

**ATTACHMENT 5: BOARD AGENDA LETTER DATED JANUARY 12,
2021, AND ASSOCIATED ATTACHMENTS**



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning and Development
Department No.: 053
For Agenda Of: January 12, 2021
Placement: Administrative: Set Hearing
on January 12, 2021 for
February 9, 2021
Estimated Time: 1.25 hours on February 9,
2021
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director: (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Development Review Division
(805) 568-2518
SUBJECT: **Applicant Appeal of the Decker Greenhouse Project, Case No. 20APL-00000-00028, Third Supervisorial District**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On January 12, 2021, set a hearing for February 9, 2021, to consider the Applicant's appeal, Case No. 20APL-00000-00028, filed by Steve Decker, applicant, of the County Planning Commission's denial of the Decker Greenhouse project, Case No. 19LUP-00000-00469.

On February 9, 2021, your Board can take the following actions:

- a. Deny the appeal, Case No. 20APL-00000-00028;
- b. Make the required findings for denial of the project, Case No. 19LUP-00000-00469, included as Attachment 1, including California Environmental Quality Act (CEQA) findings;
- c. Determine that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15270(a) (Attachment 2); and,
- d. Deny the project *de novo*, Case No. 19LUP-00000-00469.

Summary Text:

A. Proposed Project

The proposed project is a request for a Land Use Permit (Case No. 19LUP-00000-00469) to allow the construction of a 15,648 square foot greenhouse that will be used for vegetable cultivation. The maximum height of the proposed greenhouse is 20 feet. The project includes the demolition/removal of 3,329 square foot of existing development consisting of greenhouses, sheds, and storage containers. A new fence is proposed around the greenhouse. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately six (6) full-time employees would be working from 8 a.m. through 5 p.m. Monday through Friday and occasional Saturdays. The proposed project includes a new private septic system and 3,930 square feet of new landscaping. Water to the new greenhouse will be provided by a new agricultural water well. Blackout curtains will be installed and used from sunset to sunrise while the grow lights are active. The greenhouse will also have a 46,741 kWh/year solar array mounted on the roof, which is exempt from Planning review. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District.

B. Background:

On November 1, 2019, the Applicant, Steve Decker, submitted an application for a Land Use Permit (LUP) for a 15,648 square foot greenhouse that will be used for vegetable cultivation (Case No. 19LUP-00000-00469). Staff reviewed the LUP application for compliance with Sections 35.21.030, 35.21.050, and 35.42.140 of the County Land Use and Development Code (LUDC), and the Director approved the application on June 8, 2020. A timely appeal of the Director's approval (Case No. 20APL-00000-00011) was filed by Stephen Jacobs, the prior Appellant, on June 16, 2020.

The County Planning Commission heard the appeal on August 5, 2020, at which time the Planning Commission continued the item, with direction to staff to return with findings for denial. At the October 7, 2020, hearing, the Planning Commission moved to uphold the appeal (Case No. 20APL-00000-00011) and deny the project (Case No. 19LUP-00000-00469). During the hearings on August 5, 2020 and October 7, 2020, the Planning Commission considered evidence in the record, statements given by the Appellant and the Applicant, and public testimony with regard to the proposed project. The Planning Commission staff report dated July 28, 2020, and subsequent memorandum dated September 24, 2020, are included as Attachments 4 and 5 respectively, provided analysis of the proposed project's consistency with the LUDC, Comprehensive Plan, and Santa Ynez Valley Community Plan (SYCVP). The staff report dated July 28, 2020, included as Attachment 4, also contains background information on the property and project history. The Commission made the required findings for denial of the project at the October 5, 2020 hearing and denied the project, Case No. 19LUP-00000-00469 (see Commission Action Letter included as Attachment 6), due to the fact that the Commission was not able to make specific applicable findings to approve the project, as further described under Appeal Issue 1 below.

On October 13, 2020, the Applicant filed a timely appeal to the Board of Supervisors (Case No. 20APL-00000-00028) of the Planning Commission's denial of the project. The appeal application and letter are

included as Attachment 3. The Applicant's appeal issues and staff's responses are discussed in further detail under Section C of the Board Agenda Letter.

