



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning and Development
Department No.: 053
For Agenda Of: April 21, 2020
Placement: Department
Estimated Time: 3 hours
Continued Item: Yes
If Yes, date from: March 21, 2020
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development Department
Director (805) 568-2086
Contact Info: Dan Klemann, Deputy Director, Long Range Planning Division
(805) 568-2072
SUBJECT: Santa Barbara West Coast Farms, LLC Cannabis Cultivation Appeal,
Case No. 19APL-00000-00036, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

If your Board wishes to affirm the Planning Commission's denial of the revised project, on April 21, 2020, staff recommends that your Board take the following actions:

- a) Deny the Appeal, Case No. 19APL-00000-00036;
- b) Make the required findings, including California Environmental Quality Act (CEQA) findings, for denial of the revised project, Case No. 19LUP-00000-00064 (Attachment 1);
- c) Determine that denial of the revised project is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and State CEQA Guidelines Sections 15061(b)(4) and 15270(a) (Attachment 2); and
- d) Deny *de novo* the revised project, Case No. 19LUP-00000-00064.

Alternatively, if your Board wishes to uphold the appeal, reverse the Planning Commission's denial, and approve the revised project, staff recommends that you take the following actions:

- a) Uphold the appeal, Case No. 19APL-00000-00036;
- b) Make the required findings, including CEQA findings, for approval of the revised project, Case No. 19LUP-00000-00064 (Attachment 3);

- c) Determine that the previously certified PEIR (17EIR-00000-00003) (Attachment 10) constitutes adequate environmental review as discussed in Attachment 5 and no subsequent Environmental Impact Report or Negative Declaration is required pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2); and
- d) Grant *de novo* approval of the revised project, Case No. 19LUP-00000-00064, subject to the conditions of approval included in Attachment 4.

Summary Text:

A. Proposed Project

The following project description was revised by the Applicant from the project that was denied by the Planning Commission on December 4, 2019. As currently proposed, the amount of exterior lighting was substantially decreased and the proposed acreages were clarified, outdoor cannabis cultivation area increased from 40 acres to 46.12-acres and the nursery area decreased from 10 acres to 4-acres for a total of 50.12-acres. The project description that was denied by the Planning Commission can be found in Attachment 7 (Planning Commission Memorandum dated November 6, 2019).

Santa Barbara West Coast Farms, LLC is requesting a Land Use Permit (LUP) that would allow for a cannabis cultivation operation on an approximately 50-acre portion of an approximately 73-acre parcel (Assessor's Parcel Number 099-240-067) located off of Highway 246, approximately 3.3 miles from the intersection of Highway 101 and W Highway 246 in the Buellton area. The project would include approximately 46.12-acres of outdoor cannabis cultivation and 4-acres of nursery, cannabis processing, and storage areas. The processing and storage areas would be located within two-3,000 square foot agricultural accessory structures and the nursery would be located outdoors, northwest of the proposed structures. The northerly structure would be dedicated to storage and the southerly structure would include a small office, two individual restrooms, and the remainder would be dedicated to processing.

A 6-foot chain-link fence would be located along the perimeter of the cannabis cultivation and product manufacturing areas to provide security and partial screening. Additional screening of the project site would be provided by landscaping that would be installed on the northern property line, bordering Highway 246. Additional security would be provided with the installation of cut-off, downward facing, motion-sensor lighting and onsite security cameras. During the harvest season, operations will be monitored by 24/7 onsite security.

The operation would include 10 full-time staff during the cultivation season and an additional 10-20 temporary employees during the harvest season. Harvest seasons would take place twice a year and last approximately one month each. Approximately 28 onsite parking stalls are included in the project to accommodate employees, including one ADA parking stall. Hours of operation would be 6:00 a.m. to 3:00 p.m., year-round. Potable water would be provided via onsite well and sewage disposal would be provided by an onsite, leach field.

