



Santa Barbara County Planning and Development Department

# Appeal Application

County Use Only	Appeal Case No.:
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### STEP 1: SUBJECT PROPERTY

137-300-07-0011  
ASSESSOR'S PARCEL NUMBER(S)

1980 U.S. Highway 101, Gaviota CA 93117  
PROPERTY ADDRESS (IF APPLICABLE)

Restoration Oaks Ranch/SB Blueberries/Wild Farmlands  
BUSINESS/ESTABLISHMENT NAME (IF APPLICABLE)

### STEP 4: APPEAL DETAILS

Is the Appellant the project Applicant?  Yes  No

If not, please provide an explanation of how you are an "aggrieved party", as defined in Step 5 on page 2 of this application form:

Enclosed

### STEP 2: PROJECT DETAILS

Nojocui Farms Cannabis Cultivation Project  
PROJECT TITLE

19 LUP-00530  
CASE NO(S).

Select Edward Seaman 08/16/22  
DECISION MAKER DATE OF ACTION

Is the appeal related to cannabis activities?  Yes  No

### STEP 3: APPEAL CONTACTS

#### APPELLANT

Edward Seaman  
NAME (if LLC or other legal entity, must provide documentation)

1399 Camino Rio Verde  
STREET ADDRESS

Santa Barbara CA 93111  
CITY, STATE ZIP

805-868-0329 eseaman@gmail.com  
PHONE EMAIL

#### AGENT

NAME (if LLC or other legal entity, must provide documentation)

STREET ADDRESS

CITY, STATE ZIP

PHONE EMAIL

#### ATTORNEY

NAME (if LLC or other legal entity, must provide documentation)

STREET ADDRESS

CITY, STATE ZIP

PHONE EMAIL

Please provide a clear, complete, and concise statement of the reasons or ground for appeal:

- Why the decision or determination is consistent/inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law;
- There was error or abuse of discretion;
- The decision is not supported by the evidence presented for consideration;
- There was a lack of a fair and impartial hearing; or
- There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

RECEIVED  
 2022 AUG 22 P 12: 05  
 COUNTY OF SANTA BARBARA  
 CLERK OF THE  
 BOARD OF SUPERVISORS

**STEP 5: APPELLANT ACKNOWLEDGEMENTS**

I hereby certify under penalty of perjury that I have read the information below and that:

1. I have carefully reviewed and prepared the appeal application in accordance with the instructions; and
2. I provided information in this appeal application, including all attachments, which are accurate and correct; and
3. I understand that the submittal of inaccurate or incomplete information or plans, or failure to comply with the instructions may result in processing delays and/or denial of my application; and
4. I understand that it is the responsibility of the applicant/appellant to substantiate the request through the requirements of the appeal application; and
5. I understand that upon further evaluation, additional information/documents/reports/entitlements may be required; and
6. I understand that all materials submitted in connection with this appeal application shall become public record subject to inspection by the public. I acknowledge and understand that the public may inspect these materials and that some or all of the materials may be posted on the Department's website; and
7. I understand that denials will result in no refunds; and
8. I understand that Department staff is not permitted to assist the applicant, appellant, or proponents and opponents of a project in preparing arguments for or against the project; and
9. I understand that there is no guarantee – expressed or implied – that an approval will be granted. I understand that such application must be carefully evaluated and after the evaluation has been conducted, that staff's recommendation or decision may change during the course of the review based on the information presented; and
10. I understand an aggrieved party is defined as any person who in person, or through a representative, appears at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either; and
11. If the approval of a Land Use Permit required by a previously approved discretionary permit is appealed, the applicant shall identify:
  - How the Land Use Permit is inconsistent with the previously approved discretionary permit;
  - How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed;
  - How the approval is inconsistent with Section 35.106 (Noticing).

**REQUIRED SIGNATURES**

*I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.*


Edward M Seaman
08/16/22  
 SIGNATURE – APPELLANT PRINT NAME DATE

SIGNATURE – AGENT PRINT NAME DATE

SIGNATURE – ATTORNEY PRINT NAME DATE

Appeal applications can be submitted either via email or in person and must be accompanied by a check for the appeal fee, if required. Please contact P&D staff below for submittal instructions and to determine the appropriate fee.

For South County projects, contact us at [front@countyofsb.org](mailto:front@countyofsb.org) or (805) 568-2090.

For North County projects, contact us a [nocounte@countyofsb.org](mailto:nocounte@countyofsb.org) or (805) 934-6251.

08/18/22

County of Santa Barbara Clerk of the Board  
105 E. Anapamu Street, Room 407  
Santa Barbara, CA 93101

LUP-00530 (Nojoqui Farms Cannabis Cultivation Project)

Dear Board of Supervisors,

Please review the material compiled for this appeal. I am appealing to the Board of Supervisors for two reasons:

1. It is possible that I did not have a fair and impartial hearing, even though it is my firm belief that the Planning Commissioners, Managers and Staff did their job properly and well. There appears to have been bias against my appeal built into process, which I will explain below. Based only on my experience and acknowledging that I am a neophyte to the appeal process, it seems that the process needs some adjustments.
2. I have significant new evidence relevant to the decision which could not have been presented at the time the decision was made. Please refer to spreadsheet titled "Nojoqui Creek Watershed- Rainfall Log | Well Actions Taken" **[Exhibit 3]** and accompanying "Monthly and Yearly Rainfall Record" **[Exhibit 5]**. I am willing to discuss this in some detail during the Board hearing.

WAS IT A FAIR AND IMPARTIAL HEARING?

I have copied the salient pages received from the Planning Staff and highlighted in orange the areas of concern with my handwritten and initialed margin notes.

**[Exhibit 1]**

The primary thrust of my appeal was and is overusing the finite water sources of the Nojoqui Creek Watershed. The Nojoqui Creek watershed is a dryland farming region- we receive a little more than 17" rainfall per year on average for the last 20 years. Cannabis, even in hoop houses, needs no less than 1.8- to 2.1-acre feet of water per year. It is not a dryland farming crop. For comparison, our dryland-farmed blueberries thrive on about 0.6 acre-feet of water per year without hoop

houses. Cannabis requires no less than 3 times the amount of water as perennial blueberries.

I, and my paid professional subject matter expert, (Brad Newton, Ph.D, P.G. #8181), are certain that the water source for Nojoqui Farms and all other relatively shallow wells (200 feet or less) throughout most, if not all, of the Nojoqui Creek watershed are pumping what is classified as a subterranean stream of surface water, as defined by the SWRCB. The Water Board decision 1639 (1999), Garrapata Creek Case [**Exhibit 2**], provides a 4-part test to determine the physical conditions that must exist for groundwater to be classified as subterranean stream.

Most good water wells in Nojoqui Creek, including those used by Nojoqui Farms, meet the criteria specified in the 4-part Garrapata Creek test. Dr. Newton did an excellent job in his presentation before the Planning Commission explaining why Nojoqui Farms must be pumping surface water from a subterranean surface flow. This evidence was provided to Staff well before the hearing.

The Applicant and their paid professional subject matter expert (Charles E. Katherman, CA PG #4069) claim that the water in all three wells being utilized by Nojoqui Farms is percolating groundwater.

Planning Staff appeared to have worked solely with Mr. Katherman, *a consultant paid by the Applicant*, to respond to our claim of subterranean surface flow (surface water), even though our subject matter expert's contact info was in the packet we sent to the Planning Staff before the hearing. As I understand it in speaking with CA Fish & Wildlife representatives Kevin Hupf and Randy Rodriguez, without receipt of formal documentation from the Applicant, neither Fish & Wildlife nor SWRCB can officially respond to questions from Cannabis project Applicants. I am not sure that either the Applicant or the Planning Staff spoke to either state agency after our appeal evidence was provided to Planning Staff. Dr. Newton was not consulted. Therefore, it seems that Planning Staff showed bias by working frequently with the Applicant's paid subject matter expert and not once working with ours.