Subsequent to the Planning Commissions's denial of the project and the Applicant's appeal to the Board, the Applicant amended the project description to include a roof-mounted solar array and blackout curtains, as described in Section A above, and offered to have the following condition of approval added to the project:

- **Blackout Curtains.** The Applicant shall install and maintain a blackout screening system within growing areas to prevent interior night lighting (grow lights) from being visible outside the greenhouse structure between sunset and sunrise. **Plan Requirements.** The blackout screen system shall be noted on plans submitted for Permit approval. **Timing.** The system shall be installed prior to Final Building Inspection Clearance or Commencement of Use. **Monitoring.** The Applicant shall demonstrate proper installation and functioning of blackout screen system prior to Final Building Inspection Clearance or Commencement of Use to P&D Building Inspectors.

C. Appeal Issues and Staff Responses

The appeal application (Attachment 3) contains a letter detailing why the Applicant believes that the decision of the Commission is not in accordance with applicable law, including the Comprehensive Plan. The appeal issues include the contention that the Planning Commission erred in its application of County policies, the Commission did not fully discuss presented issues, and the lack of a fair and impartial hearing.

Applicant Appeal Issue 1 – Errors in Policy Application

The Applicant asserts that the Planning Commission erred in applying the SYVCP Policies LUA-SYV-3 and VIS-SYV-3. Policy LUA-SYV-3 requires that new development be compatible with adjacent agricultural lands. The Applicant contends that the proposed project is an agricultural use and thus cannot be incompatible with adjacent agricultural lands, and that the policy is meant to protect agricultural operations from encroachment by non-agricultural or urban residential uses. Policy VIS-SYV-3 requires that new development not use excessive or unnecessary lighting to protect the night sky. The Applicant contends that this only refers to exterior lighting, which he claims does not include greenhouse lighting, and that the greenhouse lighting would be temporary agricultural lighting, which is exempt from the policy.

Staff Reponse

The Planning Commission denied the project based on the inability to make the required findings for approval of a Land Use Permit under LUDC Section 35.82.110.E, which requires that the project be consistent with the Comprehensive Plan, including any applicable community plan. The Commission found the project inconsistent with Policies LUA-SYV-3 and VIS-SYV-3 as analyzed in the memorandum to the Planning Commission dated September 24, 2020 (Attachment 5). Policy LUA-SYV-3 requires that all new development be compatible with adjacent agricultural lands. The Commission found that the scale and nature of the project is not consistent with the surrounding area. Policy VIS-SYV-3 requires that the night sky of the Santa Ynez Valley be protected from excessive and unnecessary light associated with new development and redevelopment. The Commission found that the greenhouse would introduce new and excessive light to the neighborhood and night sky.

The Applicant has since proposed to have the project conditioned to use blackout curtains to be consistent with Policy VIS-SYV-3. This would adequately block light from escaping the greenhouse after sunset. However, the project remains inconsistent with Policy LUA-SYV-3. The project is significantly larger in scale than any other structure in the surrounding area. The Planning Commission found that the surrounding properties are developed with single-family dwellings, personal equestrian facilities, and small accessory structures. The only commercial agricultural use in the surrounding area is a small-scale mushroom farm, which does not include any agricultural structures.

Applicant Appeal Issue 2 – Lack of Consideration

The Applicant asserts that the Commission did not fully discuss the project and the applicable policy inconsistency used for the denial. The Applicant contends that his statements on the conflicting policy citations, his offer to further condition the project, and interpretations of the policies were not completely considered, and thus the Commission's decision was made in error.

Staff Response

The Applicant submitted a response letter to the Commission's intended reasons for denial after the deadline to submit, and the Commission accepted this letter into the record with a 5 to 0 vote. This is the first action on the Commission Action Letter included as Attachment 6. The Commission was fully aware of the Applicant's statements regarding the policies when they considered the project and moved and voted to deny the project.

Additionally, as discussed in staff's response to Appeal Issue 1, above, the Applicant's proposed blackout curtain condition would not bring it into complete conformity with the Santa Ynez Valley Community Plan.

