ATTACHMENT 5: APPEAL APPLICATION AND LETTER DATED JUNE 20, 2021

COUNTY OF SANTA BARBARA

Planning and Development

www.sbcountyplanning.org

Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of:

- **All Discretionary projects heard by one of the Planning Commissions**
- **Board of Architectural Review decisions**
- **Coastal Development Permit decisions**
- **Land Use Permit decisions**
- **Planning & Development Director's decisions**
- **Zoning Administrator's decisions**

THIS PACKAGE CONTAINS

✓ **APPLICATION FORM**

✓ **SUBMITTAL REQUIREMENTS**

AND, IF ✓'D, ALSO CONTAINS

South County Office 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	**North County Office** 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	**Clerk of the Board** 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax : (805) 568-2249

SUBMITTAL REQUIREMENTS

_____ 8 (see below) Copies of the attached application.

_____ 8 (see below) Copies of a written explanation of the appeal including:

- If you are not the applicant, an explanation of how you are an "**aggrieved party**" ("Any person who in person, or through a representative, appeared 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.");
- A clear, complete and concise statement of the **reasons or grounds for appeal**:
  - Why the decision or determination is consistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; or
  - 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.

NOTE: Per discussion the week of 6/14/21 with Clerk of the Board (Angelica Ramirez), only 1 original copy is required. To make things easier for staff, I have included 8 copies of the Appeal Application and Appeal Letter. I have included 1 copy of the prior Planning Commission appeal materials, which are Exhibits to this Appeal.

N/A (since appealable to Coastal Commission) Check payable to County of Santa Barbara.

Note: There are additional requirements for certain appeals including:

a. Appeals regarding a previously approved discretionary permit – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) 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; 3) How the approval is inconsistent with Section 35.106 (Noticing).

b. Appeals regarding Residential Second Units (RSUs) – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).

PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: 3561 Foothill Road, Carpinteria, CA 93013

ASSESSOR PARCEL NUMBER: 005-280-040

Are there previous permits/applications? ☐no X yes numbers: APN 005-280-040, 19-CUP-00000-00062, 20AMD-00000-00003, 19CDP-00000-00157 (include permit# & lot # if tract) 18CDP-00000-00077

Is this appeal (potentially) related to cannabis activities? ☐no X yes

Are there previous environmental (CEQA) documents? ☐no X yes numbers: 17EIR-00000-00003

1. **Appellant:** Sarah Trigueiro Phone: 805-252-5992 FAX: N/A

   Mailing Address: 1990 Arriba St, Carpinteria, CA 93013 E-mail: sarah.trigueiro@gmail.com
   Street City State Zip

2. **Owner:** Magu Farm, LLC Phone: FAX:

   Mailing Address: 3711 Long Beach Blvd, Ste 814, Long Beach, CA 91801 E-mail:
   Street City State Zip

3. **Agent:** H&H Envionmental (Jay Higgins) Phone: FAX:

   Mailing Address: 3127 Calle Noguera, Santa Barbara, CA 93105 E-mail:
   Street City State Zip

4. **Attorney:** Phone: FAX:

   Mailing Address: E-mail
   Street City State Zip

COUNTY USE ONLY

Case Number: *Companion Case Number:*
Supervisorial District: *Submittal Date:*
Applicable Zoning Ordinance: *Receipt Number:*
Project Planner: *Accepted for Processing*
Zoning Designation: *Comp. Plan Designation*

COUNTY OF SANTA BARBARA APPEAL TO THE:

__X___ **BOARD OF SUPERVISORS**

_____ **PLANNING COMMISSION: _____COUNTY _____ MONTECITO**

RE: Project Title _____

Case No. 20APL-00000-00045, 19-CUP-00000-00062, 20AMD-00000-00003, 19CDP-00000-00157

Date of Action __6/9/2021_____

I hereby appeal the __X__approval _____approval w/conditions _____denial of the:

_____Board of Architectural Review – Which Board? _____

_____Coastal Development Permit decision

_____Land Use Permit decision

__X__Planning Commission decision – Which Commission? Santa Barbara County Planning Commission

_____Planning & Development Director decision

_____Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

_____ Applicant

___X____ Aggrieved party – if you are not the applicant, provide an explanation of how you are and "aggrieved party" as defined on page two of this appeal form:

See attached letter

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See attached letter

Specific conditions imposed which I wish to appeal are (if applicable):

a. _____

b. _____

c. _____

d. _____

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

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.

N/a
Print name and sign – Firm Date

Sarah Trigueiro, Appellant 6-20-2021
Print name and sign – Preparer of this form Date

N/a – this is G&K Farms
Print name and sign – Applicant Date

N/a
Print name and sign – Agent Date

N/a
Print name and sign – Landowner Date

June 18, 2021

VIA EMAIL AND HAND DELIVERY

Santa Barbara County Planning Commission
105 East Anapamu Street
Santa Barbara, CA 93101
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RE: Appeal to the Board of Supervisors of the Santa Barbara County Planning Commission's Decision Regarding APN 005-280-040, Case Nos. 20APL-00000-00045, 19-CUP-00000-00062, 20AMD-00000-00003, 19CDP-00000-00157

This letter is submitted as a supplement to the above-referenced appeal to the Santa Barbara County Board of Supervisors (the "Appeal"). Sarah Trigueiro ("Appellant" or "I") hereby appeals the County of Santa Barbara ("County") Planning Commission's ("Planning Commission") approval of the proposed cannabis project located at 3561 Foothill Road in Carpinteria, California (APN 005-280-040, Case Nos. 20APL-00000-00045, 19-CUP-00000-00062, 20AMD-00000-00003, and 19CDP-00000-00157) ("Project").

The Appellant incorporates by reference all prior appeal and presentation materials and arguments contained therein, which are in the public record for the Trigueiro Appeal of G&K Cannabis Processing Building (20APL-00000-00045, heard 6/9/2021) on the County's website, including (i) the Planning Commission Appeal Package dated November 29, 2020 as Exhibit E to the Staff Report (which is located in the May 5, 2021 Hearing Material subfolder), (ii) the Appellant's Planning Commission Appeal Presentation, (iii) the Appellant's presentation, rebuttal and remarks during the Planning Commission hearing, and (iv) public comment letters supporting the Appeal. The Appellant has attached items (i) and (ii) to this Appeal for ease of reference. The Applicant additionally reserves the right to supplement this appeal prior to the hearing with additional materials, as well as to the extent further information becomes available.

I. Appellant Is an Aggrieved Party

I am using the first person for this section, in accordance with the defined terms above. I am a resident who lives on the hillside above the Project and spoke at the virtual Zoning Administrator hearing on November 16, 2020, in addition to submitting written public comment in advance of this hearing. I subsequently appealed the Project to the Planning Commission and presented at the appeal hearing on 6/9/2021. The Project is located near residential zones (including La Mirada, the EDRN where I live). The negative impacts of approving the Project include but are not limited to: inestimable damage to the character of the area in contravention of the Comprehensive Plan (including Toro Canyon Plan, the Coastal Land Use Plan, and Article II of the Coastal Zoning Ordinance), the Coastal Act, significant air quality and odor issues, negative impact to property values, health, safety and crime issues, traffic and parking congestion, significant incompatible use issues with local food farmers, and damage to our area's reputation as a famed, uniquely charming beach town.

I have personally suffered greatly on account of negative impacts from cannabis developments, including the existing development that was already approved at the Project site for cannabis cultivation (18CDP-00000-00077). I experience regular nausea and headaches from the air quality and odor issues that travel upwind to my property. As a result, I am frequently unable to enjoy my own property, including indoors, as the air quality is frequently impacted within the house through openings in windows or doors. I have made countless complaints on the County's site and

receive stock responses that the County cannot enforce any odor abatement at this time since it is not possible for the County to determine from where the odors emanate. I have written numerous and impassioned letters to the Planning Commissioners and Board of Supervisors but have thus far not seen meaningful protections put in place for residents on nearby properties and EDRNs (though I am heartened by some of the progress made in the 2nd District).

I cared for my elderly grandmother at home during the COVID-19 pandemic and until her death in November 2020, since I did not want her isolated at a nursing home. My grandmother was also significantly perturbed by the cannabis fumes in her final months on hospice. I emailed Das Williams and pleaded that he help address/enforce against these negative impacts, but he did not respond and did nothing. On the day that my beautiful grandmother died, the room stank of cannabis wafting in from surrounding grow operations. I will forever be outraged and sad that I was not able to provide for her the dignified, comfortable death that she deserved from a life so well lived.

For these reasons, I am an aggrieved party for purposes of this appeal and will not cease in my efforts to compel more reasonable, community-friendly practices in regard to the regulation of the cannabis industry in Santa Barbara County.

II. Reasons for Appeal

The Planning Commission's approval of the Project was in error due to the below factors, among other reasons enumerated in prior appeal materials, and was not supported by the evidence presented for consideration, as well as information that has come to light after the Planning Commission appeal.

(1) Improperly Narrow Standard of Review: Appellant disagrees that the Planning Commission was limited in its discretion to reviewing the Project itself (for the cannabis processing warehouse specifically) outside of the context of the broader (and intensive) activities occurring on the Project site, including the existing permitted greenhouse cultivation.

- The Planning Commission's role is to act as a discretionary decision-making body in promoting the stated mission for Planning & Development: "planning for and promoting reasonable, productive, safe, and sustainable use of land to foster economic, social, cultural, and environmental vitality across the County by providing quality policy development, planning, permitting, and inspection services".
- The Planning Commission's mandate is, among other things, to "implement the general plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances".

The Planning Commission is entitled to review all relevant facts and considerations for projects that come before it, and in fact is remiss in its duties if it fails to take into account the broader, holistic context and planning ecosystem in which a project resides. Factors such as surrounding density and cumulative impacts, whether or not located on the project site or on surrounding sites, have direct bearing on compatibility and consistency findings with the Comprehensive Plan (including Toro Canyon Plan, the Coastal Land Use Plan, and Article II of the Coastal Zoning Ordinance) and are imminently germane to the decision as to whether a project is appropriate. In this case, by taking an artificially narrowed view of their own authority, the Planning Commission effectively handcuffed itself and failed to consider the overwhelmingly intense existing Project site density and surrounding density of cannabis cultivation and processing (due to license stacking) - cumulative impacts that render this Project fundamentally incompatible with the rural residential character of the Carpinteria Valley and the required elements within the Comprehensive Plan (see below section ***Consistency Finding – Incompatibility with Comprehensive Plan*** for more detailed explication of the ways in which the Project is incompatible).