I believe Staff depended on Mr. Katherman because he was known, and because it was expeditious to continue to circle back to him, even after having met Dr. Newton in context. Having the County of Santa Barbara Planning Staff depend on the paid consultant of the Applicant in a hearing when the Appellant has an equivalent or more qualified subject matter expert in the area being appealed does not seem fair or impartial.

### SIGNIFICANT NEW EVIDENCE

Please refer to [Exhibit 3]. It is my farm rainfall log that displays the rainfall by season since 2002 and overlays Nojoqui Farm's annual pumping by acre-feet (AF) and the Well Actions taken by three family owned and operated small farms sharing the same watershed: Restoration Oaks Ranch, Pork Palace and Family Ranch Produce. This data was not available at the time of the Commissioners Hearing on August 10<sup>th</sup>.

Please note that the main wells drawing from the creek's subterranean surface flow and the whole Nojoqui Creek Watershed ecosystem were increasingly in trouble during the drought 2011 to 2016, a period that also saw Nojoqui Farms pumping intensively- from 2009 through 2016.

During this same period, the shared well of Restoration Oaks and the main wells of Pork Palace and Family Ranch Produce stopped producing water. ***Nobody in the Nojoqui Creek Watershed that I have spoken to can remember this ever happening before the 2009-2016 era.***

In response to the dry wells, Restoration Oaks stopped using the shared well and let berry fields expire, Pork Palace drilled 3 new, deeper wells, trucked in water, purchased and maintained expensive RO Systems. Family Ranch Produce drilled a new, deeper well, then purchased and maintained a filtration system.

***None of the new, deeper wells contained water that could be used on many existing perennial crops, testing high in TDS, Boron and Sulphur. The "good water" is in the subterranean surface flow of Nojoqui Creek, replenished annually by rainfall. Less rainfall, particularly in consecutive years = less replenishment. Less replenishment + more pumping = dead wells and a dead or dying watershed ecosystem.***

To visually see the location of our family farms and wells, refer to [Exhibit 4]. Look again at [Exhibit 2]. The light color that contains all the main wells roughly reflects the outer boundaries of the Nojoqui Creek Watershed.

I went to the Santa Barbara County Flood Control District for historical rainfall patterns and found the closest station to our watershed is in Buellton (Station 233, Buellton Fire Station). I researched rainfall as far back as I could. Station 233 goes back to 1954/1955. Please refer to [Exhibit 5]. I highlighted in orange all the water

years that had rainfall below Restoration Oaks Ranch average- 17". 2011-2016 was not the first time the Nojoqui Creek Watershed has experienced a multi-year drought. There is a lot of orange in that last column.

If, as the Applicant claims, all the wells or groupings of wells used by Nojoqui Farms and in the Nojoqui Creek Watershed were independently accessing reservoirs of percolating groundwater, ***they would not have all gone dry at the same time, in a period of low rainfall and intensive pumping.*** Further, if none of the multi-generational farmers and ranchers in the watershed recall wells going dry in previous eras of low rainfall, we can deduce that low rainfall + intensive pumping drains the watershed of the good water contained within the boundaries of the subterranean surface flow of Nojoqui Creek.

The deeper wells drilled outside of the sides and bottom boundaries of the subterranean surface flow are not affected by rainfall in the same way as the wells inside the boundaries. Water does exist in these deeper wells through the droughts. However, these wells don't contain the quality of water needed for human or crop use and in fact may be toxic to some flora and fauna. Because they are minimally affected by rainfall, these deeper wells seem to be the ones that are recharged by the "percolating groundwater" that the Applicant claims all the Nojoqui Farms wells tap into.

#### BOARD APPEAL SUMMARY

The Planning Commission denied our appeal and accepted an offer from Nojoqui Farms to limit their water use ***on one*** of their wells to 26.6 acre-feet per year. The Applicant described the offer as 50% of the historical usage of the well. I have two issues with this.

First, our appeal was based on the classification of water and over pumping relative to the whole watershed. Since we believe that all three of their wells might draw from the same watershed, restricting just one is meaningless. Second, we do not believe that 9 years of usage is historical usage, it needs to be at least 20. All three small farmers mentioned in this appeal have memories of water and Nojoqui Creek that go back 20 to 47 years.

Restoration Oaks Ranch is actively implementing climate-smart, ecosystem regenerating agriculture and land management practices, and offering education for others to do the same. We believe that independent small farms and ranches, like ours, Pork Palace and Family Ranch Produce are a very important part of an environmentally healthy, food-secure future. Since 2014, we have been learning

and implementing our vision. We are planting native oak trees in the wild, replacing fertilizers with liquid vermicast, developing crop-specific bio-extracts, redirecting green waste from landfills to the food cycle, increasing the ability of the soil to hold water and carbon and educating others to do the same. We are educating the general public, policymakers, farmers, ranchers, landowners and community leaders of the Central Coast as a part of our mission.

There are a multitude of proven techniques to retain water and reduce its usage with dryland farming practices and by adhering to agroecology land management principles. They need time to take effect. Are we adequately protecting the watershed? It starts with properly identifying the source of water drawdown and the source of recharge. ***The negotiated settlement does not identify the source of water***; it is circumventing the most important aspect of my appeal.

I personally don't believe the Planning Staff have the resources they need to directly and efficiently address local watershed issues ***before*** it gets to the state agencies. This puts an undue financial and time burden on both Applicants and Appellants. I hope that the Board wants to rectify this.

#### WORKING WITH THE APPLICANT

I have asked the Applicant for 10 more years of water usage on their main well, going back to 2002 (a total of 20 years), and that they add both other wells to the main well restriction offer of 26.6 acre-feet.

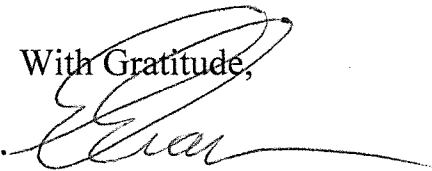
If I can see 10 more years of water usage and it agrees with the Applicant's claim of historical usage ***and*** if the Applicant adds all three current wells and any future wells to the 26.6 acre-feet maximum constraint on water, I am willing to consider withdrawal of my appeal, subject to the conditions and limitations on water use that the State Water Resources Control Board and Fish & Wildlife require of the Applicant.

## REQUESTS OF THE BOARD

- I ask the Board of Supervisors to permanently change cannabis project policy to prioritize a deeper analysis of water and watershed sources and recharge *before* the initial Planning Staff approval of the project.
- I ask that this analysis be conducted with subject matter experts *whose objectivity cannot be reasonably questioned*. In my mind that means the subject matter experts are not and have never been paid by the Applicant or the Appellant, nor other persons or organizations that have been in or are currently in the cannabis industry.
- I ask the Board of Supervisors to permanently change cannabis project policy to not allow future cannabis project applicants to self-define the source of their water- classification is the key to understanding the effect of usage on the watershed.

I look forward to speaking to you on our hearing date.