Applicant Appeal Issue 3 – Lack of a Fair and Impartial Hearing

The applicant asserts that the hearing before the Planning Commission was unfair and biased due to a prior business arrangement with a Commissioner. The applicant also claims that a Commissioner was biased to the project due to the Commissioner having large buildings on their own property. (See Attachment 3)

Staff Response

The Planning Commission considered the evidence in the record, statements given by the Appellant and the Applicant at the hearings, and public testimony with regards to the proposed project. The Planning Commission subsequently denied the project due to their inability to make the findings relating to the project's consistency with the policies outlined in the Santa Ynez Valley Community Plan as discussed in staff response to Appeal Issue 1 above. The hearing before the Boards is a de novo hearing on the merits of the appeal and project.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$8,715 (35 hours of staff time). The costs for processing appeals are partially offset by a fixed appeal fee and General Fund subsidy in Planning and Development's adopted budget. The fixed appeal fee was paid by the Applicant in the amount of \$701.06.

Funding for processing this appeal is budgeted in the Planning and Development Permitting Budget Program, as shown on page D-294 of the adopted 2020-21 Fiscal Year budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on February 9, 2021. The notice shall appear in the *Santa Ynez Valley News*. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward a minute order of the hearing, a copy of the notice, and proof of publication to the Planning and Development Department, Hearing Support.

Attachments:

1. Findings
2. CEQA Exemption
3. Board of Supervisors Applicant Appeal Application dated October 13, 2020
4. Planning Commission Staff Report with attachments dated July 28, 2020
5. Planning Commission Memorandum with attachments dated September 24, 2020
6. Planning Commission Action Letter dated October 9, 2020
7. Site Plan

Authored by:

Ben Singer, Planner, (805) 934-6587
Development Review Division, Planning and Development Department

ATTACHMENT 1: FINDINGS FOR DENIAL

1.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Board of Supervisors (Board) finds that denial of the proposed project is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15270(a). More specifically, a project is exempt from CEQA environmental review if the project will be rejected or disapproved by a public agency. As discussed in the Board Agenda Letter dated December 23, 2020, incorporated herein by reference, and in the administrative findings set forth below, the project is denied by the Board because certain findings cannot be made to approve the project.

2.0 ADMINISTRATIVE FINDINGS

In order for a Land Use Permit for new development to be approved, the proposed development must comply with all applicable requirements of the County Land Use and Development Code (LUDC) and policies of the County Comprehensive Plan, including any applicable community or area plan. The following required findings in the County LUDC cannot be made for this project. Only findings that cannot be made are discussed below:

2.1 FINDINGS FOR ALL LAND USE PERMITS

2.1.1 The proposed development conforms:

- (1) To the applicable provisions of the Comprehensive Plan including any applicable community or area plan; and**
- (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).**

The Board finds that the proposed development does not conform to the Santa Ynez Valley Community Plan, as discussed in Section C of the Board Agenda Letter dated December 23, 2020, and incorporated herein by reference. The project is not consistent with the Santa Ynez Valley Community Plan Policy LUA-SYV-3, which requires that new development be compatible with adjacent agricultural lands. The project is substantially larger in scale and scope than anything within the vicinity is. The surrounding properties consist of single-family dwellings, personal equestrian facilities, and small accessory structures. There are no developments of a similar scale in the surrounding area, and the project is therefore incompatible with the adjacent agricultural lands.

ATTACHMENT 2: NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Ben Singer, Planning and Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County guidelines for the implementation of CEQA.

APN: 137-140-033

Case No.: 19LUP-00000-00469

Location: 988 Fredensborg Canyon Rd. in the Solvang Area, Third Supervisorial District.

Project Title: Decker Greenhouse

Project Applicant: Steven Decker

Project Description:

The proposed project is a request for a Land Use Permit (Case No. 19LUP-00000-00469) to allow the construction of a 15,648 square foot greenhouse that will be used for vegetable cultivation. The maximum height of the proposed greenhouse is 20 feet. The project includes the demolition/removal of 3,329 square foot of existing development consisting of greenhouses, sheds, and storage containers. A new fence is proposed around the greenhouse. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately six (6) full-time employees would be working from 8 a.m. through 5 p.m. Monday through Friday and occasional Saturdays. The proposed project includes a new private septic system and 3,930 square feet of new landscaping. Water to the new greenhouse will be provided by a new agricultural water well. Blackout curtains will be installed and used from sunset to sunrise while the grow lights are active. The greenhouse will also have a 46,741 kWh/year solar array mounted on the roof, which is exempt from Planning review. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District.

