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March 5, 2020

Santa Barbara County Board of Supervisors  
123 East Anapamu Street  
Santa Barbara, California 93101

Re: Appeal of Planning Commission Approval of LUP 18-00351 granted to Santa Rita Valley Ag., Inc for Cultivation of Outdoor Cannabis filed by Blair Pence, Case No. 19APL-00000-00032

Dear Santa Barbara County Board of Supervisors:

I represent Santa Rita Valley Ag, Inc. (SRVAG) in the appeal (Appeal) filed by Blair Pence (Pence) challenging the County of Santa Barbara (County) Planning Commission's approval of 18LUP-00000-00351 (Permit). We respectfully request your Board to deny the Appeal and approve the Permit as modified in attachment 2 to the March 10, 2020 Board letter.

### **The SRVAG Permit and Pence Appeal**

In reliance on the Cannabis Program adopted by the County in 2018, SRVAG invested substantial sums of money and time putting together an outdoor cannabis cultivation project that fully complied with the County's regulations. After doing so, on May 6, 2019, the Director of Planning and Development approved the Permit. The Permit authorized 37 acres of outdoor cultivation and 25 sea trains for drying and processing. Thereafter, Pence filed his Appeal which included several claims that the Permit violated several County regulations that did not even apply to SRVAG's project (i.e. Pence complained there was no development plan, when none was required and that SRVAG's Odor Plan was inadequate, even though no odor plan was submitted or required, etc.)

Then on August 5, 2019, just three days before the first Planning Commission hearing on August 8, 2019 (First Planning Commission Hearing), Pence submitted a 34-page letter amending his appeal to include a laundry-list of unsubstantiated CEQA violations directed at the County's Cannabis Program and PEIR rather than SRVAG's specific project. Nonetheless, SRVAG and staff had to scramble to prepare and address the 34 pages of new material. The Planning Commission hearing went all day and was eventually continued to allow time for staff to prepare, and then conduct in October 2019, a presentation to the Planning Commission regarding the adequacy of the PEIR certified back in 2018.

### **The Revised and Improved SRVAG Project**

After the First Planning Commission Hearing, SRVAG took a hard look at all the comments made by the community, Pence and the Planning Commission. Although the initially approved Permit fully complied with the County's cannabis and land use regulations, SRVAG nonetheless revised its project to accommodate the community concerns as much as possible.

Through three substantial revisions, SRVAG proposes a less intensive and more thoughtful project than the approved initial Permit. First, the twenty-five sea trains used for drying and processing previously located at the southeastern corner of the property, have been entirely removed. There will be no drying or processing on site. The removal of the sea trains addresses many community concerns. The prime soils upon which the sea trains were proposed are preserved. The visual impacts of the sea trains are eliminated. With no refrigeration, noise impacts are also eliminated. Potential odors from processing are no longer an issue. Security risks are reduced. Impermeable surfaces are removed allowing for more groundwater recharge and less runoff. Less lighting will be required.

The second improved project change is increasing the set back of the cultivation boundary 43 feet further away from Highway 246 thus providing an increased buffer area.

Third, SRVAG is proposing to significantly increase the landscaping elements to convert the frontage of the property along Highway 246 into a bucolic and inviting rural visual aesthetic while also providing additional screening of the cannabis grow. SRVAG proposes to remove the existing barb wire fence and plant at least an additional six coastal oaks to complement the three existing oaks along the frontage and entrance. In addition, SRVAG will plant at least 27 olive trees in a staggered fashion with the coastal oaks along the frontage and entrance area and along the western edge of the property. Grapevines will also be planted on the proposed security fence along the frontage and entrance of the property to mask the proposed fence's visual impacts.

Finally, SRVAG modified its initial project to create a beautiful and charming rural feel by placing a post and rail horse fence along the frontage and entrance of the property. Not only will the new landscaping plan blend in the proposed project with the idyllic countryside of Highway 246, but it will also dramatically improve the existing visual aesthetics of the property.