With Gratitude,



Ed Seaman

Restoration Oaks Ranch  
Santa Barbara Blueberries  
Wild Farmlands Foundation



# Exhibit 1

1

## SANTA BARBARA COUNTY PLANNING COMMISSION

### Staff Report for the Appeals of the Nojoqui Farms Cannabis Cultivation Project

**Hearing Date:** August 10, 2022

**Staff Report Date:** August 2, 2022

**Case Nos.:** 21APL-00000-00043, 21APL-00000-00044, and 19LUP-00000-00530

**Environmental Document:** Cannabis Land Use Ordinance and Licensing Program PEIR (17EIR-00000-00003 & SCH No. 2017071016); CEQA Checklist Pursuant to CEQA Guidelines §15162 and §15168(c)

**Deputy Director:** Travis Seawards

**Division:** Development Review

**Supervising Planner:** Joe Dargel

**Supervising Planner Phone #:** (805) 568-3573

**Staff Contact:** Alia Vosburg

**Staff Contact Phone #:** (805) 934-6259

**OWNER:**

Sunburst Church of Self Realization  
DBA Nojoqui Farms  
PO Box 2008  
Buellton, CA 93427

**APPLICANT:**

Nojoqui Farms  
Patricia Paulsen  
1889 Hwy 101  
Buellton, CA 93427

**AGENT FOR THE APPLICANT:**

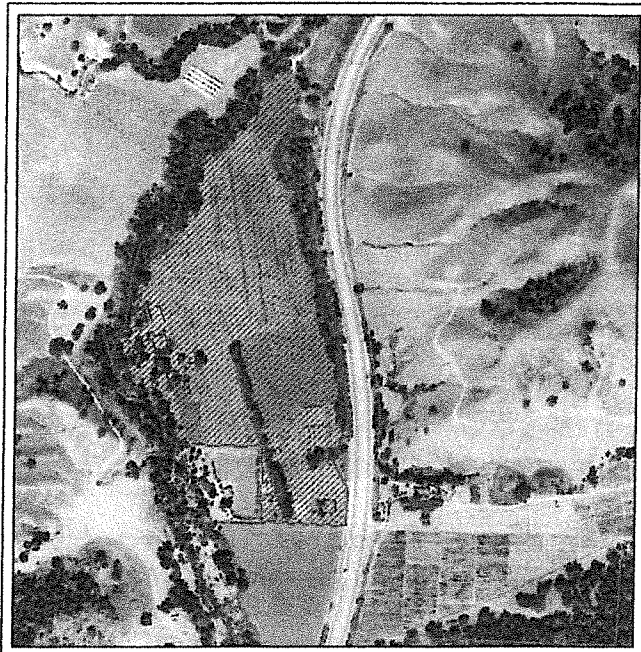
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**APPELLANT No. 1:**

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Eseaman3@gmail.com

**APPELLANT No. 2:**

Sierra Botanicals, LLC  
Justin El-Diwany  
PO Box 3726  
Saratoga, CA 95070  
sierrabotanicalsllc@gmail.com



The Project site is identified as Assessor Parcel Number 083-430-014, located at 1889 Highway 101 in Buellton area, 3<sup>rd</sup> Supervisorial District

<b>Submittal Date:</b>	December 9, 2019
<b>Permit Approval:</b>	August 19, 2021
<b>Appeals Filed:</b>	August 23, 2021 and August 27, 2021

## 1.0 REQUEST

Hearing on the request of Appellants, Edward Seaman (Appellant No. 1) and Sierra Botanicals, LLC (Appellant No. 2), to consider Case Nos. 21APL-00000-00043 and 21APL-00000-00044, appeals of the Director's decision to approve Land Use Permit (LUP) Case No. 19LUP-00000-00530, the Nojoqui Farms Cannabis Cultivation Project. The appeals were filed on August 23, 2021, and August 27, 2021, in compliance with Chapter 35.102 of the County Land Use and Development Code (LUDC). The application is a request for an LUP to allow 22.17 acres of cannabis cultivation activities on a 53-acre parcel, zoned Agriculture II (AG-II-40), shown as Assessor's Parcel Number 083-430-014, located at 1889 Highway 101 in the unincorporated area of Buellton, 3<sup>rd</sup> Supervisorial District.

## 2.0 RECOMMENDATION AND PROCEDURES

Staff recommends that the Santa Barbara County Planning Commission (Commission) take the following action:

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 this 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) (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 this Staff Report.

Refer back to staff for appropriate findings and conditions if the Commission takes an action other than the recommended action listed above.

## 3.0 JURISDICTION

The Project includes proposed cannabis cultivation that requires approval of a Land Use Permit by the Planning and Development Department Director (Director) pursuant to Section 35.42.075.B.4 of the LUDC. The Commission's consideration of this appeal is in accordance with Section 35.82.110.D.2 of the LUDC, which states: "The action of the Director is final, subject to appeal in compliance with Section 35-102 (Appeals)." Given that the Land Use Permit was approved by the Director and subsequently appealed, the Commission is the decision making body on this appeal pursuant to Section 35.102.040.A.3.d of the LUDC.

#### 4.0 ISSUE SUMMARY

On August 19, 2021, the Director approved the Project and on August 23, 2021 and August 27, 2021, respectively, the Appellants filed two timely appeals of the Director’s approval. The Appellants identified the following issues as the basis of the appeals:

- (1) Impacts to Nojoqui Creek from water drawdown;
- (2) Impacts to California red-legged frog;
- (3) Lack of due diligence regarding shared water resources; and
- (4) Impacts to surrounding agricultural businesses from cannabis odor.

Staff reviewed the appeals and finds the issues raised are without merit. The Project was appropriately reviewed under CEQA and is consistent with the Santa Barbara County Comprehensive Plan and applicable policies and standards set forth in the LUDC, including Section 35.42.075 (Cannabis Regulations). The information included in this Staff Report supports *de novo* approval of the Project.

#### 5.0 PROJECT INFORMATION

##### 5.1 Site Information

Site Information	
Comprehensive Plan Designation	Rural, A-II-40 (Agriculture II, 40-acre minimum parcel size)
Ordinance; Zone	Land Use and Development Code; AG-II-40 (Agriculture II, 40-acre minimum lot size)
Site Size	53 acres
Present Use & Development	The site is developed with an existing residence, hay shelter, machine shed, agricultural storage barn with attached shade cover and detached restroom structure, shade structure, mobile home, employee mobile home, barn, horse shelter, cargo container, irrigation pond, water storage tank, and four storage sheds. The property has been historically farmed with row crops and oat hay.
Surrounding Uses/Zone(s)	North: AG-II-40; Agriculture, field crops, grazing South: AG-II-100; Agriculture, field crops, grazing East: AG-II-100; HWY 101, agricultural, field crops, grazing West: AG-II-100; Agricultural, grazing
Access	Existing driveway off HWY 101
Services:	Water: Existing groundwater wells Sewage: Existing private onsite wastewater treatment Fire: Santa Barbara County Fire Department Police: Santa Barbara County Sheriff

## 5.2 Project Description

The Project is a request for approval of a Land Use Permit to allow 22.17 acres of cannabis cultivation, which includes 20.67 acres of outdoor cannabis cultivation in hoop structures, 1.20 acres of cannabis nursery in hoop structures, 0.07 acres of cannabis processing (storage) in an existing 3,240-sq. ft. agricultural storage barn, and 0.23 acres of cannabis processing (drying, curing, trimming, storing, packaging, and labeling) in a proposed processing building, 10,000 sq. ft. in area and 25 ft. in height. Hoop structures will be up to 15 ft. in height and will not include any permanent structural elements, utilities, or lighting. Cannabis green waste will be composted onsite in a 0.40-acre compost area. The Project also includes a proposed 30,000-gallon water storage tank for fire protection purposes and a proposed compacted gravel parking lot with twenty 9-ft. by 20-ft. employee parking spaces. Existing onsite development to be used for the proposed cannabis operation includes: a 3,240-sq. ft. agricultural storage barn (noted above and consisting of a 2,160-sq. ft. structure with a 1,080-sq. ft. attached shade cover) to be used for an office and cooler storage for cannabis product staging prior to shipment; a 96-sq. ft. detached restroom for employee use; a 2,500-sq. ft. machine shed to be used for farm equipment storage and office use; and one 30,000-gallon water storage tank for irrigation and domestic use. Existing onsite development that will remain, but will not be used for the proposed cannabis operation includes a 3,288-sq. ft. residence and a 4,600-sq. ft. hay shelter. Existing onsite development that will be removed prior to Land Use Permit issuance includes a 1,070-sq. ft. employee mobile home, a 6,440-sq. ft. barn, a 1,482-sq. ft. mobile home, a 240-sq. ft. shed, a 49-sq. ft. shed, a 120-sq. ft. shed, a 96-sq. ft. shed, a 324-sq. ft. horse shelter, a 320-sq. ft. cargo container, and a 2,880-sq. ft. shade structure. The Project includes removal of two non-native trees. The Project does not include any native tree or native vegetation removal. Grading is limited to less than 50 cubic yards.