Name of Public Agency Approving Project: Santa Barbara County

Name of Person or Agency Carrying Out Project: Steven Decker, Property Owner

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption(s)
- Emergency Project

Cite specific CEQA and/or CEQA Guideline Section: Section 15270(a)

Reasons to Support Exemption Findings: CEQA Guidelines Section 15270(a) states that “CEQA does not apply to projects which a public agency rejects or disapproves.” The project is recommended for disapproval and therefore CEQA Section 15270(a) applies.

Lead Agency Contact Person: Ben Singer, Planner **Phone No.:** (805) 934-6587

Department/Division Representative:  _____ **Date:** 12/22/2020

Acceptance Date: _____

Note: A copy of this form must be posted at P&D six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35-day statute of limitations on legal challenges.

Distribution: Hearing Support Staff, Case File

Date Filed by County Clerk: _____

Appeal

APPEAL TO THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

20APL-00000-00028

RECEIVED

DECKER APPEAL OF DENIAL OF DECK
988 FREDENSBORG CYN RD 10/23/20
SOLVANG 137-140-033

Submit to: Clerk of the Board
County Administration Building
105 E. Anapamu Sreet, Suite 407
Santa Barbara, CA 93101

2020 OCT 14 P 2:20

COUNTY OF SANTA BARBARA
CLERK OF THE

RE: Project Title DECKER GREENHOUSE 19 LUP # 000000-00469
Case Number 20 APL - 00000 - 00011
Tract/ APN Number 137-140-033
Date of action taken by Planning Commission, or Surveyor 10/07/2020

I hereby appeal the DENIAL of the PLANNING COMMISSION
(approval/ approval with conditions/ or denial) (Planning Commission or County Surveyor)

Please state specifically wherein the decision of the Planning Commission or Surveyor is not in accord with the purposes of the appropriate ordinance (one of either Article II Coastal Zoning Ordinance, County Land Use and Development Code, Montecito Land Use and Development Code or Chapter 21, Land Division) or other applicable law, or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission or Surveyor, or that there was a lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration leading to the making of the decision or determination that is being appealed, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made. {References: Article II Section 35-182.2.C; County Land Use and Development Code Section 35.102.020.C; Montecito Land Use and Development Code Section 35-492.020.C, Chapter 21 Section 21-71.4.2.C.2}

Attach additional documentation, or state below the reason(s) for this appeal.

Specific conditions being appealed are:

SEE ATTACHED

Name of Appellant (please print): STEVE DECKER ~~STEVE DECKER~~
Address: 988 FREDENSBORG CANYON ROAD SOLVANG, CA 93463 805 708-6400
(Street, Apt #) (City/ State/ Zip Code) (Telephone)
STEVE DECKER RECORD.COM

Appellant is (check one): Applicant Agent for Applicant Third Party Agent for Third Party

Fee \$ _____ {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature: [Signature] Date: 10/13/2020

FOR OFFICE USE ONLY

Hearing set for: _____ Date Received: _____ By: _____ File No: _____

Applicant's Grounds For Appeal of County Planning Commission Denial of Land Use Permit 19LUP-00000-00469, Decker Greenhouse:

(1) Violations of Santa Barbara County Land Use Development Code 35.21.020 A., 35.30.120 C.2., 5.j.

(2) Violations of Santa Ynez Valley Community Plan (SYVCP) Goal LUA-SYV, Policy LUA-SYV-1, Policy LUA-SYV-2, Policy LUA-SYV-3.

COMMISSION ERRORS:

(1) The Commission erred in applying SYVCP Policy LUA-SYV-3. The policy refers to new non-agricultural development adjacent to agricultural lands. Using this policy to deny the project to protect the neighborhood is the exact opposite of the plain language and intent of the policy. This policy is meant to protect agriculture operations from encroachment by non-agricultural or urban residential uses.

