

Concerned Carpinterians

A grassroots group committed to protecting the quality of life in Carpinteria and the Carpinteria Valley as impacted by the Commercial Cannabis Industry.

G&K Farm Appeal
3561 Foothill Road
Carpinteria

An aerial photograph showing a coastal area. In the foreground, there are several large, long greenhouses with white covers. Beyond the greenhouses, there is a residential or commercial area with buildings and trees. In the background, a beach and the ocean are visible under a clear sky.

Primary Issues

- **The County did not conduct environmental review required by the California Environmental Quality Act (“CEQA”) to assess and mitigate environmental and public safety impacts of the G&K Project.**
- **The Project’s Conditions of Approval are not clear or specific. As a result, it is unclear what the Board would actually approve at the hearing today, and Project approval will not ensure mitigation of site-specific environmental impacts.**
- **The Project, if approved, will violate Santa Barbara’s Local Coastal Program (“LCP”), as it does not comply with the Coastal Land Use Plan and the Coastal Zoning Ordinance. Project approval would set harmful precedent for land use protections in the Coastal Zone.**

The March CEQA Memorandum & May Checklist Do Not Comply with CEQA

“CEQA requires a lead agency to prepare an initial study to determine if the later project may cause significant environmental effects not examined in the first tier EIR.” (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1319 [“*Sierra Club*”].)

- An initial study for a tiered EIR must examine the later project **in a detailed manner** before determining that the later project does not require an EIR. (See *Citizens Ass'n for Sensible Dev. v. County of Inyo* (1985) 172 CA3d 151, 171 [“*Citizens Ass'n for Sensible Dev.*”] (discussing EIR initial study requirements).)
- The initial study “**shall analyze whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.**” (Public Resources Code, which codifies CEQA, § 21094.)
- **Evidence must support the study’s findings.** (See *Citizens Ass'n for Sensible Dev.*, *supra*, 172 CA3d 151, 171 [discussing EIR initial study requirements].)
- The study **cannot draw conclusions without analysis.** It “must set forth findings to **bridge the analytic gap between the raw evidence and ultimate decision or order.**” (*Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 511–512, 515 [“*Topanga*”].)

The March CEQA Memorandum & May Checklist Do Not Comply with CEQA

- The **Memorandum** provides:
 - A project description,
 - an outline of the general impacts identified in the PEIR, and
 - states that the Project will not have additional impacts.
- The **Checklist**:
 - Includes questions regarding the Project's compliance with PEIR mitigation measures and whether the Project has submitted the "plans" required by the County's cannabis ordinance.
 - It only contains one question, which answered with a yes or no, that addresses whether Project impacts were assessed in the PEIR.
- Neither document addresses potential Project-specific impacts that would help the County determine whether Project impacts are assessed in the PEIR. They do not:
 - specifically identify what impacts the Project may have;
 - substantively compare Project impacts to the impacts identified in the PEIR; or
 - disclose specific data or evidence to support their conclusions.
- There are numerous Project impacts that were not examined by the PEIR. These impacts were not analyzed in either the Memorandum or the Checklist.

