No. 1: Request for Top-of-Bank Setback Modification Will Adversely Affect Arroyo Paredon Habitat

The Appellant alleges that the Proposed Project will adversely affect wildlife and plant species that use Arroyo Paredon Creek as their habitat. The Appellant further alleges that the rare species that use Arroyo Paredon habitat have a higher probability of being adversely affected by the requested setback modification, and the setbacks were established to protect the riparian habitat. The Appellant asserts that the request for setback modifications will allow 41,000 sq. ft. of greenhouses to be permitted in the 100-ft. environmentally sensitive habitat (ESH) setback, and that removal of this 41,000 sq. ft. of greenhouses is a potential remedy for the concern for impacts to habitat and species.

Staff Response:

The Proposed Project is consistent with all policies within the Comprehensive Plan, including the Coastal Land Use Plan and Toro Canyon Community Plan, and all Article II requirements that require that biological resources and ESH be avoided, protected, and enhanced. The northern property line of the subject parcel coincides with Arroyo Paredon Creek, a coastal stream that is designated as ESH. A Biological Resources Assessment (BRA) was conducted by Storrer Environmental Services, LLC on November 23, 2021, (Attachment 9) and peer-reviewed by the County. The BRA delineates the extent of the ESH associated with Arroyo Paredon Creek and determines the extent of the 100-ft. ESH buffer and 100-ft. setback from the top-of-bank. The California Department of Fish and Wildlife (CDFW), United States Fish and Wildlife Service (USFWS), and Regional Water Quality Control Board (RWQCB) reviewed the BRA and agreed with the location of the designated 100-ft. ESH buffer and 100-ft. top-of-bank setback, which both extend into portions of the as-built and permitted greenhouses and processing area.

The 100-ft. ESH buffer is a requirement of the Toro Canyon Community Plan, certified in 2004, and it includes the area within 100 feet of ESH. The 100-ft. top-of-bank setback is a requirement of the Carpinteria Agricultural Overlay District, also established in 2004, and it includes the area within 100 feet of the Arroyo Paredon top-of-bank. As demonstrated by the site plan (Attachment 6), the ESH boundary and top-of-bank follow a similar but not identical location.

As approved by the Commission, and as currently proposed, the Proposed Project will demolish all as-built development within both the 100-ft. ESH buffer and 100-ft. top-of-bank setback, including 35,750 sq. ft. of greenhouse and processing, packing, and shipping building development. The only portions of development to remain within the 100-ft. ESH buffer and 100-ft. top-of-bank setback consist of 40,400 sq. ft. of permitted development within the 100-ft. ESH buffer and 28,500 sq. ft. of permitted development within the 100-ft. top-of-bank setback, which were permitted in 1973 and 1980 and pre-date the establishment of ESH with the certification of the County's Local Coastal Program and the Carpinteria Agricultural Overlay District's setbacks, making them legal nonconforming structures.

The Proposed Project includes a Native Habitat Enhancement Planting Plan (Attachment 6), which explained that 54,053 sq. ft. of native riparian vegetation that will be planted along the northern portion of the parcel within the ESH buffer area and 100-ft. top-of-bank setback. The BRA analyzed the Proposed Project and concluded that no native trees, vegetation, or habitat will be removed. The BRA analyzed the existing and proposed development in the ESH buffer and 100-ft. top-of-bank setback, which consists of demolishing existing as-built greenhouses and other structures, increasing the height of the permitted greenhouses to 22 ft., resurfacing an access road, installing new chain link security fencing, and replacing existing chain link security fencing with wildlife-friendly barbed wire fencing. The request for a modification to the 100-ft. top-of-bank setback is necessary to allow the height of the permitted greenhouses to be increased to 22-ft. for improved circulation and ventilation. As noted, the greenhouse is permitted and legal nonconforming as to setbacks. The modification will allow for the proposed structural changes and will change the nonconforming status of the structure to conforming. The access road and security fencing will be re-located further from ESH and will be adjacent to the greenhouses consistent with the layout of the permitted greenhouses. The BRA recommends the wildlife-friendly barbed wire fencing in order to exclude human activities from ESH while allowing wildlife to access the restored area.