(2) Consistency Finding – Incompatibility with Comprehensive Plan:

The Planning Commission erred in approving the project in relying on a high-level finding that "the proposed project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area," and that "the project is consistent with all environmental requirements and includes additional mitigation for potential impacts due to noise, odor, traffic, lighting and visual impacts". To the contrary, it takes considerable interpretative gymnastics to reach these conclusions, as the Appellant articulated at length in the ***Planning Commission Appeal Package*** and in her ***Planning Commission Appeal Presentation*** (both attached as Exhibits to this Appeal), as well as in her verbal presentation to the Planning Commission. Key considerations include Project incompatibility with the rural residential character of the Toro Canyon Community Plan, as well as broader Comprehensive Plan considerations relating to inadequacy of public services and resources (notably, electricity and water), air quality/emissions, safety, preservation of prime agricultural soils, biological resources in the Environmentally Sensitive Habitat ("ESH") and coastal areas, coastal viewsheds, and the effect of cumulative impacts on the aforementioned factors given the extreme density of cannabis activities (both existing and in the permitting pipeline) in the Nidever Rectangle of Carpinteria Valley.

Incompatibility with Rural Residential Character:

The Project site is surrounded by agricultural fields and already-existing greenhouses, low-density residential development and is near EDRNs of high-end homes in La Mirada, Padaro Ln, and the Polo Field. The area has unique rural charm, and the addition of a processing warehouse building, which is an industrial type operation, will mar and efface that, furthering the already-existing damage done by the greenhouses (which have been raised in height to accommodate the cannabis industry's desire to grow more and passed through as "as-builts" before permitting).

Inadequacy of Public Services and Resources:

There are not adequate public or private services and resources available to serve the proposed development, which relates to the Applicant's inability to contain the nuisance at the Project site. The noted standard within Coastal Land Use Plan (CLUP) Policy 2-6 is that "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". This Project, especially when combined with the density of cannabis operations in Carpinteria Valley, will have a disproportionate impact on the County's ability to provide electricity (and other utilities) to the community and to recreation and visitor serving uses along the coast.

Electrical Provision

It is well known that the entire region from Point Conception to Lake Casitas (within which this Project is located) is dependent on one point of interconnection to the Goleta Substation transmission system. Per the Coastal View, *"a 40-mile-long transmission path that begins in Ventura and traverses the heart of extreme fire, mudslide and earthquake risk zones on the backside of the Santa Ynez mountains, the GLP is extremely vulnerable to a transmission outage. Moreover, after reaching the Goleta Substation, electricity must then travel back down to Carpinteria via a web of distribution lines. Additionally SCE has reported that the grid will go down at some point, and when it does, it could be out for days or even weeks in Carpinteria."* The Project, in conjunction with other cannabis operations in the Nidever Rectangle and broader Carpinteria Valley, will use more electricity than is available in the aging and inadequate power grid (residents in the La Mirada and Foothill Rd neighborhoods already report frequent power outages in the area, due to this problematic electrical infrastructure). In fact, the Planning Commission discussed the lack of power extensively during its June 5, 2019 hearing and had significant concerns that the County's CEQA analysis did not adequately anticipate this issue. Continuous electricity is required in order for any odor control system to operate, including those proposed for this project (carbon filtration via HVAC and Byers vapor phase odor control system).

- Applicant's processing warehouse utilizes carbon filtration and other means to attempt to contain cannabis emissions. However, doing this properly requires significant levels of HVAC operations that will significantly tax an already fragile electric grid, particularly when you consider the volume of neighboring cannabis operations that will similarly draw from the grid from a density and cumulative impact standpoint.
- Applicant's Byers vapor phase odor control system around the perimeter of the warehouse additionally requires continuous electricity to operate and release (woefully ineffective) odor neutralizing chemicals into the air.

While the Applicant has included diesel-powered backup generators in its Project submission, these are not environmentally sound and will result (as we have seen in the North County) in significant air pollution and noise impacts, given the pragmatic necessity that they will be used frequently during electric grid outages. Note that the air pollution impacts are particularly unfortunate, given that it is well established that BVOCs (such as the terpenes released by cannabis) interact with NOx to produce ozone air pollution, which is hazardous to health.

As relates to the existing permitted greenhouses on the Project site, which are currently causing an illegal nuisance for the surrounding community and beachgoers, the Project OAP makes reference to carbon filtration being a best practice but impractical for greenhouses (due to the large volume of air filtering in and out), as "enclosing a greenhouse and attempting to use carbon filtration instead of vapor phase systems would require installation of elaborate HVAC systems in the greenhouse resulting in increased energy usage and would not be a feasible option". The OAP's statement of the impracticality of utilizing properly designed HVAC with carbon filtration in the context of existing permitted greenhouses at the Project site (which is undeniably true on account of well-known electric grid issues in the area) makes it clear that existing community infrastructure is not sufficient to support what is actually necessary to meet the County's standard of no odor being experienced in residential zones for the legacy already-approved CDP. What is abundantly clear is that Community Plan resource-availability considerations as relate to cannabis industry energy needs to meet regulatory odor standards were not adequately considered in the drafting of the County's cannabis regulations or implementation thereof. Permits should not be approved in the first place under such conditions, and, if approved in error, as was done with the original CDP, should be rescinded if a cannabis operation is not able to contain its odors per the regulatory standard of them not being perceptible in residential zones, full stop, regardless of whether this is due to fragility or limitation of the electrical grid. If a grid issue is in fact the "limiting factor" to being able to prevent odor reduction to the level required by the cannabis regulations, it is a matter of the development not being appropriate to the relevant community plans (here the CLUP) at that time.

The Project should be denied until the Applicant has demonstrated that their existing Project site permitted operations are no longer causing an illegal nuisance. The Project should also be denied under the Land Use Plan absent an alternative clean energy power component that can power the operation to be compliant with the regulatory standard of odor not being perceptible in residential neighborhoods, without putting an undue burden on the electric grid.

Roadway Standards and Capacity

The Project does not conform to Toro Canyon Plan (TCP) Policy CIRC-TC-2 and TCP Policy CIRC-TC-3, which relate to roadway standards and capacity. The addition of up to 50 more employees to serve the processing warehouse will give rise to traffic impacts and is not adequately mitigated by the level of vanpooling proposed. The Project Plans are additionally inadequate to cover the many accessory vehicles (besides employee cars) that are involved with the Cannabis Industry, as witnessed by residents who already live next door to functioning cannabis operations in Carpinteria. Those residents regularly witness: regular cash delivery trucks (special unmarked vehicles), regular product delivery trucks (which we can expect to intensify if a processing facility is approved; delivery drivers, maintenance workers, consultants, food delivery drivers. There are no nearby restaurants to walk to and the workers now call-in for food to be delivered. A

traffic study is needed to calculate daily trips, not based on just employees but all trips and their impacts, which the Zoning Administrator and Planning failed to assess.

Water Use

From a water supply standpoint, Appellant notes that, per the Coastal View, *"by 2030, the Carpinteria Valley Water District estimates that dry years will come with a water deficit that could be as high as 1,550 acre feet - approximately 5,050 million gallons of water"*. The impact of ongoing and increasing drought on the Carpinteria groundwater basin is a subject of much discussion, including extremely costly proposals to inject treated wastewater back into the groundwater basin. There has not been adequate consideration, both in the PEIR context and the cannabis permitting regulations and process, on the cumulative impact that high-density commercial cannabis activities, including this Project, will have on the water table.

The Project is not consistent with the TCP Policy WW-TC-1, which states that "development and infrastructure shall achieve a high level of wastewater treatment, in order to best serve the public health and welfare". The Byers System that the Project contemplates for the warehouse perimeter (and already uses for its permitted greenhouse operations), similar to other vapor phase odor control "solutions," releases odor neutralizing chemical residue that fall to earth and degrades over a 2 month period, during which time it is building in concentration (given constant high-volume release) and mixing with groundwater to form a threat to the riparian habitat on the riparian ESH in the property where the Project is sited. The detention basis cannot be expected to stop the Byers System emissions from reaching the ESH, as the Ecosorb product is emitted broadly into the air and will follow air currents before naturally falling to the earth and water below. This is an issue of central importance from a Coastal Commission standpoint, as the Arroyo Paredon feeds into the ocean. See the section below regarding the ESH for further detail regarding this troubling issue.

Fire Risk & Protection

In addition, the Project does not meet the standard of CLUP Policy 2-6 for adequate fire protection and sheriff protection. Fire protection is very important in the context of cannabis operations, as many bad actors have shown us. While Appellant does not go so far as to assert that the Applicant is a bad actor, Appellant notes that what goes on within the processing building (and for that matter, other structures onsite) is not easily viewable, such that it is possible that illegal extraction activities could occur without the knowledge of County authorities or even potentially without knowledge of the operator. Extraction is an incredibly high-fire-risk activity, using extremely combustible chemicals and is of grave danger to the local community, given that we are already in a sky-high fire risk area. There have already been busts in Carpinteria related to illegal extraction activities, and Appellant is concerned that this type of activity will continue, shielded by the opacity of the cannabis structures. Appellant is deeply concerned about the fire risk from potential clandestine extraction activities and believes that frequent, ad hoc unannounced inspections by the County are critical to mitigate this risk.

In addition, Appellant is aware that local contractors and fire department personnel have noted improper electrical wiring at many cannabis operations (including as-built arrangements that were formerly used for flower or lettuce growing and expanded to scale for marijuana). The level of electrical work required to support cannabis operations is high-intensity, as cannabis growing and processing operations are fundamentally a more industrial use than the cannabis lobby cares to admit. Appellant is deeply concerned about the fire risk without ongoing periodic unannounced electrical inspections by the County and Fire Department.

Safety:

The Project will put at risk the safety of the neighborhood due to increased anticipated crime targeting a building that stores and processes cannabis and prepares it for market. This is the veritable ultimate "honey pot" for criminals.

Carpinteria Valley has already seen break-ins and criminal activity occurring at other cannabis operating sites and this will compound this risk significantly. Our County Sherriff's office is doing their best, but the reality is that the industry is the Wild West and their enforcement powers are limited both by the secrecy of many growers (who seek to keep criminal issues hushed up to avoid neighborhood concern) and local cannabis regulations that make it difficult to enforce upon bad actors. This Project involves the ultimate criminal target – a processing facility that will not only create product from cannabis grown onsite but also bring in a significant amount of cannabis grown elsewhere in Carpinteria to trim, dry and package. As such, criminals can be expected to target this facility and the community can anticipate elevated risk and need for enforcement on this account.

Preservation of Prime Agricultural Soils:

The Project does not comply with CLUP Policy 3-13 and CLUP Policy 3-14, which relate to hillside and watershed protection through minimizing cut and fill operations. The Project additionally does not meet the standards of Agricultural Goal 1 and CLUP Policy 8-11, which are focused on enhancing the continuation of agriculture as a major viable production industry in Santa Barbara County and the preservation of prime agricultural soils. The removal of 1,400 cubic yards of soil (cut) is not, as the County has asserted in Staff Reports, minimal grading. To put into perspective the amount of prime agricultural soil that will be removed and filled, consider that 1 cubic yard of material can be spread to cover 100 square feet at 3 inches of depth. Removing 1,400 cubic yards of soil thus equates to enough soil to cover 140,000 square feet (3.2 acres) at 3 inches of depth. This is a great deal of material and a tremendous loss to Carpinteria Valley's prime agricultural soils, which our community plan and Coastal Act Policies rightfully seek to preserve.