The Checklist Does Not Comply With CEQA

3. Project Applicant(s): Graham Farms

4. Property Owner(s): Maga Farms, LLC

5. Project Site Location and Tax Assessor Parcel Number(s): 3480 Via Real, APN 005-280-048

6. Project Description: This Coastal Development Permit is for a proposed cannabis operation by Maga Farms, LLC, to utilize the use of 2 existing greenhouses totaling 756,039 square feet for cannabis cultivation, with nursery, related light cultivation, and off-site distribution. A nursery frame ranging from 6 to 8 feet in height, part of which is existing, is proposed around the perimeter of the cannabis operation. The other structure units would be located within an existing shade structure. Two (2) existing water tanks and four (4) proposed water tanks would be used as part of the cannabis operation. The existing agricultural warehouse of 16,895 square feet is not proposed to be used as part of the cannabis cultivation operations approved under this Coastal Development Permit. The cannabis operation would utilize 15-22 low or vertical greenhouse and 6-8 arrangement and auxiliary staff, depending on the season. The hours of operation would be from 8:00am to 3:30pm for low or vertical staff and 8:00am to 8:00pm for managerial and executive staff. Depending on the season, water for the cannabis cultivation operations would be served by an existing agricultural water well. Domestic water will continue to be served by Carpinteria Valley Water District. The parcel will continue to be served by an existing water system and the Carpinteria/Camposano Fire Protection District. No grading, tree removal, or vegetation removal is proposed as part of this project. Access will continue to be provided off of Via Real. The property is a 14.66 acre parcel zoned AG-1.10 and shares an Assessor Parcel Number 005-280-048, located at 3480 Via Real with a secondary address of 2561 Foothill Road, Carpinteria, First Supervisorial District.

C. PEIR Mitigation Measures/Requirements for Commercial Cannabis Operations

The following table lists the specific mitigation measures set forth in the PEIR and questions to determine if the proposed commercial cannabis operation requires the preparation of a subsequent environmental impact report or negative declaration. Please answer all questions set forth in the following table. Planning and Development Department (P&D) staff complete § C.1 and County Executive Office (CEO) staff complete § C.2. If a question does not apply to the proposed cannabis operation, please check the corresponding "N/A" box.

C.1 Mitigation Measures/Requirements for P&D Staff Review

Mitigation Measure/Requirement	Code/Plan Sections*	Requirement
Aesthetics and Visual Resources		
MM AV-1. Screening Requirements	LUIC § 35-42.073.C.3	If the proposed cannabis operation visible from a public viewing location? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Article II § 35-144U.C.3	If so, does the proposed project include implementation of the required landscape and screening plan? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A (Existing Development)
Agricultural Resources		

Mitigation Measure/Requirement	Code/Plan Sections*	Requirement
MM AG-1. Cannabis Cultivation Permits/Auxiliary Use Licenses	LUIC § 35-42.075.D.3 and -4	Does the proposed project include auxiliary cannabis uses (e.g., manufacturing of cannabis products)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Article II § 35-144U.C.2.a and -3.a	If the proposed project includes auxiliary cannabis uses, does the proposed project comply with the minimum cultivation requirements to allow auxiliary cannabis uses? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
MM AG-2. New Structure Avoidance of Prime Soils	LUIC § 35-42.075.D.3.b	Does the proposed project site have prime soils located on it? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Article II § 35-544U.C.1.b	Does the proposed project involve structural development? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If the proposed project involves structural development, are the structures sited and designed to avoid prime soils? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Air Quality and Greenhouse Gas Emissions		
MM AQ-3. Cannabis Site Temperature Demand Management	LUIC § 35-42.075.D.1.j	Does the proposed project include cannabis cultivation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Article II § 35-144U.1.j	If so, does the project include implementation of the required Transportation Demand Management Plan? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
MM AQ-5. Odor Abatement Plan	LUIC § 35-42.075.C.6	This mitigation measure requirement does not apply to projects in the AG-3B zone, unless a Conditional Use Permit is required for the proposed commercial cannabis operation.
	Article II § 35-144U.C.6	Does the proposed project include cannabis cultivation, a nursery, manufacturing, microbusiness, and/or distribution? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If so, does the project include implementation of the required odor abatement plan? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Biological Resources		
MM BB-6a. Tree Protection Plan	LUIC § 35-42.075.C.8 and Appendix I	Does the proposed project involve development within proximity to, alteration of, or the removal of, a native tree? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Article II § 35-144U.C.8 and Appendix I	If so, does the project include implementation of the required tree protection plan? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Tiered EIR

Overview

- The County prepared and certified a Program Environmental Impact Report (“PEIR”) in early 2018 for the Cannabis Land Use Ordinance and Licensing Program.
- A public agency that has prepared a PEIR must prepare a tiered EIR for a subsequent, related project if the later project “**may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR.**” (*Sierra Club, supra*, 6 Cal.App.4th at 1319 (emphasis added).)
- This establishes a “**low threshold**” for when a public agency must prepare a tiered EIR. (*Ibid.*)
- **Any doubts “must be resolved in favor of environmental review and the agency must prepare a new tiered EIR” even if there is “contrary evidence.”** (*Ibid.*)

The G&K Farm, as viewed from Foothill Road. Please note open vents and Byers PVC pipes.