All products would be generated, and processed onsite. Thereafter, products would be transported to licensed distributors. Traffic generation and vehicle trips would be reduced by implementation of a Site Transportation Demand Management Plan, that includes ridesharing incentives and compressed work schedules for employees. The Santa Barbara County Fire Department will continue to serve the site. Access will continue to be provided off of Highway 246. The property is a 73-acre parcel zoned AG-II-100 and shown as Assessor's Parcel Number 099-240-067, located approximately 3.6 miles west of the

Highway 246 and Highway 101 interchange (no assigned street address), Buellton, Third Supervisorial District.

B. Background

On February 27, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance No. 5027, an ordinance amending Section 35-1, the Land Use and Development Code (LUDC), of Chapter 35, Zoning, of the County Code to implement new development standards, permit requirements, and procedures regarding commercial cannabis activities for the inland area of the County. Pursuant to the newly adopted procedures, the Applicant submitted a LUP application for cannabis cultivation to the Santa Barbara County Planning and Development Department on February 15, 2019. Staff reviewed the LUP application for compliance with Section 35.42.075 of the LUDC, and the Santa Ynez Valley Community Plan (SYVCP). On April 26, 2019 the Director approved the LUP application (Case No. 19LUP-00000-00064), which included approximately 50 acres of outdoor cannabis cultivation: (i.e., 45-acres of outdoor cannabis cultivation and 5-acres of outdoor nursery; two-3,000 square foot agricultural accessory structures for processing activities. The approved LUP provided conditions of approval regarding, fencing, lighting, landscaping, noise, hours of operation, and number of employees. The Director granted approval of the LUP based upon the proposed project's compliance with the applicable policies of the Comprehensive Plan, the SYVCP and standards set forth in the LUDC.

On May 6, 2019, Blair Pence, filed a timely appeal of the Director's decision to approve the proposed project. The Commission initially scheduled the appeal (Case No. 19APL-00000-00010) for consideration at the August 8, 2019, hearing. However at the August 8, 2019 Planning Commission hearing, the Applicant requested, and the Planning Commission granted, a continuance for the project. Subsequently the applicant returned to the Planning Commission on November 6, 2019 with a revised project description. At the November 6, 2020 hearing the applicant presented a revised project description which included a reduction in the number of motion sensor activated lights from 56 to 12; an increase in the number of full time employees; a decrease in the proposed operational hours; and a reduction in the height of the proposed fence from eight-feet to six-feet. The Planning Commission determined that the proposed project was inconsistent with the visual impact and agricultural goals and policies of the Comprehensive Plan and the SYVCP and directed staff to prepare findings for denial accordingly. Pursuant to the direction provided, staff prepared findings for denial (Attachment 8).

On December 4, 2019, the Planning Commission considered evidence in the record, statements given by the Appellant and the Applicant, and public testimony with regard to the proposed project. The Planning Commission denied the project based on findings for denial that were further revised at the December 4, 2019 hearing by the Planning Commission. The Planning Commission Staff Report dated June 6, 2019, and subsequent memorandums dated November 6, 2019, and December 4, 2019, are included as Attachments 6, 7 and 8, respectively.

On December 12, 2019, the Applicant, Santa Barbara West Coast Farms, LLC, filed a timely appeal (Case No. 19APL-00000-000036) of the Planning Commission's denial of the project to the Board of Supervisors.

C. Appeal Issues and Staff Responses

As noted above, the Applicant filed a timely appeal of the Planning Commission's denial of the proposed project. The appeal application (Attachment 9) contains a letter detailing why the Applicant believes that the Planning Commission was erroneous in their denial and that the decision of the Planning Commission is not in accord with applicable law, including the LUDC, SYVCP, and other components of the

Comprehensive Plan. More specifically, the Applicant asserts that the proposed project is consistent with the LUDC as well as the applicable goals and policies of the SYVCP and other components of the Comprehensive Plan related to aesthetics, agriculture, and odor. Furthermore, the Applicant contends that the Planning Commission was inconsistent in its analysis and conclusions when reviewing two similarly situated projects within proximity to the proposed project and that the Planning Commission was arbitrary in its denial. These appeal issues and the County's actions are summarized below.