The BRA concluded that with implementation of the proposed Habitat Protection Plan (HPP), Tree Protection Plan (TPP), and Wildlife Movement Plan (WMP) (Attachment 9), impacts of the Proposed

Project on biological resources will be less than significant. Avoidance and minimization measures described in the HPP, TPP, and WMP include worker environmental awareness training, pre-construction surveys, tree protection fencing, erosion and sediment control measures, and other measures as outlined in Attachment 9. As required per Condition Nos. 25, 26, and 27 (Attachment 2-B), the proposed HPP, TPP, and WMP will be subject to enforcement by Permit Compliance staff.

Additionally, as required by the Conditions of Approval (Attachment 2-A, Condition No. 9, and Attachment 2-B, Condition No. 10), during construction activities the Applicant is required to properly store construction equipment away from ESH areas and provide a designated equipment parking/storage area. A designated equipment washout area for materials such as paint and concrete will be used in order to avoid pollution of Arroyo Paredon (Attachment 2-A, Condition No. 10, and Attachment 2-B, Condition No. 11). With implementation of these conditions, the Proposed Project will not have any impacts on ESH. Exterior lighting will be low intensity, fully shielded, and directed downward on motion sensors (Attachment 6). Pursuant to Condition No. 8 of Attachment 2-B, outdoor lighting will be required to be downward facing in order to limit potential lighting spillover on adjacent properties. Furthermore, the Conditions of Approval (Attachment 2-B, Condition No. 28) require comprehensive blackout shades on the greenhouses to avoid light visibility outside of the structures during nighttime.

Appeal Issue No. 2: Odor May Adversely Affect Fish and Birds in the Arroyo Paredon Watershed

The Appellant states that cannabis odors produced by the Proposed Project may have adverse effects on endangered steelhead trout and other fish and birds. The Appellant alleges that odors have been found to interfere with the salmon's olfactory sense, thus creating an adverse effect on steelhead trout's ability to return to its spawning grounds. The Appellant claims that potential remedies for this concern are to completely enclose the greenhouses, install air quality monitors that can be viewed publicly in real-time, require collaboration with a local environmental non-profit to develop an air quality plan that protects the Arroyo Paredon watershed, and require a more robust study of air quality impacts to the Arroyo Paredon watershed.

Staff Response:

The proposed Odor Abatement Plan (Attachment 7) meets all odor control requirements of Article II. As discussed under Appeal Issue No. 1, the BRA analyzed the Proposed Project and concluded that with implementation of the Habitat Protection Plan, Wildlife Movement Plan, and Tree Protection Plan, impacts of the Proposed Project on Arroyo Paredon and sensitive wildlife will be less than significant. Additionally, the BRA states that due to the intermittent nature of Arroyo Paredon and lack of pools, the likelihood of sensitive fish species such as the tidewater goby and Southern California steelhead near the Project site is low. The BRA was peer reviewed by P&D and was determined to be sufficient. Additionally, P&D coordinated review of the Proposed Project with CDFW and USFWS, which are state and federal agencies that manage and protect habitat and wildlife, including steelhead trout. Neither agency had outstanding comments on the Proposed Project.

Article II does not require greenhouses to be enclosed and the Applicant has indicated that enclosing the greenhouses is infeasible for operational reasons related to energy efficiency and airflow. As part of the Odor Abatement Plan, weather monitors located onsite will monitor wind, temperature, and other parameters that may influence odor. Article II does not require air quality monitoring stations to be viewable by the public. As part of the OAP, the Applicant will provide contact information for the primary odor contact to the owners and occupants within 1,000 ft. of the property.

Air quality monitors typically monitor particulate matter (such as PM2.5), volatile organic compounds (VOCs), ozone, nitrogen oxides (NOx), sulfur oxides (SOx), and/or carbon monoxide. The Proposed Project will not emit these gases, and air quality monitors are not required. The proposed emergency back-up generator will be gas-powered and will not use diesel. The odor control systems will not contain or emit toxic air contaminants (TACs). The Regenerative Carbon Scrubbing System (RCSS) in the greenhouses and the carbon filters in the processing areas will filter out odiferous particles and will not emit any toxic or hazardous air pollutants or contaminants. The back-up vapor-phase system in the greenhouses will emit either Ecosorb CNB 100 or CNB 107, both of which have been reviewed by P&D and the Air Pollution Control District (APCD). APCD has determined that neither solution contains TACs.