Site-Specific Impacts to Agricultural Resources

- Pesticide drift, in conjunction with requirements that cannabis cannot contain certain chemicals, threatens historic avocado orchards and other local farms.
- Terpenes have been shown to degrade grape (and wine) taste and marketability.
- The Project is located in the center of several orchards and agricultural operations and in close proximity to two local wineries.
- As a result, the G&K Project may make it impossible to maintain small, historic farms or operate vineyards in the Carpinteria Valley.
- The PEIR did not analyze either of these impacts.
- If a later project **“*may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR,*”** such as here, **the County must prepare a tiered EIR.** (*Sierra Club, supra*, 6 Cal.App.4th at 1319 (emphasis added).)





Site-Specific Impacts to Air Quality

- **Regional Air Quality:** The Project will emit VOCs and fine particulate matter, which, in conjunction with Carpinteria's summer inversion, will negatively impact regional air quality. The PEIR did not analyze these impacts in the context of the Project location and the summer inversion.
- **Sensitive Receptors:** The Project is located less than a mile from the City of Carpinteria, half a mile from La Mirada, Serena Park, Ocean Oaks, Padaro Lane rural residential areas, within 1,500 feet of the Santa Barbara Polo Fields, and within approximately a mile of Padaro Lane. Studies show that cannabis terpenes and odors can be particularly harmful to children, the elderly, and community members with health issues. The PEIR did not analyze these impacts.
- **Odor Mitigation Technologies:** The PEIR did not analyze the impacts of the Byers Odor Mitigation System, including the impacts of continuously releasing chemicals in vapor form near wildlife and residences.
- If a later project "***may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR,***" such as here, the County must prepare a **tiered EIR.** (*Sierra Club, supra*, 6 Cal.App.4th at 1319 (emphasis added).)

Site-Specific Impacts to Land Use Compatibility

- The Project is incompatible with local neighborhoods, tourism, and agriculture.
- The Project fails to comply with the Coastal Land Use Plan, Coastal Zoning Ordinance, and the General Plan.
- **These inconsistencies were not analyzed in the PEIR.**
- If a later project “*may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR,*” such as here, the **County must prepare a tiered EIR.** (*Sierra Club, supra*, 6 Cal.App.4th at 1319 (emphasis added).)

Exterior view of G&K Farm from Foothill Road. Please note open vents and Byers pipes.