Appeal Issue 1: The proposed project is consistent with all applicable goals, policies, and regulations of the SYVCP, the Comprehensive Plan and the LUDC

The Applicant maintains that the proposed project adheres to the applicable goals, policies and regulations related to visual and aesthetic resources, agricultural resources, and odor. These are discussed in further detail below.

Visual and Aesthetics

The Applicant asserts that the proposed project would be compatible with the visual and aesthetic characteristics of the Santa Ynez Valley because it would consist of green crops bordered by native landscaping, similar to other nearby farms and vineyards. The landscaping would be located on the northern property line adjacent and parallel to Highway 246 and along portions of both the east and west property lines closest to Highway 246.

Staff Response:

On December 4, 2019, the Commission determined that the proposed project did not comply with the SYCVP Policy VIS-SYV-1 and DevStd VIS-SYV-1.2, which are as follows:

Policy VIS-SYV-1: Development of property should minimize impacts to open space views as seen from public roads and viewpoints and avoid destruction of significant visual resources.

DevStd VIS-SYV-1.2: Development, including houses, roads and driveways, shall be sited and designed to be compatible with and subordinate to significant natural features including prominent slopes, hilltops and ridgelines, mature trees and woodlands, and natural drainage courses.

The Planning Commission found that the proposed landscaping would alter the character of the agricultural expanse along Highway 246 since most properties along Highway 246 are not currently landscaped. The Planning Commission concluded that the proposed landscaping would obstruct views of scenic areas along Highway 246, which included open areas and the surrounding, mountainous terrain. Furthermore, the Planning Commission concluded that because only a portion of the property would be landscaped, other areas of the property would be exposed to public view, including areas bordered by the proposed chain-link fence. In addition, the landscaping would not blend into the surrounding terrain and would alter the character of the agricultural expanse along Highway 246 at the western entrance to the SYVCP area.

An adequate Landscape and Screening Plan as required by LUDC Subsection 35.42.075.C.3 was submitted as part of the LUP. As required, the Landscape and Screening Plan would screen all cultivation activities, including structures, to the maximum extent feasible to avoid being seen from public places (e.g. Highway 246). Furthermore, the Central Board of Architectural Review (CBAR) reviewed the proposed project on November 8, 2019. (See Attachment 11 for the minutes for the CBAR's November 8, 2019, hearing.) The CBAR's scope of review included the proposed structures and landscaping. The CBAR commented on the aesthetics of the proposed structures, including windows, lighting fixtures and

the removal of the clerestory. The CBAR also directed the Applicant to simplify the proposed landscape and use native plants. The revised project plans (Attachment 13) reflect the applicant's effort to address CBAR comments. Before the project was able to return for a CBAR site visit with story poles and further review, the Planning Commission denied the project and an appeal was filed. Since the Planning Commission denied the project, CBAR ceased review of the project pending the outcome of the appeal. Should the Board uphold the appeal and grant *de novo* approval of the revised project, the project would then return to CBAR for final approval pursuant to Condition 8 of Attachment 4 to this Board Letter.

Agricultural Resources

The Applicant asserts that the proposed project would not have an adverse impact on existing agricultural uses since the project includes the use of progressive farming methods, would preserve water supply through managed irrigation practices, and would contribute to the economic growth of the County. The Applicant also asserts that Policy I.B. of the Agricultural Element expressly compels the County to recognize the Applicant's rights of operation, freedom of choice as to the methods of cultivation, and the choice to grow cannabis. The Applicant contends that based upon the project's proposed operational methods, the proposed project is consistent with the County's Agricultural Element's goals and policies, including but not limited to Policy I.B.