Finally, new air quality analysis is not required by Article II and Project activities were fully analyzed under the Cannabis Program Environmental Impact Report (PEIR), which concluded that unavoidable and significant (Class I) impacts would result from the Cannabis Program with regard to air quality and malodors. The PEIR anticipated potential impacts and anticipated that the implementation of the Cannabis Program would expand cannabis operations throughout the County and create the potential for nuisance odor impacts. The PEIR acknowledged that odors may not be controlled in all instances and concluded that unavoidable and significant (Class I) impacts would result from the Cannabis Program with regard to air quality and malodors. The Board adopted a Statement of Overriding Considerations for Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR expired without legal challenge. Staff prepared a written checklist dated January 10, 2022, updated on May 11, 2022 and determined that no additional environmental review is needed. Air quality and odor impacts from the Cannabis Program were analyzed in the PEIR, and impacts from the Proposed Project will be less than significant with implementation of mitigation. The Proposed Project incorporates all required mitigation measures, including an Odor Abatement Plan.

Appeal Issue No. 3: Strong Odors Negatively Impact Air Quality for Residents and Create a Public Nuisance

The Appellant claims that the Proposed Project creates a public nuisance by generating strong odors that negatively impact the air quality for residents of Carpinteria and the Carpinteria Valley. The Appellant alleges that cannabis and processing operations need to be managed to reduce odor impacts and avoid a violation of APCD Rule 303 (Nuisance). The Appellant further alleges that the inability to identify the source of odor affecting residential areas and being outside the 1,000-ft. notification area causes increased odor concerns for projects located in ESH. The Appellant cites pages 4 and 5 of the APCD's condition letter for the Proposed Project (Attachments 2-A, 2-B, and 2-C), which state that a Health Risk Assessment may be required if a project has the potential to emit toxic or hazardous air pollutants or if odor control systems use chemicals that contain toxic air contaminants. The Appellant states that a potential remedy for this concern is for the County to perform a Health Risk Assessment and expand public notification to affected neighboring residents who live outside of the 1,000-ft. notification area, including the Existing Developed Rural Neighborhoods (EDRN) of La Mirada and Ocean Oaks.

Staff Response:

The proposed Odor Abatement Plan (Attachment 7) meets all odor control standards of Article II, which require that odor from the Proposed Project not be experienced in residential zones. The Odor Abatement Plan is certified by a Certified Industrial Hygienist and includes use of RCSS within the greenhouses. As part of the Odor Abatement Plan, the Applicant will provide contact information for the primary odor contact to the owners and occupants within 1,000 ft. of the property, consistent with Article II requirements. The odor abatement system is subject to monitoring and enforcement by Permit Compliance

staff for the life of the Project in accordance with the Conditions of Approval (Attachment 2-B, Condition No. 22). Non-compliance with the Odor Abatement Plan or conditions of approval will result in revocation of the Coastal Development Permit, consistent with standard enforcement procedures.

As discussed under Appeal Issue No. 2, the Cannabis Program Environmental Impact Report (PEIR) anticipated potential impacts and anticipated that the implementation of the Cannabis Program would expand cannabis operations throughout the County and create the potential for nuisance odor impacts. The PEIR acknowledged that odors may not be controlled in all instances and concluded that unavoidable and significant (Class I) impacts would result from the Cannabis Program with regard to air quality and malodors. The Board adopted a Statement of Overriding Considerations for Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR expired without legal challenge. Staff prepared a written checklist dated January 10, 2022, and determined that no additional environmental review is needed. Impacts from the Proposed Project will be less than significant with implementation of mitigation measures, including an Odor Abatement Plan.

Per Advisory No. 2 of the Air Pollution Control District (APCD) condition letter, included in the Conditions of Approval (Attachments 2-A, 2-B, and 2-C), a Health Risk Assessment may be required if the Proposed Project uses a diesel generator, odor control system uses chemicals that contain TACs, or the Proposed Project is located in close proximity to sensitive receptors. The proposed emergency back-up generator will be gas-powered and will not use diesel. The RCSS in the greenhouses and the carbon filters in the processing areas will not emit any toxic or hazardous air pollutants or contaminants. The vapor-phase system in the greenhouses will emit either Ecosorb CNB 100 or CNB 107, both of which have been reviewed by P&D and APCD. APCD has determined that neither solution contains TACs. Lastly, the adjacent surrounding parcels, which do not contain sensitive receptors, are also zoned AG-I-10 and are developed with irrigated crops and greenhouses.