The Project does not meet the CLUP Policy 8-11 requirement of encouraging use of in-soil cultivation methods, which clearly will not be utilized in a processing facility. CLUP Policy 8-11 notes that "the removal of prime agricultural soils shall be prohibited," which the cut-and-fill aspect of the project by definition violates. Moreover, CLUP Policy 8-11 notes that "prime agricultural soils shall not be modified with…chemicals that would adversely affect the long-term productivity of the soil," which conflicts with the intense Project use of the Byers System, which releases odor neutralizing chemical residue that falls to earth and degrades over a 2 month period, during which time builds up in concentration (given constant release), with impacts on the prime agricultural soil in the surrounding area that have not yet been studied or understood, particularly given the volumes of vapor phase chemical residue we can expect from this Project, combined with existing permitted operations at the Project site, and the density of surrounding grows using similar odor control technology. See below for an articulation of the broader set of ESH considerations, which are closely related.

Air Quality/Emissions:

The Project will have significant impacts on air quality given emissions (both cannabis VOCs and vapor phase system odor control chemicals), as well as terrible odor that diminishes the ability for local residents to enjoy the outdoor and indoor spaces of their own homes, and impedes the ability of residents and visitors to enjoy the coast, coastal recreation and associated visitor serving uses. A processing facility generates much more concentrated air quality and odor emission concerns than a greenhouse grow, notwithstanding attempts to contain the odor through sealed structures or the use of carbon filtration, so this project will compound an already overly-densified and significant air quality health risk and odor nuisance to local residents, of which there are approximately 20,600 in the Carpinteria Valley, as well as the approximately 900,000 annual visitors to Carpinteria's beaches.

As explained by Patricia Holden, Professor at the University of California, Santa Barbara Bren School of Environmental Science and Management and numerous scientific articles and studies, the cultivation and production of cannabis has a considerable impact on air pollution. See ***Exhibit B to Appellant's Appeal Letter to the Planning***

Commission: Letter to Planning & Development from Dr. Patricia A. Holden. As Dr. Holden states, cannabis plants create BVOC emissions, including terpenes, that can contribute to air pollution and may cause other health impacts. As explained by Dr. Holden and a number of other scientific analyses, the emissions generated by the Project will have a significant impact on human health and safety, which will particularly harm sensitive receptors. Dr. Holden states, "The production of Cannabis on commercial scales is a new endeavor whose environmental threats have been hypothesized but, at this point, remain uncertain….BVOCs are responsible for the noxious odors associated with Cannabis….Cannabis terpenes, like other biogenic terpenes…have the potential to be precursors of ground level ozone…To form ozone, Cannabis BVOCs would react with other substances in the atmosphere under specific, but not unusual, ambient conditions. Such potential for ozone formation from Cannabis BVOCs was recently estimated using Cannabis BVOC emissions measured on a per plant basis…Cannabis BVOCs could outweigh other ozone-forming compounds in urban areas, depending on many factors including Cannabis cultivation extent…Santa Barbara County should require that cultivation projects prevent Cannabis BVOCs and particulate emissions to the atmosphere, including from greenhouses" and that "the greenhouse structures can fully contain and prevent emissions." Studies in other regions underscore the gravity of air quality concerns from significant cannabis operations and density. Dr. Vizuete, a UNC Associate Professor of Environmental Sciences and Engineering at the UNC Gillings School of Global Public Health has conducted extensive research on commercial cannabis operations in Colorado and has found evidence that the concentrated presence of cannabis grows in the Denver area produced sufficient levels of BVOCs to affect local atmospheric chemistry and air quality. ***See Exhibit C to Appellant's Appeal Letter to the Planning Commission: UNC Gillings School of Global Public Health, "A Booming Cannabis Industry Could Have Critical Impact on Denver's Air Quality," and Journal of Atmospheric Chemistry and Physics, "Potential Regional Air Quality Impacts of Cannabis Cultivation Facilities in Denver Colorado," November 20, 2019.***

As relates to the processing building, review of the online literature establishes that "no matter what, there's no odor control out there that's going to be 100%" (this is a statement attributed to Dr. Laura Haupert, director of research and development for OMI Industries, a company focused on controlling odors for a variety of industries, in ***Exhibit G to Appellant's Appeal Letter to the Planning Commission***, an article "Best Practices: Stop Making Scents," August 1, 2019, Marijuana Business Daily). Sadly, carbon filtration, even when done right, is not considered sufficient to control odor fully. The Marijuana Business Times article "Stop Making Scents" notes that "it's not that carbon filters don't do anything…but they don't get all the odors that come out". The best in technology today may simply and sadly not be sufficient to protect the residents of Carpinteria from experiencing the cannabis stench in residential zones that a hugely odiferous processing facility would bring.

In addition, the Byers System vapor phase system (already used on this property for the greenhouse grows, with this Project adding another Byers unit to service the processing facility perimeter) releases odor neutralizing chemicals into the air continuously, which, in addition to not sufficiently working to control the odor nuisance, have significant associated air quality concerns, particularly at the volumes of continuous release for this Project, as well as the many surrounding cannabis operations. Residents and visitors have complained about the odor of this substance, but the odor is just the tip of the iceberg – the APCD did not require air quality studies at the volume, duration and concentration of use we are seeing here in the Carpinteria Valley and its impact on human, animal and plant health, not to mention impacts to water and soil as discussed later in this Appeal.

In conjunction with the tens of other cannabis projects in the County Planning and Development pipeline, the Project will result in cumulatively significant air pollution and will significantly degrade air quality. Note that the PEIR did not adequately examine impacts on air quality or provide sufficient mitigation for such impacts because there is no attempt to quantify, measure, examine or control any cannabis emissions at all. An Air Quality element is conspicuously absent from the PEIR, despite the fact that other California Counties' cannabis laws take this into consideration.

This Project contemplates utilization of diesel gas back-up generators, which give rise to their own air quality and noise concerns, particularly given the frequency and duration of electrical outages and fire-prevention-related shut-offs in

the Carpinteria Valley due to the fragility of our electric grid and high fire risk. We can expect significant diesel generator pollution during these periods, particularly acute and troubling when compounded across multiple cannabis operations in the surrounding area due to high density and intensity of use.

Negative Impact on Biological Resources in the ESH and Coastal Areas:

The Project does not meet required findings as relates to CLUP Policy 2-11, CLUP Policy 9-1, CLUP Policy 9-37, TCP Policy BIO-TC-4 and TCP DevStd BIO-TC-4.1, all of which focus on protecting biological resources for environmentally sensitive habitats and environmentally important resources, such as streams). A portion of the southern property line of the subject parcel is located within the mapped Riparian ESH area of Arroyo Paredon, a coastal stream that is now in a High Hazard Flood Area, following the January 9, 2018 Debris Flow. CLUP Policy 9-1 requires that prior to the issuance of a development permit, all projects with a habitat area overlay designation or within 250 feet of such designation or projects affecting an ESH shall be found to be in conformity with the applicable habitat protection policies of the land use plan. The Project is within the scope of this provision, and the Zoning Administrator's argument (subsequently not reversed by the Planning Commission) defied logic in positing that this is not a concern since "the proposed processing building will be constructed within a heavily disturbed location on the subject parcel" and the "existing warehouse will function as a buffer between the construction and operation of the processing building and the ESH area, and therefore the processing building will not result in the disruption and fragmentation of biological resources in ESH areas". The presence of existing hardscaping where the processing building would be built does not mean that additional, significant construction and density would not impact the ESH area. It is a tragic day for environmentalists everywhere when an existing building is considered to function as an adequate buffer for an ESH within such an impact-heavy fact pattern. Moreover, TCP DevStd BIO-TC-4.1 requires that "development shall be sited and designed at an appropriate scale, size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid disruption and fragmentation of biological resources in ESH areas". One is hard-pressed to argue that it is appropriate to add an additional building for processing and still meet this standard, given the density of structures, parking and hardscaping already at this Project site, which is incredibly dense with 5 permitted greenhouses. From above, it looks like an industrial factory operation, a barren plastic, cement and pavement moonscape where nature goes to die.

In addition and critically, the Project's additional utilization of the Byers odor control system poses significant risks to water, soil and plant and animal life in the ESH (as well as resident and coastal visitor health). The Byers vapor phase odor control system releases into the air a propriety substance Ecosorb, with an undisclosed specific chemical profile, the concentrations of which will inevitably build up over time as they land and settle within the ground and stream area within the ESH given Ecosorb's consistent daily use and the product's slower rate of degradation. Per San Luis Obispo County resident Patti Kloss's discussions with the manufacturer (Dr. Haupert at OMI Industries), it takes approximately 2 months for the product to degrade, with 90% degradation occurring in first 28 days, jeopardizing stream water quality, prime soil integrity, and animal and plant health. Due to constant use and this prolonged degradation period, the product has been calculated to be mathematically persistent in the environment at levels up to 1565% of the original dose used on Day 1. There have not been studies of the impact of this product on soil and water quality at this extreme level of built-up concentrations that we can expect to fall to earth with consistent use of Ecosorb by this Project and surrounding cannabis operations over time. ***See Exhibit D to Appellant's Appeal Letter to Planning Commission: Illustrative Ecosorb degradation table, based upon the product manufacturer's disclosed product degradation rates and anticipated cumulative concentrations.*** The Ecosorb Safety Data Sheet contained in the OAP notes that there is no data available on biodegradability in water (stating "biodegradability in water: no data available"). Additionally, it seems "bioaccumulative potential: not established," which for the reasons noted above is quite concerning. The product "is predicted to have high mobility in soil and be soluble in water". Also consider the extremely high daily use volume we can anticipate across this and other developments. Per the OAP for this Project and the legacy approved CDP, we can expect use of 3-6 gallons per day of Ecosorb. Assuming that other operators in Carpinteria Valley utilize similar daily

volumes of Ecosorb per site, 365 days/year, with 25 existing grow operations in Carpinteria Valley (not to mention the many in the permitting pipeline which will drive this number much higher), we can expect an order of magnitude of 27,375 to 54,750 gallons (which equates to 862 to 1725 tons) per year of Ecosorb falling to earth, stream and sea and slowly degrading, building up concentration levels as it does so given the delayed degradation timeframe. This equates to an unprecedented and gravely irresponsible ad hoc, unscientific experiment on the health impacts of extreme persistent levels of Ecosorb in ESH, prime soils, and residential and coastal areas.