Staff Response:

On December 4, 2019, the Commission determined that the proposed project did not comply with the Agricultural Element Goal and Policies, which read as follows:

***Comprehensive Plan, Agricultural Element, Goal 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.*

***Comprehensive Plan, Agricultural Element, Policy I.B:** County shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions. These rights and freedoms shall be conducted in a manner which is consistent with: (1) sound agricultural practices that promote the long-term viability of agriculture and (2) applicable resource protection policies and regulations.*

***Santa Barbara County Comprehensive Plan, Agricultural Element, Policy II.D:** 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.*

In addition, the SYVCP includes the following policy related to Agriculture and Rural Land Use:

***Policy LUA-SYV-2:** Land designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.*

At the December 4, 2019, hearing, the Planning Commission determined that the proposed project has the potential to conflict with agricultural operations on neighboring properties, due to the potential for pesticide migration or pesticide drift from neighboring properties onto the subject property. Pesticide migration could contaminate the cannabis crops, result in complaints to the Agricultural Commissioner, and, consequently, possible curtailment of critical operations and/or the cessation of agricultural

operations on the neighboring properties. The Planning Commission determined that these potential impacts could inhibit the promotion of the long-term viability of agriculture on properties surrounding the proposed cannabis activities. Therefore, the Planning Commission concluded that the proposed project would not conform to abovementioned goal and policies of the Agricultural Element of the Comprehensive Plan, as well as Policy LUA-SYV-2 of the SYVCP.

Pesticide drift is not allowed under rules set forth by the California Department of Pesticide Regulation. Statewide, County Agricultural Commissioner offices are tasked with investigating pesticide complaints and have the option of taking enforcement actions when violations occur. In addition to the Santa Barbara County Agricultural Commissioner's ability to investigate and take enforcement actions, the Agricultural Commissioner's office also focuses on education and outreach to prevent any problems from pesticide drift from occurring. Recently the Agricultural Commissioner convened a working group comprised of conventional crop growers, cannabis growers, vintners, pest control businesses, aerial pesticide applicators and pest control advisors. The working group collaboratively developed a reference document to guide farmers and applicators in considerations and assessments they can make before and during pesticide application to avoid any problems with drift or overspray (included as Attachment 14). One of the key recommendations is to communicate with neighboring agricultural operators. The reference document developed by the working group is not binding regulation or policy and compliance with the document is not currently required.

State law deems cannabis an "agricultural product" only for the purposes of the Business and Professions Code. (Bus. & Prof. Code § 26069(a).) For all other purposes, cannabis is still considered a controlled substance. In County regulations, cannabis cultivation is considered an agricultural use pursuant to the Uniform Rules, but is specifically excluded from the County's Right to Farm Ordinance.

Odor

The Applicant contends that the proposed project is consistent with the SYVCP because the Odor Abatement Plan (OAP) prepared for the project included all the required information. Furthermore, as part of the project, the Applicant has proposed to install a Byers Odor Abatement System, a state-of-the art odor abatement system designed to neutralize odors and eliminate potential negative impacts on neighboring property owners.

Staff Response:

At the December 4, 2019 hearing, the Commission found that the proposed project, in conjunction with nearby cannabis operations, would result in significant malodors that the proposed OAP and Byers Odor Abatement System would not effectively reduce. As a result, the Planning Commission determined that the proposed project had the potential to create odors that could constitute a continuous public nuisance and would not meet the standards for an OAP set forth within the SYVCP.

Section 35.42.075.C.6 of the LUDC states: "No odor abatement plan shall be required in AG-II zoning, unless a Conditional Use Permit is required." Pursuant to Section 35.42.075.B.4 of the LUDC, the proposed project only required a Land Use Permit. Therefore, the proposed project is not subject to the odor abatement requirements of the aforementioned LUDC section. However, since the subject parcel is located within the boundaries of the SYVCP, it is therefore subject to the applicable SYVCP goals and policies.