APCD determines whether a Health Risk Assessment is required for projects when reviewing applications for APCD permits. Prior to issuance of the Coastal Development Permit, the Applicant will be required to reach out to the APCD Engineering Division to discuss applicable permitting requirements. Additionally, if the Applicant revises the Proposed Project to include a diesel generator or an odor control system that contains TACs, a new permit will be required from P&D and APCD.

Finally, consistent with Article II noticing requirements for cannabis cultivation operations, mailed notices for the Proposed Project were sent to all owners and occupants within 1,000 ft. of the subject property. The La Mirada and Ocean Oaks EDRNs are approximately 1,200 ft. and 2,500 ft. from the subject property, respectively, and therefore were not included in the mailed noticing. However, courtesy notices were sent to all parties who indicated to P&D that they were interested in receiving mailed notices for the Proposed Project.

Appeal Issue No. 4: Lack of Enforcement of Regulations

The Appellant alleges a lack of enforcement of regulations. Specifically, the Appellant alleges a lack of enforcement related to posting noticing placards at development sites, and the Appellant included a picture of a posted notice for a different project, showing that the project information had faded. The Appellant also alleges that permitting as-built development and rewarding operators for not following the permitting process sets a bad precedent and might encourage others to disregard ESH buffers. The Appellant further alleges that due to the inability to identify the source of odors, the lack of odor complaint notification for residential areas outside of the 1,000 ft. notification area is disturbing. The Appellant alleges that a

potential remedy for this concern is to monitor compliance with public notification signs, demolish the 40,400 sq. ft. of greenhouses within the 100-ft. ESH buffer, and install cloud-based air quality monitors that are accessible and can be viewed by the public in real-time.

Staff Response:

The Proposed Project, as conditioned, meets all requirements of Article II and all required noticing for the project was completed. Upon approval of the Proposed Project, the conditions of approval will be enforced in accordance with Article II requirements. Consistent with requirements for posted notices in Section 35-181 of Article II, a noticing placard was posted at the 3508 Via Real site ten days prior to the Planning Commission hearing and for ten days after the Planning Commission hearing. The noticing placard has remained onsite since September 2020, when the Proposed Project application was deemed complete, and will be required to be posted for the Proposed Project for the ten days both preceding and following the May 24, 2022, Board of Supervisors hearing. The picture included in the appeal application shows a noticing placard that is not posted at the Proposed Project site and is not for the Proposed Project. Enforcement of noticing requirements for other projects is not within the scope of review for the Proposed Project.

With approval of the Development Plan, Minor Conditional Use Permit, Coastal Development Permit, and the requested setback modifications, the Proposed Project will be in full compliance with all laws, rules, and regulations pertaining to zoning uses, setbacks, and all other applicable provisions of Article II for cannabis cultivation. Consistent with standard enforcement procedure, any zoning or building violations associated with the Proposed Project will be abated with the approval of a land use entitlement and associated building permits. As discussed under Appeal Issue No. 1, the Proposed Project will demolish all as-built development within both the 100-ft. ESH buffer and 100-ft. top-of-bank, including 35,750 sq. ft. of greenhouse and processing, packing, and shipping building development. The 40,400 sq. ft. of development to remain within the 100-ft. ESH buffer, and overlapping 28,500 sq. ft. of development to remain within the 100-ft. top-of-bank setback, were permitted in 1973 and 1980 and pre-date the establishment of ESH with the certification of the County's Local Coastal Program and the Carpinteria Agricultural Overlay District's setbacks. Permit Compliance staff will monitor compliance with the Proposed Project plans, conditions of approval, and Article II throughout the life of the Proposed Project.

As discussed under Appeal Issues No. 2 and No. 3, the proposed Odor Abatement Plan (Attachment 7) meets all odor control standards of Article II, which require that odor from the Proposed Project not be experienced in residential zones. The Applicant will provide contact information for the primary odor contact to the owners and occupants within 1,000 ft. of the property, consistent with Article II requirements. The odor abatement system is subject to monitoring and enforcement by Permit Compliance staff for the life of the Project in accordance with the Conditions of Approval (Attachment 2-B, Condition No. 22). Non-compliance with the Odor Abatement Plan or conditions of approval could result in revocation of the Coastal Development Permit, consistent with standard enforcement procedures. Additionally, County staff will track and respond to all odor complaints.