The Project also does not meet the standards relating to the required finding regarding TCP DevStd BIO-TC-1.7, which enumerates several requirements for development in or adjacent to ESH or ESH Buffer areas. Among other issues, one of the requirements of this section is that "the use of insecticides, herbicides or any toxic chemical substance which has the potential to significantly degrade ESH, shall be prohibited within and adjacent to ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself…Application of such chemical substances shall not take place during the breeding/nesting season of sensitive species that may be affected by the proposed activities, winter season, or when is predicted within a week of application". The Planning Commission failed to consider the impact of the Byers System emissions, which are of unknown toxicity at the extremely high cumulative buildup levels we can expect given constant emission and a 2-month timeline for the product to degrade.

The Project additionally does not comport with CLUP Policy 3-19, TCP Policy WW-TC-2, and TCP Dev Std WW-TC-2.9, which relate to safeguarding water quality. These policies and standards note that "degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the sites. 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". In addition, "development shall be designed to reduce runoff from the site by minimizing impervious surfaces". See above for a detailed explanation of how the Byers System Ecosorb emissions will fall and accumulate, with unknown risks and impacts at the levels of persistent concentration (due to the 2-month Ecosorb degradation period) in which they will be present in Arroyo Paredon creek in the ESH and also our groundwater basin, as some will inevitably percolate into the earth. In addition, the Planning Commission failed to consider that the water detention basin alone cannot possibly compensate for the omnipresence of impervious surfaces at the Project site. The property's barren moonscape of plastic, cement and structures is an environmental runoff nightmare, and it is not feasible that all rain and other runoff will be captured by the basin. There are many foreseeable run-off issues, including from clogged gutters, oil/gas runoff from generators or other equipment onsite (including diesel generators), septic overflow, and more.

In addition, the Planning Commission failed to consider the cumulative impact of this Project, along with existing cannabis and agricultural operations at the Project site and from surrounding cannabis operations, on the creek. As noted in a prior appeal for this property, local residents have witnessed inevitable environmental degradation from existing such operations, including trash in the creek, agricultural structures (trailers, sheds) and farm animals directly on the creek, portable bathrooms in the Riparian Zone and more. The cumulative effect of the Project, combined with other projects, will damage sensitive habitat and endanger wildlife. The property on which this Project is sited also conducts agricultural operations within the stream corridor. This does not provide assurances that the Project will maintain a 100-foot buffer around the stream and will, in fact, not degrade important resources in the stream bed. As noted above, agricultural projects typically have significant impacts on stream corridors, and because of the unknown effects of cumulative 24/7, 365-day Byers System Ecosorb mist, unavoidable runoff and other factors, this plan fails to ensure that the ESH and creek will be protected. In short, Appellant would not want to be a bird or a fish in the property's ESH given the Planning Commission's interpretation of relevant Comprehensive Plan and Coastal Act standards.

There is no denying that this processing building comprises a significant additional structure and use profile, with more employees, cars, noise, light from human activities (regardless of hooded building lights), and critically Byers Ecosorb emissions into the air, which will naturally drift and fall to both the soil and the creek and create unknown,

unstudied damage to the ESH environment as residues concentrate at high levels over time given continuous use and a prolonged decay curve of 2 months.

Impact on Coastal Viewsheds:

The Project does not meet the findings regarding CLUP Policy 4-2 and 4-3 and Coastal Act Policy 30251, which are focused on preservation of visual resources. CLUP Policy 4-3 states that "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 spaces". Additionally, Coastal Act Policy 30251 states that "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas". TCP Policy VIS-TC-1 states that "Development shall be sited and designed to protect public views". Public views are not screened by the existing landscaping from Case No. 18-CDP-00000-00077 and the existing greenhouses. The Project is and will remain fully visible from the public on the Toro Canyon Ridge Trail, which is part of the Toro Canyon Park. This public viewing area has a beautiful sweeping panoramic view of the Carpinteria Valley and coastline, which would be marred considerably by the Project structure. It is not possible to argue that the processing building would follow the natural contours of the landscape or not intrude into the skyline as seen from the public viewing space. The Project is entirely incompatible with the character of the surrounding natural environment and goes in the opposite direction of enhancing visual quality in visually degraded areas, such as the existing greenhouse area.

It is exceptionally difficult to argue that the Project is compatible with and subordinate to the scenic and rural character of the area unless we fully redefine and eviscerate the meaning of "scenic" and "rural". The proposed Project is located within the Rural Area according to Comprehensive Plan maps. The property is surrounded by agricultural fields and already-existing greenhouses, low-density high-end residential development and is near EDRNs of high-end homes in La Mirada, Padaro Ln, and the Polo Field. From a scenic standpoint, the property is located between the Pacific Ocean and the beautiful transverse mountain range bounding the Carpinteria Valley. The Zoning Administrator, whose decision was upheld by the Planning Commission, argued that the Project conforms to this standard since the maximum height is the same or less than surrounding buildings, exterior light fixtures will be hooded, and it is not visible from a public viewing area. Standards here seem low. Appellant believes that this use is more akin to an industrial operation than something you would expect in a Rural Area. It further detracts from the viewshed through the addition of an unaesthetic warehouse structure. The entire operation is a tremendous eyesore (it is the primetime view from the Appellant's home), and the roof glare alone on a sunny day from the existing greenhouses is enough to complain about, let alone the terrible stench. The Zoning Administrator's finding that the site is not viewable from a public viewing area is inaccurate. The area is fully viewable from the Toro Canyon Ridge Trail (part of Toro Canyon Park), which Appellant and many others in the community hike frequently.

Cumulative Impacts of the Above Factors Given Extreme Density of Cannabis Activities:

In the Carpinteria Valley, per the Santa Barbara Independent, 82 acres of cannabis operations have been approved so far (which does not reflect additional density from unpermitted grows not yet in the permitting pipeline that are relying on affidavits to the County to receive grandfathered treatment as "non-conforming uses"), with permit applications in the pipeline for 222 acres of greenhouse cannabis cultivation (of which a total of 186 acres will be allowed).

The small **"Nidever-Foothill-Via Real-Cravens Rectangle"** (which is a small subset of the broader Carpinteria Valley area) has an astronomical concentration of existing and future pipeline cannabis operations per permit and provisional license records. In total, as of June 2021, there are 101.73 acres of combined permitted and pipeline grows in this small Nidever Rectangle (pictured below), most of which are already growing today based on provisional licenses. Of the 101.73 acres, 35.5 acres are permitted and an additional 19.24 acres have permits under appeal. There is likely additional acreage of current grows where operators are growing without provisional licenses. This monstrous density has very real human impacts for the approximately 20,600 residents living in the Carpinteria Valley and approximately 900,000 visitors each year (per the 2019 Carpinteria Valley Economic Profile).

Permitted:

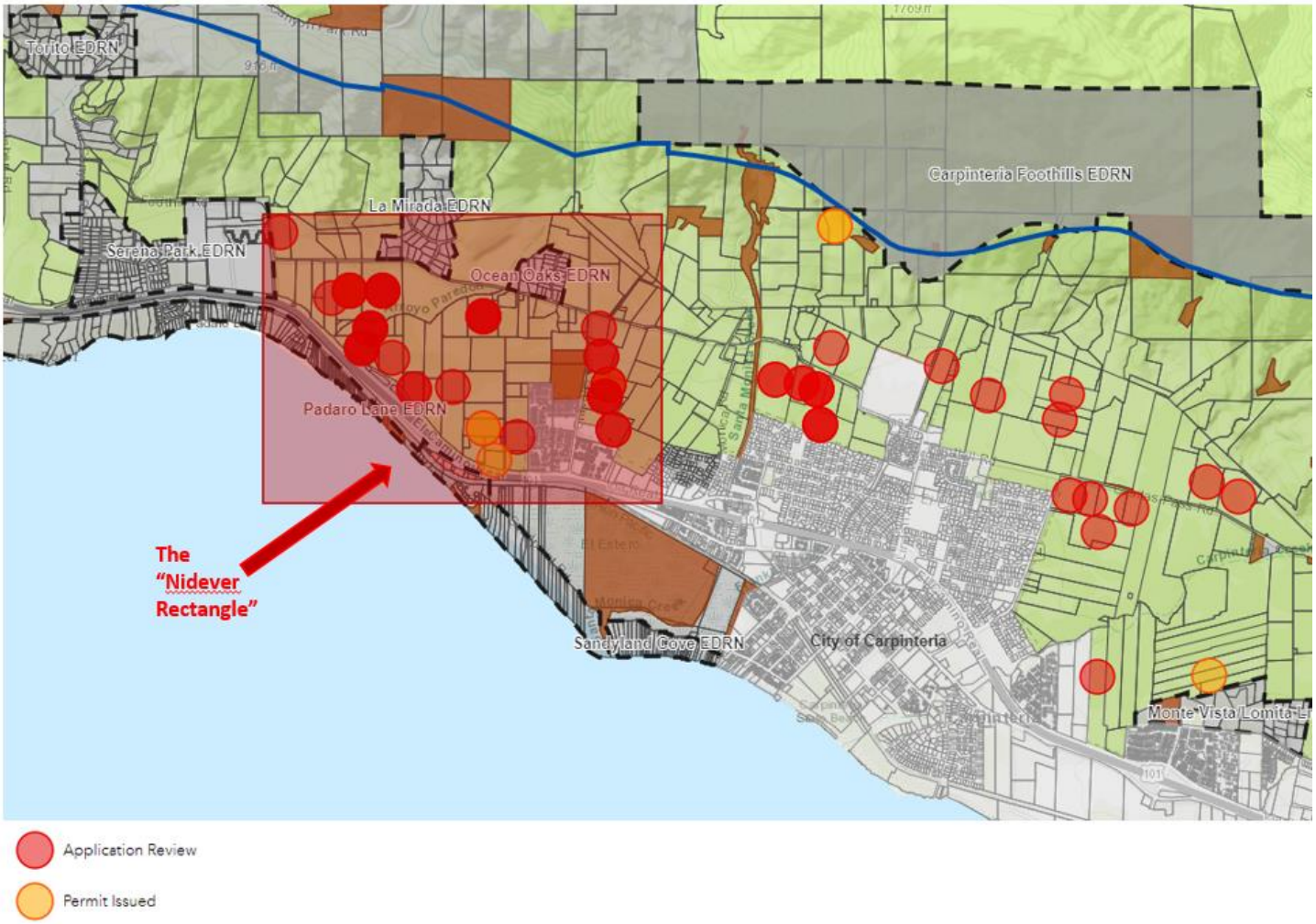
- 3561 Foothill Rd (Project Site) – 8.17 acres (ESH)
- 1296, 1400, 1480 Cravens Ln – 7.40 acres
- 1540 Cravens Ln – 5.5 acres
- 3798 Via Real - .43 acres
- 3892 Via Real – 14 acres