The SYCVP includes the following policy and development standard related to odor:

Policy LUG-SYV-8: *“The public shall be protected from air emissions and odors that could jeopardize health and welfare.”*

Development Standard LUG-SYV-8.11: *Future Applicants for wineries or other odor generators, based on the nature of the operations, shall develop and implement an Odor Abatement Plan (OAP). The OAP shall include the following:*

- *Name and telephone number of contact person(s) responsible for logging and responding to odor complaints;*
- *Policy and procedure describing the actions to be taken when an odor complaint is received, including the training provided to the responsible party on how to respond to an odor complaint;*
- *Description of potential odor sources;*
- *Description of potential methods for reducing odors, including minimizing potential add-on air pollution control equipment; and*
- *Contingency measures to curtail emissions in the event of a continuous public nuisance.*

The Applicant submitted an OAP, (Attachment 15) and associated technical documentation, (Attachment 16) supporting the efficacy of the proposed OAP. The OAP was specifically designed for the proposed project and includes a Byers waterless vapor phase system. The Applicant originally submitted an OAP that included two Byers waterless vapor phase systems. However, since that time, the applicant consulted with the designer of the Byers system, who indicated that only one vapor phase system was necessary to control odor. The LUP would be subject to a condition of approval to require the applicant to retain an engineer or certified hygienist to submit a written analysis of the vapor phase system to the Planning Director for review, demonstrating compliance with DevStd LUG-SYV-8.11 (Attachment B, Condition No. 10). In addition, the Applicant provided the name and phone number of a contact person who would be responsible for handling odor complaints associated with the operation as well as information addressing each of the elements of Development Standard LUG-SYV-8.11.

Issue 2 – The Planning Commission was Inconsistent with their Denial of the Proposed Project

As noted above, on November 6, 2019, the Planning Commission requested staff to return with findings for denial for the proposed project. That same day the Planning Commission denied an appeal and grant *de novo* approval of the Santa Rita Valley Ag., Inc. Cannabis Cultivation Project (Case No. 18LUP-00000-00351). The following day, on November 7, 2019, the Commission took action to deny an appeal and grant *de novo* approval of Busy Bee’s Organics, Inc. Cannabis Cultivation Project (Case No. 19LUP-00000-00496). The Planning Commission approved both projects, subject to the incorporation of project-specific conditions that addressed landscaping and limited the cultivation acreage.

The two projects that are referenced by the Appellant that the Planning Commission are located on either side of the proposed project. Santa Rita Valley Ag., Inc. is located approximately 1,000 feet west of the project site, and Busy Bee’s Organics is located just over 0.5 mile east of the proposed project site. The Applicant asserts that all three projects have numerous similarities, including: outdoor cannabis cultivation, landscaping along Highway 246, and perimeter fencing. Additionally, all of the projects are subject to the same goals, policies, and regulations set forth in the applicable County documents, with the exception of Santa Rita Valley Ag., Inc., which, due to its location, is not subject to the SYVCP and does not require an OAP. The Applicant argues that despite these similarities, the Commission acted inconsistently by approving both Santa Rita Valley Ag., Inc. and Busy Bee Organics, Inc. and

incorporating project-specific conditions meant to address aesthetics, odor and agricultural resources, while denying the proposed project.

Staff Response:

After testimony from staff, the public, the Applicant and the prior appellant, the Planning Commission determined that the proposed project would result in impacts to visual and aesthetic resources, agricultural resources and odor and was not able to make the necessary findings for approval. The Planning Commission considers the merits of each project separately and has the discretion to approve or deny a proposed project based on the evidence presented. As detailed under Appeal Issue 1, the Planning Commission found that the project would be inconsistent with certain applicable goals, policies, and standards of the SYVCP and Agricultural Element of the Comprehensive Plan and, consequently, the Planning Commission denied the proposed project (Attachment 8).

The Planning Commission has the discretion to determine whether the proposed project complies with the LUDC, Comprehensive Plan and SYVCP, and whether the Planning Commission can make the findings for approval of a LUP application. The proposed project is before your Board under *de novo* review which affords your Board the discretion to determine whether the findings for approval or denial can be made based on the evidence in the record. The Board has discretion to consider each project individually.