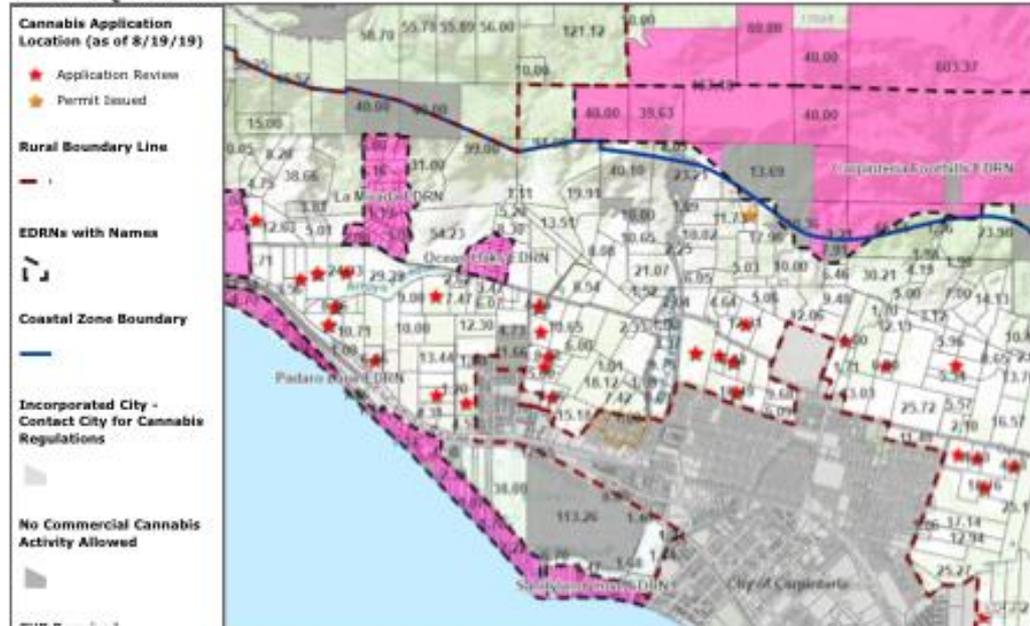


Cumulative Impacts in Carpinteria

- The PEIR did not examine cannabis project clusters near the Project site:
 - 35 cannabis projects are currently pending before the County in a 4-mile area surrounding Carpinteria
 - The Project is surrounded by 3 large proposed cannabis projects.
 - 15 cannabis cultivation projects are being reviewed by the County within a mile and a half of the Proposed Project. This totals 142.71 acres of cannabis cultivation, and accounts for 9% of the County's approximately 1,510 acres designated for cannabis cultivation.
- The PEIR did not analyze cumulative impacts of large grow operations, because it did not anticipate that cannabis operations would be permitted to exceed 22,000 square feet indoors and 1 acre of outdoor cultivation.
- The PEIR did not contemplate that the County would permit more than 1,500 acres of cannabis within

Cannabis Queries LRP



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Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA

CEQA Requires The County To Prepare a Stand-alone Project EIR

- **When an agency has prepared an EIR for a project, it must prepare a subsequent, independent project EIR for later projects in three circumstances:**
 - First, where “[s]ubstantial changes are proposed in the project which will require major revisions of the environmental impact report.”(Cal. Pub. Resources Code, § 21166(a).)
 - Second, where “[s]ubstantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.” (*Id.* § 21166(b).
 - Third, when “[n]ew information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.” (*Id.* § 21166(c).
- **The following circumstances meet these criteria:**
 - G&K’s specific location and the location of other cannabis projects constitutes substantial new information that was not known at the time the EIR was certified (criteria three), and requires a Project EIR.
 - Growers’ ability to have more 22,000 square feet of indoor cultivation and 1 acre of outdoor cultivation on an individual parcel before 2023 constitutes a substantial change that has occurred with respect to the circumstances under which the Project is being undertaken (criteria two) and new information (criteria three), and requires a Project EIR.
 - The County cap on cannabis cultivation was altered from 1,126 to 1,510 acres in July 2019, meets all three criteria, and requires a project EIR.



Additional Legal Issues

- The Fencing and Security Plan, Odor Abatement Plan, Lighting, Landscape and Screening, and Noise Plans, do not include clear details of what is required, do not have specific enforcement mechanisms or procedures, and do not include consequences for failure to comply.
 - This does not ensure enforceable mitigation under CEQA,
 - makes it difficult to ensure Project approval compliance,
 - and does not provide the Board with the opportunity to review and determine if these plans are appropriate, legal, or advisable for the Project.
- The Project, if approved, would not comply with the Local Coastal Program, because it violates important provisions of the Coastal Land Use Plan and the Coastal Zoning Ordinance.



Conclusion

- To remedy these issues, Concerned Carpinterians respectfully requests that the Board of Supervisors deny the Project.
- In the alternative, Concerned Carpinterians requests that the Board:
 - return the Project to County staff for appropriate environmental review under CEQA,
 - alter the Project's conditions of approval to ensure that the Project complies with the Coastal Zoning Ordinance and Land Use Plan, and
 - require clear, specific, and enforceable Conditions of Approval for the Project.