P&D enforcement staff has the authority to enforce odor control requirements of Article II on all projects that appear to be the source of malodors. In addition, the Department is in the process of developing a method to improve the ability to identify the source of malodors.

Finally, air quality monitors are not required by Article II. As discussed under Appeal Issues No. 2 and No. 3, the Proposed Project does not have the potential to emit toxic or hazardous air pollutants nor do the

proposed odor control systems use chemicals that contain TACs. APCD reviewed the Proposed Project and provided a condition letter included with the Conditions of Approval (Attachments 2-A, 2-B, and 2-C).

Appeal Issue No. 5:

The Appellant asserts that the increase of 68 average daily trips will create additional traffic, road maintenance, and safety concerns on Via Real. The Appellant states that a potential remedy for this concern is to add another commuter van to reduce the number of employees coming from Ventura County to work at the Proposed Project site.

Staff Response:

The Proposed Project is consistent with Article II standards for traffic as demonstrated by the proposed Site Transportation Demand Management Plan (Attachment 6). Per the Traffic Study prepared by Associated Transportation Engineers, dated November 30, 2021, and included as Attachment 10, the Proposed Project will generate 90 average daily trips (ADT), including four a.m. peak hour trips, and four p.m. peak hour trips. The previous cut flower operation that existed onsite generated 30 ADT with two a.m. peak hour trips and two p.m. peak hour trips. Therefore, the Proposed Project will result in an increase of 60 ADT and an increase of two a.m. and p.m. peak hour trips compared to the previous cut flower operation. Consistent with Article II, a Site Transportation Demand Management Plan (STDMP) (Attachment 6) has been prepared for the Proposed Project to mitigate the potential for traffic impacts. According to the STDMP, employees will be provided with financial incentives like gift cards to carpool or take vanpools to the site, and employees will commute during non-peak hours, as shifts will take place from 6:30 a.m. to 3:30 p.m. Monday through Friday, and 6:30 a.m. to 11 a.m. on Saturday. Vanpools will pick up employees from their residences, and employees will also carpool. Permit Compliance staff will monitor compliance with the STDMP in accordance with Condition No. 23 (Attachment 2-B).

According to the Traffic Study, the Proposed Project will not degrade the level of service near the site as they will continue to operate at LOS B or better after commencement of the Proposed Project. The Roads Division, Fire District, and Caltrans reviewed the Proposed Project and did not have comments regarding additional traffic, road maintenance, or safety concerns.

D. Conclusion:

For the reasons discussed above, staff finds that the appeal issues raised are without merit. Planning and Development staff recommends that the Board deny the appeal and approve the Project *de novo* based on the findings provided as Attachment 1.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$19,000 (75 hours of staff time). There is no appeal fee collected for developments subject to the appeals jurisdiction to the Coastal Commission under Section 35-182.6. The costs for processing cannabis project appeals that are appealable to the Coastal Commission are completely offset by cannabis tax revenues. Funding for this project is budgeted in the Planning and Development Department's Permitting Budget Program on page D-301 of the County of Santa Barbara Fiscal Year (FY) 2021-22 adopted budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on May 24, 2022. The notice shall appear in the Santa Barbara News Press. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward a minute order of the hearing to the attention of Gwen Beyeler and return one printed copy of the Cannabis Program PEIR to the Planning and Development Department Hearing Support.

Attachments:

1. Findings
2. Conditions of Approval with Departmental Condition Letters
3. CEQA Checklist dated May 11, 2022
4. Link to Program EIR
5. Appeal Letter dated March 14, 2022
6. Project Plans dated April 13, 2022
7. Odor Abatement Plan dated January 20, 2022
8. Planning Commission Staff Report dated February 22, 2022 and associated Attachments
9. Biological Resources Assessment, Wildlife Movement Plan, Tree Protection Plan, and Habitat Protection Plan dated November 23, 2021
10. Traffic Study dated November 30, 2021
11. South Board of Architectural Review (SBAR) Minutes
12. Central Coast Regional Water Quality Control Board Notice of Applicability, dated August 31, 2018
13. County Counsel Facilitation Report

Authored by:

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Development Review Division, Planning and Development Department