Issue 3 – Cumulative Impacts

The Applicant asserts that the Planning Commission’s denial of the proposed project was based in part on the Commission’s approvals of the Santa Rita Valley Ag., Inc. and Busy Bee’s Organics projects and the potential for cumulative impacts. The Planning Commission was concerned that approval of several cannabis cultivation projects in close proximity to each other along Highway 246 could result in adverse cumulative visual, agricultural, and odor impacts.

Staff Response:

At the November 6, 2019 hearing, the Planning Commission noted that approval of several cannabis cultivation projects in close proximity to each other along Highway 246 could constitute a “clustering” of cannabis grows and result in cumulative impacts related to aesthetics, agriculture, and odor. At the December 4, 2019, hearing, the Planning Commission determined that the project’s landscaping, in conjunction with adjacent operations with similar landscape plans, would establish a nearly 5,000-foot-long vegetation screen along Highway 246. The Planning Commission found that the project would obstruct views of scenic areas and, as a result, the proposed project would alter the character of the agricultural expanse along Highway 246 located near the western gateway to the Santa Ynez Valley. The Commission also found that the proposed project, in conjunction with nearby cannabis operations, could create odors that could constitute a continuous public nuisance.

The PEIR (available online at: [http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final PEIR/Santa%20Barbara%20Cannabis%20FEIR-Volume%201.pdf](http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final_PEIR/Santa%20Barbara%20Cannabis%20FEIR-Volume%201.pdf) and <http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final PEIR/Santa%20Barbara Cannabis FEIR-Volume%202.pdf>), evaluated the potentially significant impacts of cannabis operations in the unincorporated areas of the County. More specifically, Section 3.1 of the PEIR acknowledged that cumulative impacts resulting from cannabis activities would include potential changes to scenic resources and existing visual character and noted that future cannabis cultivation would likely occur along Highway 246. The PEIR also acknowledged that cannabis-related development could be sited in areas that are publicly visible or within proximity to a scenic road or highway, and that full buildout of cannabis-related

projects would create a significant, unavoidable cumulative impact to aesthetic and visual resources. As part of your Board's certification of the PEIR, your Board adopted a statement of overriding considerations to justify approval of the Cannabis Program despite the its unavoidably significant cumulative impacts to various resources, including aesthetic and visual resources and air quality (e.g., odor.)

Certain impacts to aesthetics and visual resources, agricultural resources, air quality, biological resources, cultural resources, geology, energy conservation, public services, water resources, hazards and public safety, land use, and noise, were found to be reduced to less than significant levels with mitigation. These mitigation measures were included as development standards in Section 35.42.075 (Cannabis Regulations) of the LUDC, and have been applied as development standards and as conditions of approval of the LUP for the proposed project. There are no substantial changes or changed circumstances under which the proposed project is to be undertaken as analyzed in the PEIR. No new significant environmental effects or substantial increases in the severity of previously identified significant effects under the certified PEIR would result from the proposed project. Further, there is no new information that the proposed project will have one or more significant effects not discussed in the certified PEIR. The analysis contained within the PEIR addresses the cumulative impacts that would be associated with the proposed project and the PEIR identifies the mitigation measures that would mitigate those impacts to the extent feasible.

Sections 6.3 and 6.4 of the Planning Commission Staff Report dated August 8, 2019 (Attachment 6) lists applicable polices and goals from the Comprehensive Plan (including the SYVCP) and development standards from Section 35.42.075 of the LUDC and describes how the proposed project complies with these standards. The revised conditions of approval resulting from applicable development standards are included in Attachment 4 to this Board letter. If approved, and pursuant to Condition 16 (Attachment 4), Planning and Development staff would monitor the proposed project to ensure compliance with development standards and approved project conditions.

Issue 4 – Positive Economic Impact

The Applicant references the University of California Santa Barbara (UCSB) Economic Forecast Project and asserts that a key consideration for the Board is the positive economic impact the cannabis industry will have in the County.