Provisional License Grows:

- 1628 Cravens Ln – 5.63 acres (permit under appeal)
- 1670 Cravens Ln – 1.40 acres
- 3615 Foothill Rd – 9.24 acres (permit under appeal) (ESH)
- 3500 Via Real – 5.50 acres
- 3508 Via Real – 4.88 acres (ESH)
- 3861/3889 Foothill Rd – 8.88 acres (ESH)
- 3684 Via Real – 3.8 acres (permit under appeal)
- 3376 Foothill Rd – 2.07 acres – not counting in the above totals given enforcement action
- This Project - .57 acres (permit under appeal) (ESH)

Other Permit Pipeline:

- 3450 Via Real – 11.65 acres
- 3504 Via Real – 7.28 acres
- 3920 Via Real – 7.40 acres



If you look at current active state provisional licenses, the small Carpinteria Valley/Toro Canyon area has more provisional licenses than almost all CA ***counties*** – ranking 9th when compared to counties that allow cultivation. ***See the chart below (on following page), which is as of May 2021.***

COUNTY	# Active Licenses
Humboldt	1690
Santa Barbara	1665
Mendocino	845
Yolo	684
Monterey	534
Lake	425
Trinity	416
Carpinteria/Toro-Unincorporated	349
Los Angeles	288
Sonoma	150
Santa Cruz	147
Nevada	138
Riverside	126
Sacramento	101
Fresno	99
Calaveras	94
San Bernardino	81
San Luis Obispo	61
Alameda	57
Inyo	54
Kern	25
Stanislaus	22
San Diego	19
Santa Clara	17
Shasta	12
San Mateo	11
Contra Costa	9
Tulare	9
Orange	8
San Benito	7
Colusa	6
Kings	4
Mono	4
Del Norte	1
Imperial	1
San Joaquin	1
Siskyou	1

Stepping back and looking at the bigger picture, the Planning Commission failed entirely to evaluate the extent to which license 'stacking' and density of cannabis operations in small areas, such as Carpinteria Valley as relates to this Project, will increase the cumulative impacts of cannabis operations and its inconsistencies with the Comprehensive Plan and Coastal Act Policies. Given the number of licenses which have been approved and were allowed to "stacked" in the Carpinteria Valley, and the unscientifically-founded immense 186 acre cap (which only promises to bring more pain to local residents), the cumulative impacts will continue to be intolerable and will further intensify from a nuisance and health perspective.

(3) The Planning Commission Failed to Consider the Applicant's Poor Odor Control Track Record and the County's Inability to Enforce Required Controls and Placed Improper Reliance on Odor Abatement Plans That Allow the Growers to Render Judgments on Odor Complaints

County laws dictate that this Project must not create a public nuisance. In addition, the requirement of the County's cannabis ordinance (codified in Land Use Development Code Section 35.42.075.C.6) is that an *"Odor Abatement Plan must prevent odors from being experienced within residential zones, as determined by the Director"*.

Applicant's Poor Track Record for Existing Permitted Operation at the Project Site:

Appellant currently has a permitted cannabis cultivation operation at the Project site, utilizing the 5 greenhouses on the premises. Driving past the property on Foothill Road (which I do almost daily), most of the time you can smell the pungent and noxious odor of cannabis. It is implausible that this is solely due to surrounding operations' odors, as the smell is particularly acute directly in front of this operation. In addition, odor is perceptible often on the Via Real side of this property and on Padaro and Santa Claus Lane and the associated beaches. I use a wind application on my phone (Windy) periodically to see the direction and speed the winds are blowing, which also allows me to ascertain the likely source of cannabis odors experienced at my home. Often, they appear to be quite clearly emanating from winds coming off the location of this Project's already permitted cultivation greenhouses. I have submitted many complaints to the County, as have many other local Carpinteria Valley residents, to no avail as the County just tells us there is nothing they can do because they cannot ascertain where the odors come from or enforce against unpermitted operators. The odors are not getting better and are causing significant nuisance and poor air quality in residential zones.

The Applicant's poor track record in controlling odor through use of the Byers Scientific vapor system on its existing operation (along with other similar systems it has experimented with) is a very relevant consideration in evaluating whether they will have a likelihood of success in mitigating odor from their new processing warehouse endeavor, and it bodes poorly. The OAP for the processing warehouse Project, while utilizing carbon filtration and other techniques in the building, is unlikely to fully contain the pungent emissions characteristic of processing. Processing for the Project includes drying, trimming and packaging cannabis, which is a far more odor-causing activity than cultivation. VOC emissions are significantly concentrated in the trimming process since you have to break plants open, which causes the release of significant odor. At the commercial/industrial scale of the Project's proposed processing facility, where up to 50% of additional plants are being brought in from another Carpinteria growsite, we can expect a significant amount of plants in the smelly flowering phase being stored, dried and trimmed, giving off exponential levels of odor. For the unfortunate school children living near Carpinteria High School, this is all too clear in driving along the nearby areas of Foothill Rd, where processing activities cause an incredible and pervasive stench. The facility proposed in this Project is truly gigantic in the realm of cannabis warehousing and processing (25,418 sq ft). I am quite fond of a Rolling Stone article "Inside the High-Tech Solution for Smelly Weed" (a great and entertaining read – see ***Exhibit E to Appellant's Appeal Letter to the Planning Commission***) which describes a much smaller 5,000 square foot drying facility as a "magnum olfactory opus" and notes the significant challenge of trying to enact effective odor control in a curing and drying operation in "such a large building". This Project makes that building seem like child's play.

In addition, the OAP for the processing facility relies on the Byers System to attempt to capture inevitable escaping odors along the warehouse perimeter, the same technology on the Property's existing permitted cultivation greenhouses that is currently falling woefully short of meeting the cannabis regulations' requirement that odor not be experienced in residential zones. The approval conditions that the Planning Commission put in place for the existing approved CDP at the Project site are not working to control the odors from being experienced in residential zones. Additionally, odor control for this Project does no good unless it is also functional for the surrounding greenhouses approved under the original CDP, which it is not.

A more sound, measured approach would be to first ensure that odors have been genuinely contained and are not being experienced in residential zones before greenlighting projects that would significantly expand and compound the density and nuisance.

Evaluating the Odor Control Methodology Proposed for the Cannabis Processing Warehouse:

<u>Carbon Filtration/HVAC/Closed Building</u>

A review of the online literature establishes that "no matter what, there's no odor control out there that's going to be 100%" (this is a statement attributed to Dr. Laura Haupert, director of research and development for OMI Industries, a company focused on controlling odors for a variety of industries, in ***Exhibit G to Appellant's Appeal Letter to the Planning Commission***, an article "Best Practices: Stop Making Scents," August 1, 2019, Marijuana Business Daily).

Sadly, carbon filtration, even when done right, is not considered sufficient to control odor fully. The Marijuana Business Times article "Stop Making Scents" notes that "it's not that carbon filters don't do anything…but they don't get all the odors that come out". The best in technology today may simply and sadly not be sufficient to protect the residents of Carpinteria from experiencing the cannabis stench in residential zones that a hugely odiferous processing facility would bring.

Byers Scientific System

The OAP proposes to use and add to the site's existing Byers vapor phase odor system and piping to encompass the proposed new warehouse (in addition to the existing greenhouses it already services). The provided Criterion Cannabis Odor Abatement Plan for 3561 Foothill is nothing more than a paid-for recitation of the manufacturer's sales literature." Neither Criterion nor the Applicant cite actual scientific data or basis for claims that the Byers system will work on cannabis to "prevent odors from being experienced within residential zones."

The Byers system is extensively used for many cannabis cultivation sites across the Carpinteria Valley and has proven woefully inadequate at containing odor at both the existing site for this Project, as well as other grows. Despite widespread use of the Byers System, County residents who live and work in Carpinteria report experiencing extreme odor, scratchy throats, and asthma issues. The system is not and will not work to the level of the regulatory standard of preventing the experience of odor in residential zones, as we have seen with it being up and running already at the existing CDP grow on the Project site, across from the Carpinteria High School now, at Ever-Bloom Nursery (as referenced at the June 5, 2019 Planning Commission Hearing). As referenced in the Los Angeles Times article "The World's Largest Pot Farms and How Santa Barbara Opened the Door," Mozingo writes, "Casey Adams, 61, who has taught at Carpinteria High School for 33 years, said the smell comes and goes. It's worse in the morning, he said, and it doesn't seem to have changed much with the adoption by most growers of purported odor control systems". See ***Exhibit F to Appellant's Appeal Letter to the Planning Commission***.

Part of the issue is that, even by its own disclosed approach, the Byers system Ecosorb product has to make contact with the cannabis terpenes to have any chance of neutralizing the odor. Given wind patterns or lack thereof, to the extent the terpenes do not mix with the neutralizing chemical, odor control will not be achieved, as we are seeing play out.

The Project documents state that vapor phase odor abatement will need to run 24/7, 365 days a year. We do not understand the public health risks with regard to the chemicals involved. There is no evidence showing the long-term health risks of the Byers system because no human study has been done, as noted in the Holden letter. This is concerning given the very high levels of the substance required for odor mitigation at this Project, as well as the broader density of cannabis operations and vapor systems nearby, creating an enormous concentration of impact level and risk from an air quality particulate and health standpoint to the community, including residents and those trying to enjoy the beach and coastal area.

Of additional concern is that the product falls to earth and degrades on a time lag, such that the proprietary chemical (which we cannot get transparency into as to its specific chemical makeup) will become highly concentrated in the soil and groundwater in surrounding areas and the ESH at the Project site. See above for further detail on the product's degradation timeline and the environmental concentration issue this will cause given constant use at multiple sites and slower rate of decay.

The Coastal Zoning ordinance also requires that, if projects utilize "vapor-phase systems" such as the Byer's system, such systems must "be odor-neutralizing". (Coastal Zoning Ordinance, § 35-144U.C(6)(e)(2)(a).) However, the

Byer's system fails to neutralize odors – it just releases a chemical agent that masks them with another smell profile or partially neutralizes them.

For these reasons, use of the Byer's system at the Project violates the Coastal Zoning Ordinance and falls short of the standard that odors are not to be experienced in residential zones. Even worse, it creates unknown and troubling risks to air, soil and water quality in the ESH, as well as to human health, on account of the Ecosorb substance being airborne and falling to earth, where it degrades on a lag, accumulating in cumulative concentration given constant release from this Project site and surrounding cannabis operations.