(2) The Commission erred in denying the project in that there was no finding the proposed project will adversely impact the neighborhood. No nuisance has been demonstrated that cannot be mitigated, such as the lighting issue. Potential noise, dust, odor, etc. have all been mitigated by the project conditions.

(3) The Commission erred in applying SYVCP Policy VIS-SYV-3. The policy refers to outdoor lighting on new development. Not indoor lighting.

In any event, temporary agricultural lighting, of a limited duration, is exempt from VIS-SYV-3. Interior greenhouse grow lights are not outdoor lighting. They are used temporarily for a limited duration. Additionally, Applicant's project description included light deprivation curtains.

Notwithstanding this exemption, Applicant offered the Commission to condition his project to comply with Attachment H, C.5.b., wherein light deprivation curtains will be fully closed from 9:00 p.m. to sunrise, if grow light are on.

COMMISSION ABUSE OF DISCRETION:

The Commission abused its discretion by not discussing the conflicting policy citations presented by the Applicant. There was no discussion as to the interpretation of Policy LUA-SYV-3. Further, there was no discussion of Applicant's offer to condition his project for required activation of light deprivation curtains.

LACK OF FAIR AND IMPARTIAL HEARING:

Commissioner John Parke was an attorney representing the Applicant in a legal matter 23 years ago. Applicant fired Parke and refused to pay his final billing. Applicant requested Parke recuse himself from hearing the matter, but he refused to do so.

Commissioner Parke did not make a project site visit prior to the initial hearing on the appeal of the project.

Commissioner Parke stated he has 2-3000 square foot steel buildings on his AG-1 zoned land in the Santa Ynez Valley. He further stated he received negative comments about the appearance of the buildings and therefore cannot support someone else having such buildings on AG-1 zoned land.

For these reasons, Applicant believes Commissioner Parke, as the motion maker to deny the project, was biased and not impartial in his consideration of the project and its applicant.

Dear Chair Bridley and fellow Commissioners:

Citing **Santa Ynez Valley Community Plan (SYVCP) Policy LUA-SYV-3**, Commissioner Parke has made the motion to deny my project because he states he "cannot make the finding that the project is compatible with adjacent agricultural lands." Mr. Parke grossly misinterprets and misapplies this policy.

LUA-SYV-3 states: "*New development shall be compatible with adjacent agricultural lands.*" The "new" development is "non-agricultural" uses. Not new agricultural uses.

This is borne out by **DevStd LUA-SYV-3.1** that immediately follows it. It states that adjacent new "non-agricultural" uses must protect adjacent agricultural operations from potential conflicts and claims of nuisance. Policy **LUA-SYV-3** and **DevStd LUA-SYV-3.1** are meant to be read together.

This policy is meant to protect agricultural uses, not limit them. It is meant to prevent adjacent non-agricultural uses (e.g. residential) from impinging on adjacent agriculture uses.

By singling out just one policy, Mr. Parke ignores the previous two SYVCP policies, **LUA-SYV-1 & 2**. Both of these policies hold that land designated for agriculture shall be preserved and protected for agricultural use. Not limited by adjacent non-agricultural uses.

How is denying an otherwise ordinance compliant agricultural project, on agriculturally zoned land, because adjacent non-agricultural land users don't want it, preserving and protecting agricultural land use? The claims of the non-agricultural use neighbors is the very situation the SYVCP rejects as being contrary to the plan's goals and policies for protecting agriculture.

The entirety of **Section 3. AGRICULTURAL AND RURAL LANDS GOALS, POLICIES, ACTIONS AND DEVELOPMENT** is devoted to promoting and protecting agriculture. Not non-agricultural uses. The use of any policy from within this particular SYVCP section, to deny an otherwise ordinance compliant agricultural project, defies its intent. In doing so, and if Mr. Parke's motion is carried, my agriculturally zoned land will have been rezoned, by fiat, for residential use only. This is an egregious violation of our right to equal protection under the law.