The cannabis operation will be enclosed with 7-foot-high no-climb security fencing (composed of wood rail wire mesh fencing 5 ft. in height, topped with barbed wire 2 ft. in height) connected to 8-ft.-high chain-link security fencing that will enclose the nursery area. Security light fixtures will be installed at the access gate, in the parking lot, and on the exterior of the processing building. All security lighting will be pole-mounted or building-mounted at a maximum height of 10 ft. and will be fully shielded, directed downward, and motion-activated. Existing and proposed landscaping will screen the operation from public views along Highway 101.

The operation will employ five full-time employees, with an additional 19 seasonal employees during harvest periods. The Project will include up to three harvests per year for a duration of 21 days per harvest period. Harvest periods will occur between the months of May through June, July through August, and October through November. Hours of operation will be from 7:00 A.M. to 4:00 P.M., Monday through Saturday. The hours of operation will not change during harvest periods. All harvested cannabis will be transferred into the onsite 10,000-sq. ft. processing building, into coolers within the onsite 3,240-sq. ft. agricultural storage barn, or to an offsite processing facility the same day it is harvested. All onsite cannabis processing activities will occur

within either 1) the enclosed 10,000-sq. ft. processing building, which will be equipped with a carbon filtration and HVAC system to mitigate odors produced by drying, curing, trimming, storing, packaging, and labeling activities, or 2) the enclosed coolers within the 3,240-sq. ft. agricultural storage barn, which will be equipped with refrigeration units to mitigate odors produced by cannabis storage.

Three existing offsite groundwater wells will provide water for the Project (irrigation, domestic, and fire protection uses). The Project will include approval of a water system permit and repair of the existing private onsite wastewater treatment system serving the employee restroom. The Project site will continue to be accessed via an existing 24-ft.-wide asphalt driveway off Highway 101. Fire protection will be provided by the Santa Barbara County Fire Department and law enforcement will be provided by the Santa Barbara County Sheriff's Department. The Project site is a 53-acre parcel zoned Agriculture-II (AG-II-40), and shown as Assessor's Parcel Number 083-430-014, located at 1889 Highway 101 in the Buellton area, 3<sup>rd</sup> Supervisorial District.

### **5.3 Background Information**

The Project site is located on a 53-acre legal lot zoned AG-II-40 in the unincorporated rural area south of the City of Buellton. The subject lot is surrounded to the east, south, and west by properties zoned AG-II-100, and to the north by property zoned AG-II-40. The lot is also bounded on the east by U.S. Highway 101 and on the west by Nojoqui Creek. The subject property has historically been planted with organic field crops and oat hay and surrounding land uses include field crops, grazing, and open lands. The nearest residential zone relative to the subject property is approximately 3 miles northeast, within the City of Solvang.

The Applicant submitted an LUP application for the proposed Project on December 9, 2019. The Director reviewed the application and approved the LUP on August 19, 2021. The Director's approval was granted based upon the proposed Project's compliance with the applicable policies and standards contained in the Comprehensive Plan and LUDC. On August 23, 2021 and August 27, 2021, the Appellants filed two timely appeals (Attachments E and F) of the Director's approval. The appeal issues and staff's responses are addressed in Section 6.1 below.

## **6.0 PROJECT ANALYSIS**

### **6.1 Appeal Issues**

The Appellants identified four issues as the basis of the appeals. Each appeal issue and Staff's analysis is provided in detail below.

#### **Appeal Issues 1 and 2 – Impacts to Nojoqui Creek and California Red-Legged Frog**

Appellant No. 2 (Sierra Botanicals, LLC) asserts that the Project will divert water from Nojoqui Creek above safe levels evaluated by the California Department of Fish and Wildlife, and that

drawdown of the creek as a result of the Project will adversely impact California red-legged frog (CRLF).

### Staff Response

The Applicant provided substantial evidence that demonstrates the groundwater wells that will serve the Project are isolated from Nojoqui Creek.

A Water Source and Water Demand Memo (Memo), dated June 2022, was prepared by a Professional Geologist in support of the proposed Project (Attachment D – CEQA Checklist's internal Attachment E – Water Source and Water Demand Memo). The Memo provides details on the source of water drawn from the main Project well, historic water use of the subject property, and projected water demand of the proposed Project. As discussed in the Memo, the projected water use of the Project will be below the historic water use on the Project site. The average annual water use of the subject property over the previous 10 years was approximately 51.5 acre-feet per year (AFY) and the projected water use, with implementation of the proposed Project, would be approximately 26.6 AFY.

The existing water system that will continue to serve the Project site consists of three offsite groundwater wells and associated water distribution components under easement. The primary water source for the system is the existing well (identified as the "Main Well") drilled in 1964 to a depth of 76 feet below ground surface (bgs), with a screened interval between 44 feet and 49 feet bgs and cement sanitary seal from 22 feet bgs to the surface. The second well (identified as "Moonshine #1") was drilled in 1995 to a depth of 180 feet bgs, with a screened interval between 60 feet and 180 feet bgs and cement sanitary seal from 60 feet bgs to the surface. The third well (identified as "Moonshine #2") was drilled in 2016 to a depth of 800 feet bgs, with a screened interval between 260 feet and 800 feet bgs and 51-foot cement sanitary seal. As discussed in the Memo, all three wells are screened below a confining clay layer and include cement sanitary seals which isolate the wells from subterranean flow of Nojoqui Creek. The Memo also provides information regarding a recent pump test performed on the Main Well that was analyzed by a Professional Geologist and which supports this conclusion. During the pump test the surface water level of Nojoqui Creek was monitored and the well produced at a rate of 100 gallons per minute with no detected impacts to the creek. Based on information provided in the Memo, the Project is not expected to divert water from Nojoqui Creek or result in drawdown of the creek that would adversely impact CRLF.

Finally, the Appellant asserts that the Project will divert water from Nojoqui Creek above safe levels evaluated by the CDFW, however the Appellant did not include any information from CDFW to substantiate this claim or identify the "safe level" cited. Staff discussed this appeal issue with CDFW, and was advised that CDFW does not have comments at this time. In order to obtain annual state licenses for cannabis cultivation, the proposed Project must obtain a Lake and Streambed Alteration (LSA) agreement from CDFW or receive written verification that one is not needed. The Applicant is not required to submit an LSA application prior to approval of the Land

IF CDFW wouldn't comment to planning staff, why would they comment to us? How could I include information that CDFW was not yet willing to comment on?

Mr. Katherman,  
Paid by applicant

-10 years is not enough time to claim "historic use"  
-we requested another 10 years for a total of 20 years.

Use Permit (LUP) and approval of the LUP does not relieve the proposed Project of any responsibilities under the state licensing process, including authorizations from CDFW. The Applicant's water source will be evaluate by CDFW as part of the LSA process, and CDFW may have the authority to impose pumping restrictions as part of the LSA agreement. However, the LSA process is a separate process outside of the County's jurisdiction and the Applicant has provided sufficient evidence to the County to show that the Project well has capacity to serve the Project and is a net reduction in historic groundwater usage from the well.

### Appeal Issue 3 – Impacts to Shared Water Resources

Appellant No. 1 (Edward Seaman) asserts that they are within the same watershed and within a contiguous aquifer as the proposed Project and therefore, the Project may have an impact on limited shared water resources. The Appellant goes on to argue that the County has not performed thorough due diligence in the analysis of water resources for the proposed Project.

### Staff Response

As discussed in response to Appeal Issue 1 above, a Water Source and Water Demand Memo, dated June 2022, was prepared by a Professional Geologist in support of the proposed Project (Attachment D – CEQA Checklist's internal Attachment E – Water Source and Water Demand Memo). The Water Source and Water Demand Memo provides details on the source of water drawn from the Project wells, historic water use of the subject property, and projected water demand of the proposed Project. As demonstrated in the Memo, the proposed Project will result in a reduction from the historic water use of the subject property. Therefore, staff has concluded that the project will have no new impact on the water availability of surrounding properties.