Staff Response:

Economic impacts are not a consideration in the Comprehensive Plan or LUDC related to the issuance of permits.

Conclusion:

If the Board of Supervisors desires to affirm the Planning Commission's denial and finds that the revised project is inconsistent with County requirements, including Policy VIS-SYV-1, DevStd VIS-SYV-1.2 and Policy LUA-SYV-2 of the SYVCP, and that the proposed project will not conform to Goal I, Policy I.B, or Policy II.D of Agricultural Element of the Comprehensive Plan, staff recommends the Board take the following actions:

- a. Deny the Appeal, Case No. 19APL-00000-00036;
- b. Make the required findings, including California Environmental Quality Act (CEQA) findings, for denial of the revised project, Case No. 19LUP-00000-00064 (Attachment 1);
- c. Determine that denial of the revised project is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and State CEQA Guidelines Sections 15061(b)(4) and 15270(a) (Attachment 2); and

- d. Deny *de novo* the revised project, Case No. 19LUP-00000-00064.

Alternatively, if the Board of Supervisors decides to uphold the appeal, reverse the Planning Commission's denial, and approve the revised project, Case No. 19LUP-00000-00064, based on the applicant's modified project description, whereby the applicant requests 50.12-acres of cannabis cultivation of which 6.36-acres would be used for nursery and processing areas, and finds that the proposed project is consistent with County policies, including Policy VIS-SYV-1, DevStd VIS-SYV-1.2 and Policy LUA-SYV-2 of the SYVCP, and that the proposed project will conform to Goal I, Policy I.B, and Policy II.D of Agricultural Element of the Comprehensive Plan, staff recommends that the Board take the following actions:

- a) Uphold the appeal, Case No. 19APL-00000-00036;
- b) Make the required findings, including CEQA findings, for approval of the revised project, Case No. 19LUP-00000-00064 (Attachment 3);
- c) Determine that the previously certified PEIR (17EIR-00000-00003) (Attachment 10) constitutes adequate environmental review as discussed in Attachment 5 and no subsequent Environmental Impact Report or Negative Declaration is required pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2); and
- d) Grant *de novo* approval of the revised project, Case No. 19LUP-00000-00064, subject to the conditions of approval included in Attachment 4.

Alternatively, if your Board wishes to take a different set of actions than those provided above, please refer back to staff.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$14,000.00 (55 hours of staff time). The costs for processing appeals are partially offset by a fixed appeal fee and General Fund subsidy in the Planning and Development Department's adopted budget. The appellant paid the fixed appeal fee of \$685.06. Funding for processing this appeal is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on page D-269 of the adopted 2019-20 Fiscal Year budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on April 21, 2020. The notice shall appear in the *Santa Ynez Valley News*. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward a minute order of the hearing to the Planning and Development Department, Hearing Support.

Attachments:

1. Findings for Denial
2. CEQA Exemption for Denial
3. Revised Findings for Approval
4. Revised Conditions of Approval
5. CEQA Section 15168(c)(4) Checklist
6. Planning Commission Staff Report dated August 8, 2019 with Attachments
7. Planning Commission Memorandum dated November 6, 2019 with Attachments
8. Planning Commission Memorandum dated December 4, 2019 with Attachments

9. Board of Supervisors Appeal Application dated December 12, 2019
10. PEIR for the Cannabis Land Use Ordinance and Licensing Program, 17EIR-00000-00003
11. Central Board of Architecture Review Minutes
12. Agricultural Preserve Advisory Committee Minutes – April 19, 2019
13. Revised Site Plans
14. Pesticide Drift Mitigation Considerations Guide – prepared by Agricultural Commissioner’s Working Group
15. Odor Abatement Plan
16. Odor Abatement Technical Documentation
17. Revised Comprehensive Plan and LUDC Consistency Analysis
18. Site Transportation Demand Management Plan Narrative

Authored by:

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Development Review Division, Planning and Development Department