County's Inability to Enforce Even Its Own Minimal Requirements

The County has not been able to enforce required controls to safeguard residents as relates to this Project. The Planning Commission's added condition when it heard the 6/5/2019 appeal of the existing cannabis greenhouse CDP on the property, required quarterly inspections (4 times during the first year) including review by a professional engineer/industrial hygienist as relates to odor control. County staff noted that these professional engineer/industrial hygienist quarterly inspections have not occurred for G&K because three neighboring properties have not received their CDPs yet, and the Planning Department is unable to discern the source the odors experienced in residential areas. In addition, G&K's existing permitted operation is subject to an annual business license renewal process, during which checks on odor issues are supposed to occur (there have been countless resident complaints through the County's odor complaint website, in addition to night lighting violation issues). As of this date, the annual business license renewal is still under review, when it should have happened seven months ago to fulfill regulatory standards. I do not raise these issues to malign County staff – to the contrary, it is clear that they are trying their best but are overwhelmed and not properly funded or equipped with the right technologies to be able to prioritize even the weak controls that were established to safeguard residents. With no enforcement yet of the controls required for the existing permitted project, it does not make sense to further add to the density of issues at the project site.

Improper Reliance on an Odor Abatement Plan That Allows the Grower to Render Judgments on Odor Complaints

The Planning Commission placed undue emphasis in its decision-making on the concept of OAPs, based on prior appeal settlements, that are unlikely to be meaningfully protective to residents, since they allow the grower (Applicant) to render the judgments on resident odor complaints. The Applicant's OAP for this Project, as well as the associated OAP Amendment dated June 4, 2021 (which relates to Adaptive Management Protocols) are inadequate. Appellant will focus on the issues with the Adaptive Management controls here, as she has already addressed how the rest of the OAP falls short in the sections above. The Tiered Corrective Action Response Program Adaptive Management Protocols are notably flawed in that:

- Most fundamentally, the ***grower*** is the party making the determination and judgment as to whether an odor complaint has merit. There is a clear conflict of interest and disincentive for the grower to find an odor complaint meritorious. It is the proverbial scenario of "the fox guarding the hen house" and it is unreasonable to believe that such an approach would be effective, due to this fundamental issue. Instead, it is the role of government to be an independent arbiter and decider in investigating and enforcing upon odor complaints, based on empirical information and their diligence into complaints when raised. The idea that a self-policing strategy would be effective is particularly dubious to the Appellant given the Applicant's poor odor control track record for their existing permitted CDP greenhouse grows at the Project site.
- In addition, part of the escalation process involves the Applicant ascertaining the absence or presence of odor beyond the property line. While this is no doubt an important aspect that should be looked at, the OAP fails to take into account that cannabis emissions and odors are typically released into the air from the top of the

greenhouse and contemplated processing facility, such that prevailing winds may carry them up and out toward the sea or mountains in such a way that they may be causing a significant nuisance without being detectable at the property line from ground level.

- Additionally, the Applicant is not required, per the terms of the OAP, to take additional action if the Applicant finds (in their own judgment based on their exploration) no cause for the reported odor episode. Just because the Applicant cannot figure out what is causing an odor issue does not mean they should not be responsible for it.
- Moreover, the escalation process in the OAP contemplates visiting the location where an odor episode is observed and, if the odor is not detected at that time, that the Applicant would not be required to take further action. Realistically, the cannabis odors come and go throughout the day given wind and atmospheric conditions, so this fails to address intermittent odor issues that are persistent and would dismiss very valid claims.
- Weather monitoring is only specified for a period of 12 months without an "observed odor observation". Weather monitoring should be in place for the life of the Project and apply to both the Project and the existing permitted CDP grows at the Project site.
- The OAP contemplates a testing program for a 7 day period during the first week of permitted operations of the Project warehouse using the best available odor monitoring device/method to measure odor causing emissions at the perimeter of the property. This should be required for the life of the Project and apply to both the Project and the existing permitted CDP grows at the Project site.
- The Community Outreach List for notifications should include be much broader than 1,000 feet of the Property. Cannabis emissions and odors are known to travel for upwards of 1-2 miles depending on weather conditions. Appellant lives more than 1,000 feet from the site and suffers from the nuisance it creates regularly.
- Odor complaints should be deemed "Substantially Complete" even if they are more than 1,000 feet from the boundary of the Property, for the reasons articulated above.
- There is a provision that states that "If a party maliciously abuses the odor inquiry process, such as by raising three of more odor complaints that are demonstrated to be frivolous or non-meritorious, no additional action will be required by G&K". The fundamental issue here is that, as noted above more broadly, the fundamental "decider" about odor complaints and their merit is the Applicant grower. We can expect, given the incentives problems noted above with self-policing, that many valid, sincere odor complaints would likely be dismissed under this standard.

While the Appellant genuinely appreciates the Applicant's desire to be a "good neighbor and responsible member of the community," their current track record and existing illegal nuisance fall far short of this aspirational standard, and the notion that the Applicant would likely be effective in accurately implementing such a self-policing program is logically flawed.

(4) Other Coastal Land Use Plan, Article II of the Coastal Zoning Ordinance, and Coastal Act Concerns:

The Appellant has many additional concerns relating to the Coastal Land Use Plan, Article II of the Coastal Zoning Ordinance and Coastal Act concerns.

Differential Zoning of Similar Parcels in Coastal Zone vs Inland

In contravention of the spirit and goals of the Coastal Act to provide additional protections to the coastal zone in California and to *favor* protection of coastal resources and objectives over other development standards where policies within land use plans overlap or where there are conflicts between general development standards and ESH or public access protection (see Section 1.2 of CLUP, LUP Policy 1-1, Toro Canyon Plan Policy LUG-TC-8), the County has gerrymandered a zoning ordinance that gives *less protection* to similarly-zoned coastal zone vs inland parcels. Case in point: the Applicant would not be able to conduct ***any*** cannabis operations if its Ag-1-10 parcel were in the inland region of the County (where cannabis operations are banned on Ag-1 zoned parcels that have a parcel size of 20 acres or less, including Ag-1-10 and Ag-1-20). Additionally, the inland zone requires CUPs on Ag-1 zoned parcels with parcel size

greater than 20 acres. Here, because there is an unaccountably more permissive, less protective zoning standard in the coastal zone, the Applicant can apply for a permit to conduct a wide range of cannabis activities (including cultivation and processing) on the Ag-1-10 parcel (including many activities with just a ministerial permit). It is unjustified that this would be the case, as there are similar incompatible use issues on Ag-1-10 parcels in the coastal zone vs inland, not to mention the additional Coastal Act considerations that merit, if anything, stronger (not weaker) zoning protection and treatment.

Cannabis Should Not Be Considered a "Principally Permitted Use"

There are also conflicts with the Coastal Act and Local Coastal Plan (LCP), especially designation of cannabis as a "principally permitted use" as, even though cannabis is not entitled to "right to farm". Appellant asserts that the designation of cannabis as a principally permitted use (PP) as agriculture in the cannabis ordinance was an oversight or legal error, and not justified under the Coastal Act. Cannabis is not subject to protection under either the State licensing scheme, or the County's Right to Farm Ordinance. The Project conflicts with the policies of the Local Coastal Plan (LCP) to protect agriculture, as it threatens the entire avocado industry in the Carpinteria Valley, which was pre-existing. It also conflicts with Agricultural Goal 1. Cannabis is not considered agriculture for purposes of right to farm ordinances. Conflicts with traditional, pre-existing agriculture must be fully resolved to protect traditional pre-existing food agriculture and prime agricultural soils, as opposed to doubling down on density and high-impact uses supporting the cannabis industry, as illustrated by this Project.

Coastal Access, Recreation and Visitor Serving Uses

The Planning Commission (and PEIR) failed to analyze conflicts from odors and emissions with public access and ability to enjoy the beach, recreational uses and visitor serving uses in the coastal zone, given the cannabis odor, air quality and water quality issues from this Project, the existing permitted operations at the Project site and the surrounding density of grows that are noted above in this Appeal. There is a significant Coastal Commission consideration here, in that the negative air quality and odor impacts from cannabis operations are apparent in the beach areas and visitor serving uses on Santa Claus Ln and Padaro Ln (which has a public access easement), with additional impacts and threats from this project to the ESH given the adjacency to the Arroyo Paredon Creek.

Conflicts with "Right to Farm" Food Agriculture

The Project does not conform with Section 35-68.1 of Article II (Intent of the AG-1 Zone). The intent of the AG-1 zone district, lest we forget, is to designate and protect land appropriate for long-term agricultural use within or adjacent to urbanized areas and to preserve prime agricultural soils. This Project does neither of these things, as it supports a non-right-to-farm use (cannabis production) that actively threatens the viability of local legacy right-to-farm food crop agriculture due to incompatible use issues and concerns about pesticide drift that prevent local food farmers from being able to treat their crops appropriately for marketable yields. In addition, as discussed above, the Project involves cut-and-fill on a huge quantity of prime soil (1,400 cubic yards), the volumetric equivalent of 3.2 acres of soil 3 inches deep, and will pragmatically result in the permanent loss (through the construction of a full-scale building) of access to the prime agricultural soils below it for future use.

Inconsistency with Development Standards of the Carpinteria Agricultural Overlay District

The Project does not conform to Section 35-102F of Article II (Intent of the Carpinteria Agricultural Overlay District). The Property is located in Area A of such district, the purpose of which is to designate geographic areas of AG-1 zoned lands in the Carpinteria Valley appropriate for the *preservation of open field agricultural uses*. The intent is to ensure well-designed greenhouse development and to limit the loss of open field agricultural areas from piecemeal greenhouse expansion by providing well-crafted development standards that protect water quality, visual resources, and rural character of the Carpinteria Valley. The Zoning Administrator's argument (which was not refuted by the Planning Commission) that the building will not affect open field agriculture because there is currently no open field agriculture on the site is specious, as putting a permanent processing on the site is a significant escalation and prevention of the land

being used for open field farming in the future. When the original 6th greenhouse was conceptually approved (and never built) in the ***early 1980's*** (in fact, the year Appellant was born), no one could have anticipated the shift to cannabis cultivation. County Staff should have required a Development Plan amendment for the changes associated with the change to cannabis cultivation, including but not limited to the installation of the Byers System odor control on the existing greenhouses and the approval status of the 6th greenhouse as a change in intensity of use. There is little doubt that adding yet another large structure on an already industrial-level built-out property constitutes piecemeal expansion that was not the intent for the overlay district. This runs counter to the development standards of protecting water quality, visual resources and the rural character of Carpinteria Valley, as enumerated in detail in other sections above.

The Project also does not conform to Section 35-102F.9 of Article II of the Coastal Act (Greenhouses and Related Development Standards). The Carpinteria Agricultural Overlay contains 26 development standards. The Project does not comply with:

- Development Standard 1: This standard requires submittal of a landscape plan that provides, to the maximum extent feasible, visual screening of all structures and parking areas from all adjacent public roads and view corridors. The intense industrial appearance of the property (which would be made much worse by this Project) is entirely visible from the hills above and from the public Toro Canyon Ridge Trail, which is part of the Toro Canyon Park. The Zoning Administrator erred in noting that it would not be visible from view corridors given that the trail views will be negatively impacted. The Planning Commission did not adequately consider this.