Aside from the above modifications, the project description remains the same as the initial Permit. Harvesting will occur two times per year. There will be four to five regular employees and 30-40 seasonal employees during harvest periods. During harvesting, there will be two to three security personnel to monitor the property in addition to the agricultural workers. The hours of operation will be from 6 a.m. to 6 p.m. for agricultural workers. The security personnel will work 24 hours a day for approximately two months prior to and during each harvest. An eight-foot high chain link fence shall surround the perimeter of the cultivation area

with only one entrance via a locked gate. Security lighting shall consist of four motion-sensor, hooded light fixtures mounted near the entry gate in accordance with the County's lighting requirements. Parking shall be located only in the entrance area.

As far as cannabis projects go, SRVAG's could not be more straightforward. There are no new structures, no hoops, no greenhouses and no other cannabis activity. The project is on flat land and does not involve any grading. There is no tree removal. No drying or processing will occur on site. The project is zoned AG II but is not within the Santa Ynez Community Plan and therefore does not require an odor plan. Nor is the project site adjacent to an EDRN or urban boundary. It is a textbook basic outdoor cannabis cultivation project that is both contemplated and allowed under the County's Cannabis Program. There are no controversial elements.

### **The Second (continued) Planning Commission Appeal Hearing - November 6, 2019**

On November 6, 2019, the continued hearing was held at which SRVAG presented its proposed revised project (Improved Project). Pence was still not satisfied claiming more landscaping was required and continuing his too-late attack on the County's cannabis regulations and PEIR.

The Planning Commission ultimately approved SRVAG's Permit for the Improved Project; however, it limited cultivation to only 30 percent of the parcel's acreage and thus reduced the allowed cultivation area to only 12.75 acres. It further mandated the cultivation to occur in the center of the lot in order to create a buffer from surrounding properties. Additional landscaping was also required. Although the County regulations do not authorize such a reduction in lot coverage and there was no evidence in support of picking 30 percent of the parcel size as the necessary or proper buffer, SRVAG nonetheless reluctantly accepted the revised cultivation acreage rather than have its Permit denied.

### **Board of Supervisors Appeal - March 10, 2020**

Even with all the concessions offered by SRVAG and required by the Planning Commission, Pence still appealed to the Board of Supervisors (Board Appeal). Pence's Board Appeal is again a thinly disguised challenge to the County's Cannabis Program and PEIR. His complaints are not directed against the specific aspects of SRVAG's project. Pence fails to identify facts that show the SRVAG proposed project does not meet the County Cannabis land use regulations. Nor does he identify facts to establish SRVAG's basic outdoor cannabis project requires additional environmental analysis outside the scope of the PEIR.

Pence's Board Appeal is baseless on several grounds. First, the Board Appeal does not truly challenge the approval of SRVAG's permit thus he does not establish the approval of the Permit was in error. Second, all of Pence's challenges to the Cannabis Program and PEIR are too late and are barred by the statute of limitations. Pence should have raised all his points

during the many public hearings reviewing the Cannabis Program ordinance and the PEIR back in 2018. Third, staff has done a superb job in the Board letter of refuting each of Pence's appeal points and establishing that the PEIR did in fact thoroughly analyze each environmental impact that he challenged. Fourth, staff conclusively established that the SRVAG project is clearly within the scope of the PEIR with no further environmental analysis required or necessary. As noted, Pence has not shown facts that the SRVAG project results in new environmental impacts that were not analyzed in the PEIR. Nor has he shown how the SRVAG project will increase the severity of impacts analyzed in the PEIR.

As recommended by staff, SRVAG's project meets all the Cannabis Program standards, is CEQA compliant and should be approved. SRVAG respectfully requests your Board approve its project and deny Pence's appeal in accordance with staff's recommendation.

Finally, SRVAG would like to thank the Planning and Development Division staff, the Planning Commission and this Board for their thoughtful consideration and time.

Best Regards,

*Linda K. Ash*

Linda K. Ash  
Santa Rita Valley Ag, Inc., representative

ec: Santa Rita Valley Ag. Inc.