Mr. Katherman, paid by Applicant



Additionally, the County's PEIR for the Cannabis Land Use Ordinance and Licensing Program analyzed hydrology and water quality impacts associated with cannabis operations authorized under the Program. Based on water demand factors of typical commercial agricultural products, as well as anecdotal information on average water demands associated with existing cultivation operations at the time, the PEIR estimated that new cannabis cultivation licensed under the Project could potentially result in water demands between 1 to 5 AFY/acre. Impacts to groundwater supply and recharge were considered to be less than significant (Class III), but a mitigation measure (MM HWR-3, Water Conservation-Water Efficiency for Cannabis Activities) was implemented to further reduce impacts to groundwater. This mitigation measure was included as a development standard in the Land Use and Development Code (Section 35.42.075.D.1.j), which is applied to site-specific land use entitlements for commercial cannabis operations authorized under the Program. Staff completed a written checklist pursuant to State CEQA Guidelines 15168(c)(4) and determined that the Project will be an activity within the scope of the PEIR and will not result in additional water demand impacts beyond what was disclosed in the PEIR (Attachment C). Water efficiency measures that meet the requirements of LUDC Section 35.42.075.D.1.j have been proposed as a part of the Project and include use of a drip irrigation system.

The Appeal did not include any information on the location or construction of their well or evidence to support the claim that proposed Project will impact the Appellant's well or water resources. Nevertheless, any dispute regarding overlying water rights is a private matter and not under the jurisdiction of the County.

#### **Appeal Issue 4 – Impacts of Cannabis Odor on Appellant's Business**

Appellant No. 1 asserts that the odor generated by the Project will have a deleterious effect on the Appellant's business entities such as Santa Barbara Blueberries ("a small UPick farm") and the Restoration Oaks Retreats ("a farm-stay vacation retreat and small event venue"). The Appellant also expresses concern that the proposed Project may not comply with the LUDC requirements for odor mitigation.

#### **Staff Response**

As discussed in detail in Section 6.4 below, the proposed Project is fully compliant with the LUDC requirements pertaining to odor abatement. Pursuant to Section 35.42.075.C.6, no Odor Abatement Plan (OAP) is required for outdoor cannabis cultivation on AG-II zoned parcels, unless a Conditional Use Permit (CUP) is required. However, the proposed Project includes a processing component consisting of cannabis product storage within an existing 3,240 sq. ft. agricultural storage barn, and drying, curing, trimming, storing, packaging, and labeling within a proposed 10,000 sq. ft. processing building. In compliance with Section 35.42.075.D.1.o of the LUDC, an OAP (Attachment G, Sheet A114) was prepared for the processing component of the proposed Project. The OAP includes a description of the specific odor-emitting activities, a description of the frequency and length of odor-emitting activities, a description of the equipment and methods proposed to control odors, and floor plans for the agricultural storage barn and processing building specifying the location of the proposed odor-emitting activities and odor-control systems. As demonstrated in the OAP, all onsite cannabis processing activities will occur within either 1) the enclosed 10,000 sq. ft. processing building, which will be equipped with a carbon filtration and HVAC system to mitigate odors produced by drying, curing, trimming, storing, packaging, and labeling activities, or 2) the enclosed coolers inside the 3,240 sq. ft. agricultural storage barn, which will be equipped with refrigeration units to mitigate odors produced by cannabis storage. With implementation of these systems, odors generated by the proposed processing activities will be minimized in compliance with Section 35.42.075.D.1.o of the LUDC. Additionally, Condition No. 19 of the LUP (Attachment B) requires the Owner/Applicant of the proposed Project to comply with the approved OAP and maintain the odor control systems in good, working condition throughout duration of cannabis processing activities. Permit Compliance staff shall monitor the initial implementation of the system, conduct quarterly inspections for the first year, and will conduct additional inspections as needed, throughout the life of the Project.

Finally, the Appellant No. 1 lists a number of different business entities at their site that they claim will be negatively impacted by the proposed cannabis project, however, P&D does not have a record of any zoning permits for uses associated with the Restoration Oaks Retreat. The LUDC



only requires outdoor cannabis cultivation projects on AG-II zoned parcels to prevent odors from being experienced in residential zones when an OAP is required pursuant to Section 35.42.075.C.6 of the LUDC. Because an OAP is not required pursuant to Section 35.42.075.C.6 and the Appellant’s property is not zoned residential, this appeal issue has no merit.

## 6.2 Environmental Review

On February 6, 2018, the Santa Barbara County Board of Supervisors (Board) certified a Programmatic Environmental Impact Report (PEIR), Case No. 17EIR-00000-00003, for the Cannabis Land Use Ordinance and Licensing Program (Attachment C). The PEIR was prepared in accordance with the State CEQA Guidelines Section 15168 and evaluated the Program’s direct, indirect, and cumulative impacts based on Appendix G of the 2017 State CEQA Guidelines and thresholds in the County’s Environmental Thresholds and Guidelines Manual. The PEIR identified a number of significant impacts and set forth feasible mitigation measures that were included as development standards and requirements in the land use and licensing ordinances, which are applied to site-specific land use entitlement and business licensing applications for commercial cannabis operations authorized under the Program. The PEIR concluded that significant and unavoidable (Class I) impacts would result from the Program. The Board adopted a Statement of Overriding Considerations for the Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR expired without legal challenge.

Section 15168(c)(2) of the State CEQA Guidelines allows the County to approve an activity as being within the scope of the project covered by a program environmental impact report if the County finds, pursuant to Section 15162, that no new environmental document is required. Prior to approval of the Land Use Permit, staff completed a State CEQA Guidelines Section 15168(c)(4) Checklist for Commercial Cannabis Land Use Entitlement and Licensing Applications (Attachment D) and determined that all of the environmental impacts of the Project were within the scope of the project covered by the PEIR for the Cannabis Land Use Ordinance and Licensing Program. No additional cumulative impacts were identified, and therefore no new environmental document is required under Section 15162.

## 6.3 Comprehensive Plan Consistency

REQUIREMENT	DISCUSSION
<b><i>Land Use Element – Land Use Development Policies</i></b>	
<b><i>Land Use Development Policy 4: Prior to issuance of a use permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e. water, sewer, roads, etc.) are available to serve the proposed</i></b>	<p>Adequate services are available to serve the Project and the Project is consistent with Land Use Development Policy 4.</p> <p>The Project site is served by an existing water system including three existing groundwater wells that will continue to provide water for the</p>

*development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan.*

proposed Project. Environmental Health Services (EHS) has reviewed the Project and determined that the existing system's primary well (identified as the "Main Well") is adequate for domestic use. Additionally, as demonstrated in the Water Source and Water Demand Memo (Attachment D – CEQA Checklist's internal Attachment E – Water Source and Water Demand Memo) prepared by a Professional Geologist, the Project will result in a reduction of the historic water use of the property. The average annual water use of the subject property over the previous 10 years was approximately 51.5 acre-feet per year (AFY) and the projected water use, with implementation of the proposed Project, would be approximately 26.6 AFY. The Project will also include approval of a water system permit and repair of the existing private onsite wastewater treatment system, which serves the existing restroom that will be available for employee use. Additionally, portable restrooms and hand wash stations will be provided for seasonal employees.

The Project site will continue to be accessed via an existing 24-ft.-wide asphalt driveway off of Highway 101. The Project was reviewed by the Public Works Department - Transportation Division and the existing roads providing access to the Project site were determined to be adequate to support Project traffic. Additionally, the Project was reviewed by the California Department of Transportation (Caltrans) and in accordance with Condition No. 8 of the Conditions of Approval (Attachment B), the Applicant will be required to demonstrate that any encroachment permit required by Caltrans for validation of the existing driveway off of Highway 101 will be obtained prior to issuance on the Land Use Permit.