- Development Standards 4 and 5: The Zoning Administrator and Planning Commission should have included Byers System chemicals under the scope and spirit of these provisions to ensure they are stored in a manner that minimizes generation of leachate and polluted runoff, which they failed to do. This is particularly problematic given the proximity of the site to an ESH and coastal creek.

- Development Standard 8: Appellant notes that aligning the structures from north to south has not prevented significant glare issues, which Appellant can personally attest to, living above the Project site. The Zoning Administrator and Planning Commission should have considered other glare reduction techniques.

- Development Standard 9: This standard requires that hardscaped areas be minimized in order to preserve agricultural soils and reduce the potential for impacts to water quality. The Zoning Administrator erred in finding that the project complies with this standard on the basis that the new hardscaped areas will be limited to the new 25,418 square foot processing building and parking area. This is a huge addition of hardscaping, and the argument that an early 1980's conceptual approval of a 6th greenhouse that was never built somehow makes this alright, is an odd twist of logic given the extreme change in usage, for which Staff should have required a Development Plan, as noted above. The Planning Commission failed to address this improper finding.

- Development Standards 11 and 12: The Zoning Administrator erred in making the finding that the noise generated by the operation would not exceed 65 decibels at property boundaries, as they did not take into account the cumulative impact of multiple noise-generating activities (the Byers System, generators, condensers, etc) all potentially operating at once. The Planning Commission erred in also not addressing this issue.

- Development Standard 17: The Zoning Administrator should have considered the likely intense usage of the diesel generators and their cumulative impact on NOx, given the frequency with which the area loses power on account of the fragile and underpowered electrical grid in Carpinteria Valley. Local elected officials continue to wage battle against garden gas blowers, but meanwhile, we are allowing vast usage of diesel generators for commercial cannabis operators – it boggles the mind. The Planning Commission likewise erred in not addressing this issue.

- Development Standards 18 and 19: The Zoning Administrator erred in noting that the proposed processing building will not be visible from any public viewing area. This is inaccurate. The property is fully viewable from the Toro Canyon Ridge Trail, which is located in the Toro Canyon Park. The Planning Commission failed to adequately consider this.

- Development Standard 24: Appellant wishes to point out the irony that property owners must remove greenhouses and related development if any component is abandoned for 24 months, but at the same time are allowed, as justification for building an additional structure, to rely upon an early 1980's approval of a 6th greenhouse that was never built. The 6th greenhouse argument strikes Appellant as a creative stretch of imagination that goes beyond the intent of the relevant regulations and standards. Certainly it is not in the spirit of Section 35-102F.9 of Article II of the Coastal Act.

- Development Standards 25 and 26: See Appellant's comments above regarding the insufficiency of the traffic analysis conducted to account for ancillary traffic aspects of the operation outside of employee trips. This includes worker trips, the additional trips to bring marijuana from another Carpinteria growing facility, as well as ancillary trips to support workers on the site (deliveries, etc), in addition to product ship-outs. The inevitable annoying beeping sound of reversing trucks in the early morning should also have been considered by the Planning Commission, given the early hours of operation and reverberating noise up into the hills.

Issues in Regard to General Commercial Cannabis Activities Development Standards

The Zoning Administrator erred in finding that the Project conforms to Section 35-144U (General Commercial Cannabis Activities Development Standards).

- There is no evidence to support a finding that the Project will comply with Section 35-144U.C.6 because the Zoning Administrator and Planning Commission failed to consider the emissions as unregulated VOC.

- In addition, there is no evidence to support a finding that the Project will comply with Section 35-144U.C.1.d. The project is inconsistent with policies to protect water quality, since the conditions only represent that the applicant is required to comply with the Cannabis Cultivation Policy of the RWQCB, and there is no condition requiring specifically that the Applicant submit ROWD or obtain WDO or enrollment in any RWQCB permit prior to commencing operations. In fact, the RWQCB has issued 'waivers' from discharge requirements based on the self-certification of applicants and without verifications of representations made by applicants.

- The Landscaping and Screening Plan elements are not met, as the Zoning Administrator inaccurately assessed that the proposed building will not be visible from any public viewing areas – as noted above, it is viewable from the Toro Canyon Ridge Trail in Toro Canyon Park. The Planning Commission did not adequately consider this.

- The Lighting, Noise and Odor Abatement Plans fail to be adequate on account of the concerns articulated above in detail.

- Tree Protection, Habitat Protection and Wildlife Movement Plans are not adequately considered for the reasons relating to the ESH articulated above in detail. Appellant further notes that the trees that were planted for screening purposes along Foothill Rd. keep dying and failing to thrive, with browned leaves that Appellant believes are due in part to the constant Ecosorb emissions they sit beneath.

- The Project does not meet the standards of Section 35-144.U.C. of Article II (Cannabis Regulations: Specific Use Development Standards).

    - Appellant believes that existing greenhouse grows should be reclassified as outdoor grows and shut down given that they are not enclosed structures and have uncontrolled odor impacts and nuisance that have wrecked havoc on Carpinteria Valley, with residents as guinea pigs in a shameful experiment for far too long. The Appellant also wishes to point out that the processing use contemplated in this Project is basically an industrial use that the ordinance allows in Ag-1-20 and Ag-1-10 zoning in the coastal zone but that is entirely discordant with the intent and standards of our community plan to enhance the rural residential character of Carpinteria Valley for the innumerable reasons articulated earlier in this Appeal.

    - Please see above regarding the destruction of a great deal of prime soils, in contravention to the standards enumerated in this provision and described above in detail.

    - Please see above regarding the inadequacy of the Site Transportation Demand Management Plan.

Additional Inconsistencies with Coastal Land Use Policies and Article II of the Coastal Zoning Ordinance:

The Planning Commission failed to address additional inconsistencies with Coastal Land Use Plan policies. The Project is inconsistent with the specific goals, standards and policies of the Local Coastal Plan and the Coastal Act, including but not limited to CLUP Chapter 3. Section 3.1 and Policy 1-4, as follows:

- The uncontrolled and uncontrollable odor impacts to be generated by the project conflict with the policies of the LCP to encourage visitor serving uses and recreation, priority uses in the coastal zone that are severely impacted by the emissions and odors from cannabis operations such as those that this Project would create (and that are already present on the Project site from the Applicant's existing permitted operations).

- The project conflicts with the policies of the LCP to protect agriculture, as it threatens the entire avocado industry in the Carpinteria valley. Cannabis is not considered agriculture for purposes of right to farm ordinances. Conflicts with traditional, pre-existing agriculture must be fully resolved to protect traditional "right to farm" food agriculture, which was preexisting.

- The project does not demonstrate adequate conditions to assure that it will not conflict with air quality objectives, or hazard policies, including those of the Coastal Act Section 30253. The Coastal Commission does not set air quality standards, but it can and must address emissions which constitute hazards, particularly when they interfere with priority uses in the Coastal Zone. The emissions and odor control conditions are inadequate, and the County APCD has failed to address the cumulative impacts and risks associated with the Byers System. There is no evidence to support a finding that the project will comply with Section 35-144U.C.6 of Article II of the Coastal Zoning Ordinance because the Planning Commission failed to consider cannabis emissions as unregulated VOCs.

- The project is inconsistent with findings required by CLUP policies and Section 35-144U.C.1.d of Article II of the Coastal Zoning Ordinance to protect water quality, since the conditions only represent that the applicant is 'working with' the RWQCB. There is no condition requiring specifically that the applicant submit ROWD or obtain WDO or enrollment in any RWQCB permit prior to commencing operations. In fact, the RWQCB has issued 'waivers' from discharge requirements based on the self-certification of applicants, without government verification of Applicant representations. Once again, there is a significant incentives issue, as everyone saw with the Affadavit approach to non-conforming uses, in allowing growers to self-certify on matters of import.

Broader Coastal Act and LCP Considerations

The Coastal Act delegates significant authority to the County after LCP certification. However, the Coastal Commission retains a critical role in ongoing appellate oversight over coastal developments and certain types of development to monitor and ensure the effective implementation of the LCP with respect to issues of statewide concern under the Coastal Act. Certain local decisions, such as this one, to the extent the Board of Supervisors votes against this appeal, are appealable to the Coastal Commission. The Appellant believes that a Coastal Commission finding of Substantial Issue would be justified in such an appeal, given:

1) **Inadequate factual and legal support for the local government's decisions as relates to this development:** The County has thus far taken an artificially constrained view of this Project and has not adequately considered the existing density and intensity of cannabis operations on the Project site and surrounding uses, when finding the project compatible with the Comprehensive Plan, including the CLUP and Article II of the Coastal Zoning Ordinance. The development is inconsistent, as described above, with the fundamental goals and many of the elements and provisions in the CLUP and Article II of the Coastal Zoning Ordinance, when looking at the facts. The County has thus far not adequately considered ESH impacts due to air, soil, and water quality issues arising from the Project, or impacts to coastal public access (due to cannabis odors and significant pollution threats to air and water quality) and recreation policies of the Coastal Act (given that cannabis odors on the beach and visitor serving uses along the beach are not conducive to enjoying the coast). Poor air quality and cannabis odors at the beach from surrounding cannabis operations, which this Project would further compound, are polluting and disrupting the experience of the beach on Santa Claus Lane for residents and visiting families seeking to enjoy the shore and visitor serving uses. The Coastal Act rightfully seeks to preserve and protect beach access and recreation, which this Project would erode.

2) **Extent and scope of the development:** The Project's large-scale processing warehouse would exacerbate site density greatly, along with the extreme density of surrounding cannabis cultivation and processing activities (permitted and in pipeline), and create a scope of development that is fundamentally at odds with the goals and principles underlying the Coastal Act and our CLUP.

3) **Significance of coastal resources affected:** Our coastal resources are precious, and there is significant risk of irreparable harm to Arroyo Paredon, a coastal feeding stream, and the riparian ESH habitat, on account of the Byers System vapor phase odor system chemical emissions from this Project and surrounding cannabis

developments (both existing and in pipeline). Such vapor phase odor system emissions fall to earth and degrade slowly over time and will build up in concentration to a terminal dose level much higher than the initial dose, given continuous release. We fundamentally do not understand what the impact of these substances will be on our coastal streams and soils, nor on plant, animal or human health. We cannot afford to put our coastal resources at risk without independent studies at the cumulative level, intensity of use and long-term duration anticipated by this and surrounding projects. Additionally, the cut and fill of prime agricultural soil, as well as the functional permanent removal of such soil from future agricultural use is inconsistent with CLUP principles and provisions. The intensity of activity on the Project site (number of employees, traffic, noise and other necessary corollaries of commercial processing activities) is at odds with the goal of protecting the ESH habitat from disruption.

