



COUNTY OF SANTA BARBARA PLANNING AND DEVELOPMENT

MEMORANDUM

TO: County Planning Commission

FROM: Travis Seawards, Deputy Director, Development Review Division

STAFF CONTACT: Alia Vosburg, Planner, (805) 934-6259

DATE: August 4, 2022

HEARING DATE: August 10, 2022

RE: Appellant No. 2 Request for Continuance – Appeals of the Nojoqui Farms Cannabis Cultivation Project, Case Nos. 21APL-00000-00043, 21APL-00000-00044, and 19LUP-00000-00530

The Appeals of the Nojoqui Farms Cannabis Cultivation Project, Case Nos. 21APL-00000-00043, 21APL-00000-00044, and 19LUP-00000-00530, are scheduled for the August 10, 2022 Planning Commission Hearing (Standard Agenda Item 1). Appellant No. 2, Sierra Botanicals, LLC, is requesting a continuance of the item pending resolution of the civil litigation between the Applicant and Appellant No. 2. A copy of Appellant No. 2's request, provided via email dated August 1, 2022, is included as Attachment 1 to this Staff Memorandum. The Applicant is opposed to the requested continuance and the Applicant's statement of opposition, provided via email dated August 2, 2022, is included as Attachment 2 to this Staff Memorandum.

Staff reviewed Appellant No. 2's request and finds the continuance unwarranted. The pending litigation between the two parties is a civil issue and has no bearing on the Land Use Permit process. In addition, Appellant No. 2 did not provide any additional information that contradicts the findings for approval or environmental review of the Project specified in Attachments A, C, and D of the Staff Report dated August 2, 2022.

As such, Staff recommends the Planning Commission take the action provided in the Staff Report dated August 2, 2022, repeated as follows:

1. Deny the appeals, Case Nos. 21APL-00000-00043 and 21APL-00000-00044.
2. Make the required findings for approval of the Project as specified in Attachment A of the Staff Report, including California Environmental Quality Act (CEQA) findings.

3. Determine that the previously certified Programmatic Environmental Impact Report (PEIR) (17EIR-00000-00003) is adequate and no subsequent environmental review is required pursuant to CEQA Guidelines §15162 and 15168(c) (Staff Report Attachments C and D).
4. Grant *de novo* approval of the Project, Case No. 19LUP-00000-00530, subject to the conditions included in Attachment B of the Staff Report.

ATTACHMENTS

- A. Email of Appellant No. 2's Continuance Request, dated August 1, 2022
- B. Email of Applicant's Opposition to Continuance, dated August 2, 2022

Cc: Case File (to Planner)
Hearing Support

ATTACHMENT A

From: justin El-Diwany <jeldiwany@gmail.com>
Sent: Monday, August 1, 2022 10:47 AM
To: Benjamin Benumof; Vosburg, Alia; Villalobos, David
Subject: Re: August 10th hearing

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Hi good morning Alia,

Can we request a continuance? The court hearing hasn't settled yet and we need time to sort out access rights. As of now the applicant is claiming they have no access to the main water well. This really needs to be settled before a planning commission hearing.

Thanks,
Justin

On Aug 1, 2022, at 10:40 AM, justin El-Diwany <jeldiwany@gmail.com> wrote:

Begin forwarded message:

From: "Villalobos, David" <dvillalo@countyofsb.org>
Date: August 1, 2022 at 9:43:37 AM PDT
To: justin El-Diwany <jeldiwany@gmail.com>, Benjamin Benumof <ben@geo-law.com>
Cc: "Vosburg, Alia" <avosburg@countyofsb.org>
Subject: RE: August 10th hearing

Good Morning Mr. El-Diwany,

In situations in which there are multiple appellants, you don't have to worry about coordinating with any of the others. You will be given the opportunity to give your own presentation. I would that you should plan on it being 10-15 minutes (on the high end). If you will presenting something more formal like a power point, please send that to me no later than 3:00 p.m. the day before the hearing. If you have any supplemental information that you would like the PC to consider, please note the following: a) I will be sending out their initial hearing packets for 8/10 tomorrow after noon. If you want supplemental information to be part of that initial transmittal, you'd have to get that to me by tomorrow morning; b) the final deadline for material submittal (that is longer

than a page in length) would be next Monday at noon. Anything submitted after that would need to be voted into the record by a 4/5 vote.

As for the continuance, you should coordinate with the project planner (I have copied her here) on that. As there are multiple appellants, it would be a larger task to coordinate schedules.

<image001.jpg>

David Villalobos, MPA
Hearing Support Supervisor
Planning & Development
County of Santa Barbara
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2058
<https://www.countyofsb.org/plndev/home.sbc>

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

From: justin El-Diwany <jeldiwany@gmail.com>
Sent: Monday, August 1, 2022 8:36 AM
To: Villalobos, David <dvillalo@countyofsb.org>; Benjamin Benumof <ben@geo-law.com>
Subject: August 10th hearing

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Good morning David,

What info do you need from sierra and Isabella for the appeal? Also is there a way we can reschedule the hearing. We have a court case pending on this exact issue and want clarity before the county enforces any undue harm on our property. I think it's only right that the sb county court help provide some clarity on the issues at hand before the planning commission can make a ruling.

Also how does the appeal work if there is a second party appealing? Do we need to combine our presentations? Is our time split in half or do we each get the full amount of time allotted?

Thanks in advance,
Justin

ATTACHMENT B

From: Laurel Fisher Perez <laurel@sepps.com>
Sent: Tuesday, August 2, 2022 2:24 PM
To: Vosburg, Alia; Haley Kolosieke
Cc: Dargel, Joseph; Steinfeld, Amy
Subject: RE: August 10th hearing

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Hello Alia,

Responding to Justin ElDiwany's request below for another continuance...Haley has provided you with several documents yesterday and today (much of which, if not all, has already been submitted to the County over the many years of processing the Nojoqui Farms application, including the recorded Grant Deeds clearly identifying the water well access and water line easement benefitting Nojoqui Farms (also referred to as Sunburst). This easement lies over a portion of the property that Justin, Sierra Botanicals, is operating for his own cannabis operation.

We are strongly opposed to any further continuance to the appeal, as it is simply an attempt by Sierra Botanicals to further delay this project. As you know, the Nojoqui Farms project will be served by 3 wells. The Main Well referenced by Justin has been used solely by Sunburst (the existing landowner) for over 30 years for organic row crop vegetable farming and is in good shape, and is currently being used to serve the existing residence on the Nojoqui Farms property. It is disingenuous for Sierra Botanicals to claim there is an access rights issue related to the water well serving the Nojoqui Farms property because Sierra Botanicals listed the easement and the Main Well on their own site plans approved for cannabis operations, indicating that the easement serves the adjacent property (Nojoqui Farms). Any claims of water well easement access rights, and Sierra Botanicals more recent action to lock the easement access gate, has nothing to do with the appeal before the Planning Commission, and in fact was not raised in Sierra Botanicals' appeal submitted to the County. Please confirm you have received this email and we are set for August 10th.

Kind regards, Laurel

Laurel Fisher Perez, AICP
Principal Planner



1625 STATE STREET, SUITE 1
SANTA BARBARA, CA 93101
PH: 805-966-2758 x 113

www.sepps.com