	<p>The Project site is within the jurisdiction of the Santa Barbara County Fire Department (County Fire) and the site will continue to be served by County Fire for fire protection services. County Fire also reviewed the Project and identified no conditions on the Land Use Permit approval.</p> <p>Finally, the County Sheriff will continue to provide police services to the subject parcel, and the Sheriff will be involved with reviewing and approving the proposed Security Plan as part of the review of the Business License application that is required for the proposed Project.</p>
<p><b>Land Use Element – Hillside and Watershed Protection Policies</b></p>	
<p><b>Hillside and Watershed Protection Policy 2:</b> <i>All developments shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suitable to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.</i></p> <p><b>Hillside and Watershed Protection Policy 7:</b> <i>Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.</i></p>	<p>Consistent with Hillside and Watershed Protection Policies 2 and 7, the Project is designed to fit the existing conditions of the site and be oriented so that grading and other site preparation is kept to an absolute minimum and will not result in the degradation of water quality.</p> <p>The Project site was previously disturbed by historic agricultural activity that has been occurring on the subject property for more than 30 years. The Project includes agricultural structural development that is in character with the type and scale of structural development of the surrounding area, and use of existing onsite development in support of the proposed Project. The Project footprint is limited to the previously disturbed areas of the Project site, includes less than 50 cubic yards of grading, and does not involve any native tree or native vegetation removal. Two non-native trees will be removed to accommodate a hammerhead turnaround for Fire Department</p>

	<p>access. The Project is also setback a minimum of 100 feet from Nojoqui Creek.</p> <p>During construction, the Owner/Applicant is required to properly store construction equipment away from drainage areas and will provide a designated equipment washout area for materials such as paint and concrete (Attachment B, Condition Nos. 5 and 6) at least 100 feet from sensitive habitat and drainage areas.</p> <p>Additionally, in conformance with Section 35.42.075.D.1.d of the LUDC, all cannabis cultivation projects are subject to compliance with the State Water Resources Control Board's (SWRCB) comprehensive Cannabis Cultivation Policy, which includes principles and guidelines for cannabis cultivation, including regulations on the use of pesticides, rodenticides, herbicides, insecticides, fungicides, disinfectants and fertilizers. Conformance with the SWRCB's Cannabis Cultivation Policy is included as a Condition of Approval of the LUP (Attachment B, Condition No. 21). The Applicant submitted a Notice of Applicability from the Regional Water Quality Control Board (RWQCB) indicating compliance with the SWRCB Cannabis Cultivation Policy and enrollment under the General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order). Furthermore, the Applicant is required to prepare annual reports and submit them to the RWQCB to monitor compliance.</p>
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**Land Use Element – Visual Resources Policies**

*Visual Resources Policy 2: In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.*

Consistent with Visual Resources Policy 2, the height, scale, and design of structures under the scope of the Project will be compatible with the character of the surrounding natural environment.

The Project site is located in the AG-II Zone District and the proposed structural development under the scope of the Project, as detailed in the Project Description (Section 5.2), consists of agricultural accessory structures that are in character with agricultural development of the surrounding area. The proposed processing building has a height of 25-feet, which is less than the maximum allowable height of 35-feet for residential structures in this zone; there is no maximum height limit for non-residential structures.

The cannabis cultivation areas and the proposed structures that will support the cannabis operation will be screened from public views (including Hwy 101) within 5 years in accordance with the approved Landscaping Plan and Screening Plan. Condition No. 16 of the Conditions of Approval (Attachment B) requires that the Project site be maintained in compliance with the Landscaping Plan and Screening Plan throughout the life of the Project.

Additionally, the proposed security lighting under the scope of the Project will be a maximum of 10 feet in height and will be fully shielded, directed downward, and motion activated in accordance with the approved Lighting Plan. Condition No. 17 of the Conditions of Approval (Attachment B) requires that the Project maintain the lighting in

	<p>compliance with the Lighting Plan throughout the life of the Project.</p>
<p><b>Agricultural Element</b></p>	
<p><b>Agricultural Element, Goal I:</b> <i>Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.</i></p> <p><b>Agricultural Element, Policy 1.A:</b> <i>The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses.</i></p> <p><b>Agricultural Element, Policy 1.E:</b> <i>The County shall recognize that the generation of noise, smoke, odor and dust is a natural consequence of the normal agricultural practices provided that agriculturalists exercise reasonable measures to minimize such effects.</i></p> <p><b>Agricultural Element, Policy II.D:</b> <i>Conversion of highly productive agricultural lands whether urban or rural, shall be discouraged. The County shall support programs which encourage the retention of highly productive agricultural lands.</i></p>	<p>Consistent with Agricultural Element Goal 1 and Policies 1.A, 1.E, and II.D, the Project will ensure the continuation of agriculture and will not result in the conversion of highly productive agricultural land to non-agricultural use.</p> <p>The proposed Project will continue the long-standing agricultural use of the property. The historical agricultural use of the 53-acre property will not be hindered or diminished as this Project represents only a change of crop and will continue the agricultural use of the site.</p> <p>Proposed structural development under the scope of the Project is limited to agricultural accessory structures that will support continued agricultural use of the site. The proposed structures have been sited to avoid impacts to prime soils and are located in areas of the site that have not historically been farmed. The Project will not result in the conversion of agricultural lands to a non-agricultural use and no recreational uses or other incompatible uses are included as part of the Project.</p> <p>The Project is consistent with Policy 1.E as it complies with the applicable development standards for noise and odor. A Noise Plan was prepared for the Project that identifies and analyzes noise-generating activities. The Noise Plan concludes that noise levels associated with the Project will not exceed 65 decibels at the property lines. The Project will generate odors from cannabis cultivation harvesting</p>

	<p>activities and processing activities. However, as noted in the Project Description, all harvested cannabis will be transferred into the onsite processing building, into coolers within the onsite agricultural storage barn, or to an offsite processing facility the same day it is harvested. Additionally, all onsite cannabis processing activities will occur within either 1) the enclosed processing building, which will be equipped with a carbon filtration and HVAC system to mitigate odors produced by drying, curing, trimming, storing, packaging, and labeling activities, or 2) the enclosed coolers within the agricultural storage barn, which will be equipped with refrigeration units to mitigate odors produced by cannabis storage.</p>
<p><b>Conservation Element – Groundwater Resources Policies</b></p>	
<p><b>Groundwater Resources Policy 3.2:</b> <i>The County shall conduct its land use planning and permitting activities in a manner which promotes and encourages the cooperative management of groundwater resources by local agencies and other affected parties, consistent with the Groundwater Management Act and other applicable law.</i></p> <p><b>Groundwater Resources Policy 3.5:</b> <i>In coordination with any applicable groundwater management plan(s), the County shall not allow, through its land use permitting decisions, any basin to become seriously over drafted on a prolonged basis.</i></p> <p><b>Groundwater Resources Policy 3.6:</b> <i>The County shall not make land use decision which would lead to the substantial over commitment of any groundwater basin.</i></p>	<p>Consistent with the Conservation Element Groundwater Resources Policies 3.2, 3.5, and 3.6, the Project will not result in any groundwater basin becoming seriously over drafted on a prolonged basis or lead to a substantial over commitment of any groundwater basin.</p> <p>The Project site is not located within a California Department of Water Resource (DWR) designated groundwater basin or within a County of Santa Barbara designated groundwater basin. The subject property is located within a small intermontane basin sourced by regional runoff and is not subject to the California Groundwater Sustainability Act. The Environmental Thresholds and Guidelines Manual does not identify a threshold for this particular basin.</p> <p>The Project includes proposed cannabis cultivation in areas of the site historically farmed in row crops and oat hay. The proposed</p>

	<p>cannabis cultivation area will not result in an increase in the area that was previously farmed. Additionally, as demonstrated in the Water Source and Water Demand Memo (Attachment D – CEQA Checklist’s internal Attachment E – Water Source and Water Demand Memo) prepared by a Professional Geologist, the Project will result in a reduction of the historic water use of the property. Therefore, the proposed Project will not lead to the substantial over commitment of the groundwater basin.</p>
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→ Mr. Katherman  
Paid by Applicant  


#### 6.4 Zoning: Land Use and Development Code Compliance

The Project is consistent with the LUDC requirements for the AG-II-40 Zone District as they relate to permitted uses, building height, setbacks, and parking, as discussed below.