4) **Precedential value of the local government's decision for future interpretations of its CLP:** With volumes of cannabis permits in the pipeline in the coastal regions of the Carpinteria Valley and Goleta area, this appeal would offer the Coastal Commission an opportunity to opine on how the County is interpreting the CLP, CLUP and Article II of the Coastal Act before all these operations are approved, to the grievous detriment of the surrounding community, coastal visitors, and natural resources.

5) **Appeal issues raised that are of regional or statewide significance – not just local issues:** As the cannabis industry grows and expands in California, there is no question that such an appeal would raise issues of regional and statewide significance, given the volume of coastal zone cannabis operations that have been permitted or that are in the permitting pipeline, both in Santa Barbara County as well as potentially in other Counties as they seek to regulate this nascent industry.

Section 1.2 of the CLUP notes that the Coastal Act established several goals for coastal zone activity, including the need to "protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and man-made resources; assure orderly balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people in the state; maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles…". For the many reasons articulated above in this Appeal, this Project is inconsistent with several Comprehensive Plan and Coastal Act Policies that were noted in the Coastal Commission Staff Report on September 27, 2018, including but not limited to the below:

The Toro Canyon Plan Policy LUG-TC-8 states: "Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence."

LUP Policy 1-1: "Where policies within the land use plan overlap, the policy which is the most protective of coastal resources shall take precedence."

Section 30211 (Coastal Act Policy): "Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

Section 30231 (Coastal Act Policy): "The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams."

Section 30240 (Coastal Act Policy): "(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas."

LUP Policy 3-19: "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."

Toro Canyon Plan Policy WW-TC-4: "Development shall avoid the introduction of pollutants into surface, ground and ocean waters. Where avoidance is not feasible, the introduction of pollutants shall be minimized to the maximum extent feasible…"

Toro Canyon Plan Policy BIO-TC-1: "Environmentally Sensitive Habitat (ESH) areas shall be protected and, where appropriate, enhanced."

Section 30251 (Coastal Act Policy): "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

LUP Policy 4-3: "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."

LUP Policy 7-1 , in relevant part: "The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline…"

Toro Canyon Plan Policy VIS-TC-2: "Development shall be sited and designed to be compatible with the rural and semi-rural character of the area, minimize impact on open space, and avoid destruction of significant natural resources."

A couple years ago, the Coastal Commission issued guidance to local governments in a letter dated April 29, 2019, regarding "Cannabis in the Coastal Zone and Regulatory Requirements of the Coastal Act". This letter, among other things, presaged what has come to pass here in the Carpinteria Valley and broader Santa Barbara County, as articulated in this Appeal above:

- "Locating processing facilities…on agricultural lands could result in the conversion of agricultural lands to non-agricultural uses and may overload roads…while noise from generators and odor from processing activities may also impact visitors or residents, especially when cultivation occurs near residential or commercial areas."
- "In addition, using agricultural lands for cannabis…can increase the cost of land, reducing the feasibility of farming traditional or other low value crops" (putting at risk right-to-farm food agriculture, which has long been the primary use for such lands)
- In some instances, "the introduction of these cannabis-related activities have been found to have the potential to raise coastal resource protection issues, including impacts to agricultural resources, water quality, environmentally sensitive habitats, and scenic resources."

- "On agricultural lands, cultivation activities could impact certain agricultural resources by introducing uses and structures that potentially threaten the viability of an existing agricultural operation. For example, where cannabis cultivation is allowed on agricultural lands, cultivators may pursue 'vertical integration', introducing additional uses, such as **processing**, manufacturing, distribution, and tasting and touring activities, which could result in the introduction of buildings and structures on agricultural land and effectively result in the conversion of agricultural lands to non-agricultural uses…together, these structures may cumulatively result in the proliferation of structures on agricultural land and the conversion of agricultural lands to non-agricultural uses."
- "On agricultural or other lands that may contain or be adjacent to Environmentally Sensitive Habitat Areas (ESHA) or water bodies, the potential for impacts is even more acute. Cannabis cultivation generally utilizes controlled lighting to maximize yield and potency, which may lead to the introduction of generators and special lighting devices in outdoor growth areas or greenhouses…Waste discharges from cannabis cultivation sites may also include irrigation runoff, sediment, pesticides, herbicides, fertilizers, petroleum, agricultural-related chemicals, and other refuse."
- "Cannabis cultivation may also result in scenic or visual resource impacts depending on the scale of the cannabis activity…and the geographic area in which it occurs. For example, outdoor (and mixed-light) cannabis cultivation on agricultural, rural and other scenic lands may result in scenic resource impacts through the proliferation of new structures, such as walls, fencing, greenhouses and hoophouses."
- "Cannabis cultivation may also result in public access impacts. For example, in areas where public access may intersect with cultivation activities, …public access may be hindered by…odor and noise nuisances."

Given these very intense potential impacts, the Coastal Commission recommended that localities adopt LCPs to include siting considerations and standards relating to sensitive users (including visitor-serving uses and ESH habitat areas, schools, and parks), maximum site areas, setbacks for development that may impact sensitive coastal resources, specific resource-use criteria and other standards relating to odor, lighting, security and chemical storage and disposal. The Coastal Commission also contemplated that localities may need to prohibit cannabis uses in certain zoning districts or broadly throughout the coastal zone, if such prohibition is needed to protect coastal resources consistent with the Coastal Act.

Virtually all of the negative potential outcomes the Coastal Commission warned about have come to pass in the Carpinteria Valley and are relevant to the Project at hand, given the weak ordinance the County has put in place, which lacks adequately tailored zoning and density controls (site-specific and more broadly within the Carpinteria Valley) to mitigate the issues. While the Coastal Commission certified the County LCP, Appellant believes that we have learned a great deal about commercial cannabis since that time and that the issues presented by this Project, as amplified by the overpowering density from existing Project site permitted operations and surrounding grows in pipeline in the area, merit de novo review (to the extent the Board of Supervisors denies this Appeal) of this Project, the County's LCP and the County's interpretation thereof that have allowed an environmental and coastal travesty to occur.

In Closing

The issues raised in this appeal are indicative of the overarching problems with the permitting for cannabis operations in Carpinteria and throughout Santa Barbara County. Of the 20,600 people who live in Carpinteria Valley, a small handful are cannabis growers, but this small percentage is destroying our quality of life and the character of the coast. The motive is clearly money for growers and tax revenue for the County. But the numbers paint a very different story when you look at the incredibly high costs of administering and enforcing such a program, as well as the longer-term costs we're beginning to see: children having to go to school under a marijuana stench cloud in violation of Equal Protection and access to a quality educational environment, impairment of the public's ability to enjoy clean air and water on the coast (giving rise to significant coastal access and recreation issues), risk of significant degradation to our ESH environments (coastal feeding streams and riparian habitats), lawsuits, respiratory issues in Carpinteria Valley residents

living near cannabis operations, irreparable harm to the rural residential character of the Carpinteria Valley, property values that are not keeping pace with the rest of the Santa Barbara metro area – the list goes on. We have learned that growing cannabis with carbon filtration/HVAC odor control requires much more power and utilities than food agriculture operations, with water an additional significant concern. We have learned about air quality and health impacts of commercial cannabis production, including VOC and ground level ozone issues and the frightening and unstudied impacts of accumulating vapor phase system emissions in our air, soil and water, not to mention the incredible continuing odor nuisance. We now know that cannabis growing is incompatible with avocado and grape growing (due to pesticide and terpene drift issues) and that our open-venting legacy greenhouses are not appropriate structures for growing cannabis in a densely populated urban/residential interface area, as they must open up and release emissions (more akin to outdoor grows). We have also learned that Santa Barbara County's planning and development and law enforcement infrastructure literally cannot handle the huge influx of new cannabis operations, nor is it equipped with the technology or tools to enable staff to enforce even the existing meager regulatory controls (the only line of defense for residents). We have learned as well, through the investigative reporting of LA Times journalist Joe Mozingo and the Santa Barbara Grand Jury Report on the cannabis ordinance, just how flawed and suspect the lobbyist-driven process was that gave rise to our current reality.

More than anything, we have learned how easily a charming, beautiful seaside paradise can become a quasi-narco-state, where coastal regulations and community plans are pushed to the side to make way for a powerful, lucrative industry and where neighbors are the casualties of a small minority's greed. I know what that is like. I am a Mexican-American woman whose family is from Nogales, Mexico. It is no exaggeration to say that the marijuana and drug industry enveloped the town like a cancer, with terrible life-altering impacts for many residents. Here in Santa Barbara County, I am watching history repeat itself, but this time on a more American capitalist wavelength. We may not have violence or explicit evidence of corruption, but we have operations causing grave nuisance and endangerment to the community and environment, with an ineffective enforcement model that leaves residents and visitors bearing the impacts. There are many excuses, but when I see the County continue to certify provisional licenses to the State for operations causing active nuisances, approve cannabis projects in stark contravention of community plans, greenlight proposals that cannot possibly meet the standards of even the incredibly-flawed ordinance, and maintain differential zoning treatment of same-zoned parcels in the inland area versus the coastal zone, the legal and interpretive contortions remind me of all those tunnels beneath the Sonoran desert, letting the drugs on through.

The current challenge to effectively permit these developments is only a preview to how hard it will be to monitor all these operations once they are up and running. The wall of noxious fumes in Carpinteria, stretching malodorously from Nidever and past Casitas Pass, is the canary in the coal mine for a much more significant future risk and liability to the County in failing to safeguard the community's health from air quality impacts. There is still time to slow things down and institute common sense regulations that preserve the quality of life in Carpinteria Valley. There is still time to implement common sense solutions that allow for this new industry in the County, without jeopardizing public health, safety, coastal and environmental standards and air quality. Decisions made today can make a big difference in shifting the scales of this narrative towards the health and well-being of the public and help steer the Project Applicant towards better managing their existing operations to not cause a significant nuisance and threat to the health and well-being of local residents and the environment.

Though Santa Barbara County only comprises 1.8% of California's land, operators in our County hold licenses for 35% of all the state's cannabis acreage. ***Exhibit M to the Appellant's Appeal to the Planning Commission: Los Angeles Times, "Santa Barbara Grand Jury Blasts County Supervisors Over Marijuana Industry," July 3, 2020.*** With such a high density of cannabis operations, it is essential that the County regulate the cannabis industry in a manner that is clear, enforceable, and sufficiently protective of our community and our environment.

For these reasons, the Appellant requests that the Board of Supervisors overturn the Planning Commission's decision and approve this appeal. Thank you for your patient and careful consideration of this important matter.

Sincerely,

Sarah Trigueiro