##### 6.4.1 Intent of AG-II Zone

The subject property is zoned Agriculture II (AG-II-40), is located in an area designated as Rural in the Comprehensive Plan, and is surrounded by agricultural uses. The AG-II-40 zoning is applied to areas appropriate for agricultural uses on agricultural lands located within rural areas identified in the County Comprehensive Plan. The intent of the AG-II zoning is to preserve these lands for longer-term agricultural use. All lots adjacent to the subject property are also zoned AG-II and support agricultural uses. The Project, which is comprised of the cultivation of cannabis, will result in the continued agricultural use of the land and is consistent with the intent of the AG-II Zone.

##### 6.4.2 Compliance with Land Use and Development Code Requirements

Section 35.21.050(A) of the LUDC sets forth the following structural setback requirements for the AG-II Zone:

- *Front: 50 feet from road centerline and 20 feet from edge of right-of-way*
- *Side: No setback required*
- *Rear: No setback required*

Existing and proposed development on the Project site complies with the AG-II Zone District setbacks. All structures are set back a minimum of 50-feet from the front property line adjacent to U.S. Highway 101, consistent with the setback requirements of the AG-II Zone District.



Exhibit 2

## **Water Board Decision 1639 (1999) regarding Garrapata Creek case**

The following physical conditions must exist for groundwater to be classified as a subterranean stream flowing through a known and definite channel:

- A subsurface channel must be present;
- The channel must have relatively impermeable bed and banks;
- The course of the channel must be known or capable of being determined by reasonable inference; and
- Groundwater must be flowing in the channel.

*Notably, proximity of a well to the stream, or the physical attributes of a well, are not part of the so called four-part test.*

# Exhibit 3

8/17/2022

Nojoqui Creek Watershed- Rainfall Log   Well Actions Taken					
Rain Year	Rainfall in Inches	Nojoqui Farms Use	Restoration Oaks Ranch	Pork Palace	Family Ranch Produce
2002-2003*	18				
2003-2004*	9				
2004-2005*	40				
2005-2006	6				
2007-2008	24				
2008-2009	14				
2009-2010	29.5	114.9 AF		main well dry, trucked in water, drilled 1st ~250' well- excessive boron	
2010-2011	32	164.7 AF		main well dry, trucked in water, installed RO system, drilled 2nd ~250' well- excessive boron	
2011-2012	12	121.0 AF		main well dry, used RO	main well dry, drilled ~250' well- excessive boron
2012-2013	8.75	45.3 AF		main well dry, used RO	main well dry
2013-2014	9	no data		main well dry, RO down, trucked in water	main well dry
2014-2015	8.75	91.2 AF		main well dry, used RO	main well dry
2015-2016	12	69.8 AF	shared well went went dry, switched to FH resevoir direct	main well dry, RO down, trucked in water, drilled 3rd ~250' well- excessive boron	main well dry
2016-2017*	20	50.0 AF	N/A	main well dry, used RO	main well dry
2017-2018*	8	50.0 AF	N/A	main well dry, used RO	main well dry, installed Aquatek filters for residential water
2018-2019	21.75	no crop	N/A	main well works	main well works
2019-2020	23	9 AF	N/A	main well works	main well works
2020-2021	24.75	no crop	N/A	main well works	main well works
2021-2022	15.25	N/A	N/A	main well works	main well works
COLOR CODE = 2" or more below average rainfall					
20 YR AVE. RAINFALL:		17.52			
o Verify Rainfall: <a href="https://www.countyofsb.org/2322/Monthly-Yearly-Rainfall">https://www.countyofsb.org/2322/Monthly-Yearly-Rainfall</a>					
* Buellton Fire Station data, not Restoration Oaks Ranch rainfall log					



Exhibit 4 (not to scale)

# Exhibit 5



## Santa Barbara County - Flood Control District

130 East Victoria Street, Santa Barbara, CA 93101  
805.568.3440 - www.countyofsb.org/pwd

### Monthly and Yearly Rainfall Record

(Monthly Depth Durations and Average Recurrence Intervals)

Station: 233 Station Type: Alert, Data Logger w/TB

Latitude: 343649 Longitude: 1201147

Station Name: Buellton Fire Station

Elevation (ft): 360

Rainfall (in.)

WY	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	WY
1954-55	0.00	0.00	1.19	3.06	4.69	1.15	0.61	1.99	1.47	0.03	0.00	0.00	14.19
1955-56	0.00	0.00	1.97	7.09	3.97	0.67	0.00	1.87	1.07	0.00	0.00	0.00	16.64
1956-57	0.00	0.30	0.00	0.20	4.42	3.05	0.59	1.31	1.27	0.08	0.00	0.00	11.22
1957-58	0.00	1.10	0.44	3.75	2.72	7.06	6.10	4.70	0.66	0.00	0.00	0.00	26.53
1958-59	1.16	0.02	0.29	0.16	2.72	5.96	0.00	1.17	0.00	0.00	0.00	0.00	11.48
1959-60	0.03	0.00	0.00	0.92	4.03	3.43	0.48	1.77	0.00	0.00	0.00	0.00	10.66
1960-61	0.00	0.22	3.75	0.94	1.41	0.12	0.98	0.20	0.05	0.00	0.00	0.00	7.67
1961-62	0.00	0.00	3.21	1.86	2.72	12.73	1.43	0.00	0.00	0.00	0.00	0.00	21.95
1962-63	0.00	0.42	0.02	0.30	0.71	5.22	3.43	2.44	0.29	0.46	0.00	0.35	13.64
1963-64	1.09	0.87	2.13	0.08	1.82	0.03	1.92	1.20	0.25	0.08	0.00	0.00	9.47
1964-65	0.02	1.88	2.65	2.50	1.15	0.49	1.99	3.96	0.00	0.02	0.00	0.00	14.66
1965-66	0.00	0.00	9.42	3.80	2.52	0.66	0.25	0.00	0.00	0.00	0.00	0.00	16.65
1966-67	0.17	0.00	2.88	3.55	4.60	0.41	3.05	4.04	0.21	0.00	0.00	0.00	18.91
1967-68	0.46	0.00	3.03	0.55	0.86	1.04	2.75	1.27	0.04	0.00	0.00	0.00	10.00
1968-69	0.00	1.78	0.86	2.07	14.13	8.97	0.72	1.90	0.10	0.00	0.00	0.00	30.53
1969-70	0.07	0.22	1.03	0.38	2.83	2.70	1.84	0.08	0.00	0.00	0.00	0.00	9.15
1970-71	0.00	0.07	3.40	4.11	0.50	0.57	0.34	0.83	0.93	0.00	0.00	0.00	10.75
1971-72	0.00	0.08	0.39	6.87	0.11	0.26	0.00	0.19	0.00	0.00	0.00	0.00	7.90
1972-73	0.00	1.19	5.00	0.52	5.78	8.25	2.57	0.00	0.00	0.00	0.00	0.00	23.31
1973-74	0.00	0.14	2.30	2.15	7.27	0.18	4.05	0.81	0.00	0.00	0.00	0.00	16.90
1974-75	0.00	1.13	0.22	7.32	0.11	4.74	6.37	0.11	0.00	0.00	0.00	0.00	20.00
1975-76	0.00	0.25	0.47	0.11	0.00	7.12	0.93	1.31	0.00	0.00	0.00	0.00	10.19
1976-77	4.32	0.58	0.55	1.61	3.40	0.13	1.87	0.00	2.74	0.00	0.00	0.00	15.20
1977-78	0.00	0.00	0.14	2.85	7.41	11.16	7.92	3.24	0.00	0.00	0.00	0.00	32.72
1978-79	1.95	0.00	2.33	1.06	6.52	2.85	5.88	0.00	0.00	0.00	0.00	0.00	20.59
1979-80	0.38	0.53	0.65	1.60	3.75	9.66	4.01	0.93	0.15	0.00	0.12	0.00	21.78
1980-81	0.00	0.00	0.00	1.12	3.21	2.61	6.29	0.40	0.00	0.00	0.00	0.00	13.63
1981-82	0.00	0.36	0.95	0.65	3.04	0.64	4.80	3.57	0.00	0.00	0.00	0.00	14.01
1982-83	0.36	1.49	4.90	2.65	9.35	5.95	7.77	6.17	0.04	0.00	0.00	0.35	39.03
1983-84	0.14	1.82	3.32	3.77	0.01	0.22	0.51	0.35	0.00	0.00	0.04	0.00	10.18
1984-85	0.00	1.14	2.92	4.48	0.67	1.34	1.67	0.00	0.00	0.00	0.00	0.00	12.22
1985-86	0.00	0.41	4.40	0.74	0.99	6.03	5.53	0.34	0.00	0.00	0.00	0.00	18.44
1986-87	0.83	0.00	1.15	0.97	2.08	2.18	4.64	0.15	0.00	0.00	0.00	0.00	12.00
1987-88	0.00	2.45	0.99	4.39	2.46	3.58	0.44	2.66	0.12	0.20	0.00	0.00	17.29
1988-89	0.00	0.00	0.64	4.13	0.17	1.03	0.39	0.08	0.35	0.00	0.00	0.00	6.79
1989-90	0.53	0.35	0.35	0.00	2.78	1.89	0.33	0.16	0.67	0.00	0.00	0.00	7.06
1990-91	0.13	0.00	0.29	0.82	1.20	2.36	12.95	0.22	0.00	0.00	0.00	0.02	17.99
1991-92	0.00	0.44	0.22	7.95	3.11	10.48	4.61	0.00	0.00	0.00	0.30	0.00	27.11
1992-93	0.00	0.82	0.00	4.61	7.82	8.94	5.05	0.00	0.00	0.12	0.00	0.00	27.36
1993-94	0.00	0.15	0.74	1.97	1.32	4.36	2.42	0.95	0.70	0.00	0.00	0.00	12.61
1994-95	0.00	0.60	2.00	0.95	16.71	1.85	9.73	0.34	1.23	0.85	0.00	0.00	34.26
1995-96	0.00	0.00	0.22	1.16	2.63	7.05	1.70	0.31	0.20	0.00	0.00	0.00	13.27
1996-97	0.00	2.25	1.93	4.23	4.15	0.00	0.00	0.00	0.00	0.00	0.05	0.00	12.61
1997-98	0.88	0.00	3.74	4.51	4.85	19.78	2.45	3.12	2.23	0.00	0.00	0.00	41.56
1998-99	0.20	0.10	1.72	1.06	1.87	1.26	6.76	1.55	0.00	0.00	0.15	0.00	14.67
1999-00	0.00	0.00	1.75	0.00	1.44	9.10	2.28	3.83	0.00	0.00	0.00	0.00	18.40
2000-01	0.00	3.15	0.00	0.06	6.92	5.27	11.82	1.12	0.00	0.00	0.04	0.00	28.38
2001-02	0.00	0.65	3.72	2.16	0.93	0.21	0.57	0.10	0.11	0.00	0.00	0.00	8.45
2002-03	0.05	0.00	3.35	6.29	0.08	2.22	2.70	1.63	1.24	0.00	0.00	0.00	17.56
2003-04	0.02	0.00	1.28	1.91	0.49	5.23	0.44	0.05	0.01	0.00	0.01	0.00	9.44
2004-05	0.01	6.65	0.64	10.60	8.20	8.40	3.81	0.66	0.58	0.02	0.00	0.00	39.57
2005-06	0.08	0.42	1.62	0.71	5.29	2.51	3.58	4.10	0.95	0.01	0.00	0.00	19.27
2006-07	0.00	0.21	0.26	1.55	1.68	1.74	0.05	0.81	0.00	0.00	0.00	0.00	6.30
2007-08	0.70	0.69	0.00	1.68	14.56	2.31	0.00	0.03	0.04	0.00	0.00	0.00	20.01
2008-09	0.00	0.09	2.10	1.65	0.52	5.22	0.87	0.08	0.02	0.21	0.00	0.00	10.76
2009-10	0.01	1.32	0.00	2.94	7.36	4.27	0.36	2.05	0.01	0.00	0.20	0.00	18.52
2010-11	0.00	1.95	1.20	7.91	0.73	3.07	5.41	0.32	0.31	0.36	0.00	0.00	21.26
2011-12	0.17	0.64	3.22	0.57	1.32	0.36	2.45	2.81	0.00	0.00	0.00	0.00	11.54
2012-13	0.00	0.08	0.77	3.04	1.91	0.58	1.26	0.03	0.09	0.00	0.03	0.00	7.79
2013-14	0.00	0.15	0.62	0.20	0.00	2.87	1.32	0.71	0.00	0.00	0.00	0.00	5.87



# Santa Barbara County - Flood Control District

130 East Victoria Street, Santa Barbara, CA 93101  
805.568.3440 - www.countyofsb.org/pwd

## Monthly and Yearly Rainfall Record

*(Monthly Depth Durations and Average Recurrence Intervals)*

Station: 233 Station Type: Alert, Data Logger w/TB

Latitude: 343649 Longitude: 1201147

Station Name: Buellton Fire Station

Elevation (ft): 360

Rainfall (in.)

WY	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	WY
2014-15	0.00	0.00	0.64	4.09	0.65	0.60	0.26	0.38	0.08	0.17	0.07	0.00	6.94
2015-16	0.07	0.20	0.54	1.12	3.89	1.29	2.56	0.61	0.47	0.00	0.00	0.00	10.75
2016-17	0.00	1.06	1.42	1.87	6.89	7.60	0.72	0.22	0.38	0.00	0.00	0.00	20.16
2017-18	0.20	0.00	0.02	0.01	2.64	0.06	5.06	0.11	0.02	0.00	0.00	0.00	8.12
2018-19	0.00	0.25	1.44	0.87	6.24	6.22	2.65	0.04	1.51	0.00	0.00	0.00	19.22
2019-20	0.00	0.00	1.45	5.40	0.66	0.00	4.94	2.74	0.01	0.00	0.00	0.23	15.43
2020-21	0.01	0.00	0.19	1.67	5.57	0.16	0.97	0.00	0.00	0.00	0.00	0.00	8.57
Mean	0.21	0.61	1.57	2.48	3.53	3.72	2.87	1.17	0.31	0.04	0.02	0.01	16.52
Max	4.32	6.65	9.42	10.60	16.71	19.78	12.95	6.17	2.74	0.85	0.30	0.35	41.56
StdDev	0.61	1.02	1.65	2.31	3.47	3.82	2.85	1.41	0.56	0.13	0.05	0.07	8.33
Yrs of Recd	67	67	67	67	67	67	67	67	67	67	67	67	67

### Average Recurrence Intervals (in Years)

2	0.00	0.39	1.20	2.14	2.74	3.06	2.42	0.82	0.10	0.00	0.00	0.00	15.22
5	0.36	1.10	2.71	4.06	5.69	6.49	4.74	2.02	0.58	0.07	0.02	0.02	21.98
10	0.79	1.63	3.73	5.26	7.76	8.66	6.21	2.87	0.99	0.16	0.07	0.06	26.27
25	1.47	2.31	5.01	6.72	10.39	11.32	8.01	3.99	1.58	0.30	0.14	0.14	31.50
50	2.04	2.82	5.93	7.76	12.36	13.27	9.33	4.80	2.05	0.41	0.20	0.21	35.35
100	2.63	3.33	6.85	8.76	14.30	15.11	10.58	5.62	2.52	0.52	0.27	0.28	38.99
200	3.25	3.83	7.75	9.73	16.21	16.92	11.80	6.43	3.00	0.64	0.34	0.35	42.55
500	4.49	4.68	9.17	11.15	19.35	19.57	13.60	7.78	3.82	0.88	0.49	0.51	47.79