The Agricultural Element of the Santa Barbara County Comprehensive Plan is the County's primary statement on this issue. Under **GOALS AND POLICIES, Policy 1A** states "**The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses.**" The SYVCP policy LUA-SYV-3 and DevStd LUA-3.1 further support this clear policy mandate.

Additionally, ignoring its clearly stated purpose and intent, Mr. Parke cites **SYVCP Attachment H, Section C.5.b** as a basis for denying the project. That the greenhouse indoor cultivation lighting, during nighttime hours, does not comply with the intent of this section.

SYVCP Attachment H, Section C.5.b. does not speak of indoor illumination. It only addresses outside illumination on "any building and/or surrounding landscape..." Attachment H, Section C. 2. Clearly states its purpose and intent "is to create standards for outdoor lighting..."

Additionally, under **Section C 6.j.**, "temporary lighting for agricultural activities of a limited duration..." is exempt from the lighting restrictions. Greenhouse lighting is temporary and of a limited duration. It is used to extend the growth effects of daylight when this photo period duration is reduced during half of the year.

Extension or reduction of the photo period experienced in a greenhouse can be adjusted either in the evening, after sunset, or in the morning, before sunrise. Therefore, its use is temporary and of limited duration because they are not, of necessity, kept on full time, all night, year round. As would outside security lights on the greenhouse.

However, notwithstanding this exemption, I have included light deprivation greenhouse curtains in my project proposal.

Do to the concern the curtains would not be used, notwithstanding the huge expense (\$180,000) and business reasons to have and use them, I am willing to condition my project that our light deprivation curtains must be activated, to block cultivation light emissions, between 9:00 p.m. and sunrise, as the SYVCP, Attachment H, Section 5.b. otherwise requires of non-complaint outside lighting.

**3. AGRICULTURE AND RURAL LANDS GOALS, POLICIES,
ACTIONS AND DEVELOPMENT STANDARDS**

- GOAL LUA-SYV:** Protect and Support Agricultural Land Use and Encourage Appropriate Agricultural Expansion.
- Policy LUA-SYV-1:** The County shall develop and promote programs to preserve agriculture in the Santa Ynez Valley Planning Area.
- Policy LUA-SYV-2:** Land designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.
- Policy LUA-SYV-3:** New development shall be compatible with adjacent agricultural lands.
- DevStd LUA-SYV-3.1:** New non-agricultural development adjacent to agriculturally zoned property shall include appropriate buffers, such as trees, shrubs, walls, and fences, to protect adjacent agricultural operations from potential conflicts and claims of nuisance. The size and character of the buffers shall be determined through parcel-specific review on a case-by-case basis.
- Action LUA-SYV-3.2:** The County should consider approval of Agricultural Industrial Overlay areas on a case-by-case basis to ensure that adequate facilities for processing, packaging, treatment and transportation of agricultural commodities exist in the Valley.
- Policy LUA-SYV-4:** Opportunities for agricultural tourism shall be supported where such activities will promote and support the primary use of the land as agriculture without creating conflicts with on-site or adjacent agricultural production or impacts to the environment.
- Action LUA-SYV-4.1:** The County shall consider an ordinance allowing agricultural farmstays in the Santa Ynez Valley in accordance with Health and Safety code Section 113870 where compatible with on-site and neighboring agricultural production.
- Action LUA-SYV-4.2:** Planning and Development and the Agricultural Commissioner shall coordinate with other County departments (e.g. Economic Development Agency) and local and statewide organizations to promote agricultural tourism activities that are available in the County (e.g., Farmers' Markets, U-pick, harvest festivals, wineries, farmstays, etc.).
- Action LUA-SYV-4.3:** Planning and Development shall work with the Agricultural Advisory Committee to create a new policy(ies) that provide land

ATTACHMENT H

ARTICLE 35.3, Site Planning and Other Project Standards, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.30.120, Outdoor Lighting, of Chapter 35.30, Standards for all Development and Land Uses, to read as follows:

C. Santa Ynez Valley Community Plan area.

1. **General.** The regulations contained in this Subsection C. shall be known and referred to as the "Outdoor Lighting Regulations for the Santa Ynez Valley Community Plan Area".
2. **Purpose and intent.** The purpose of this Subsection C is to create standards for outdoor lighting that minimize light pollution, glare, and light trespass caused by inappropriate or misaligned light fixtures. These standards conserve energy and preserve the nighttime sky while maintaining night-time safety, utility, security and productivity. The County recognizes that the unique development patterns and environment of the Santa Ynez Valley make it an ideal area for astronomical observation and enjoyment of the nighttime sky. The County, through the provisions contained herein, intends to preserve and protect the nighttime environment of the Santa Ynez Valley by regulating unnecessary and excessive outdoor lighting.
3. **Definitions.** For the purposes of this Subsection C, the following words and phrases shall have the meanings respectively ascribed to them by this Subsection. The illustrations of the defined words or phrases are merely illustrative. If any conflict exists between the text of a definition and the corresponding illustration, the text shall govern.

Directional Lighting Methods. Direction of light downward, rather than upward or outward, with the intention of directing light where it is needed; on the ground. Downward lighting also prevents unnecessary and unwanted spillover of light to adjacent areas and properties.

Fossil Fuel Lighting. Fossil fuel light produced directly by the combustion of natural gas or other utility-type fossil fuels, for example: gas, propane and kerosene lighting.

High Intensity Discharge Lamp. High pressure sodium, mercury vapor, metal halide, low pressure sodium, and other similar lamps.

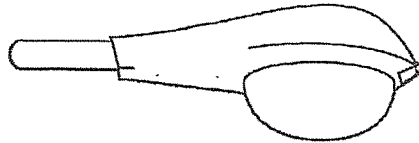
Light Pollution. Any artificial light which causes a detrimental effect on the environment, astronomical research, enjoyment of the night sky or causes undesirable glare or light trespass.

Light Trespass. Artificial light that produces unnecessary and/or unwanted illumination of an adjacent property.

Luminous Tube Lighting. Gas filled glass tubing which when subjected to high voltage becomes luminescent in a color characteristic of the gas used (neon, argon, etc.).

Outdoor Light Fixture. Artificial Illuminating Devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement. Such devices shall include but are not limited

Unshielded. Unshielded means light fixtures lacking any means to restrict light emitted above the horizontal plane.



4. **Approved materials and methods of installation.** The provisions of this Subsection are not intended to prevent the use of any design, material or method of installation not specifically proscribed by this Subsection provided any such alternate has been approved by the County. The Department may approve any such alternate provided that the proposed design, material or method:
 - a. Provides approximate equivalence to the specific requirements of this Subsection C.
 - b. Is otherwise satisfactory and complies with the intent of this Subsection C.
5. **Prohibited lights.**
 - a. All illuminated advertising signs shall be off between 11:00 p.m. and sunrise, except that on-premises signs may be illuminated while the business is open to the public.
 - b. All outside illumination that is not fully shielded (full cutoff) of any building and/or surrounding landscape, public or private, for aesthetic and decorative purposes is prohibited between 9:00 p.m. and sunrise.
 - c. No outdoor recreational facility with lights that are not fully shielded (full cutoff) shall be illuminated between 9:00 p.m. and sunrise except to complete a specific organized recreational event, in progress and under illumination in conformance with this Subsection C at 9:00 p.m. Fully shielded (full cutoff) lights are not subject to a time restriction.
 - d. Search lights, laser source lights, or similar high intensity lights shall not be permitted except in emergencies, by police and/or fire personnel, or for the purposes of gathering meteorological data.
 - e. Mercury Vapor lights.
6. **Exemptions.** The following are exempt from the provision of this Subsection C.
 - a. All outdoor lighting fixtures existing and lawfully installed prior to the effective date of this ordinance are exempt from the shielding requirements of this

Subsection C. Existing lighting fixtures shall be subject to the remaining requirements of this Subsection C including the requirements of Subsection C.5 above, requiring lights that are not fully shielded (full cutoff) be turned off at 9:00 p.m. Fully shielded (full cutoff) lights are not subject to a turn-off time.

- b. Fossil fuel lights.
 - c. Traffic control signs and devices.
 - d. Street lights installed prior to the effective date of this ordinance.
 - e. Temporary emergency lighting (e.g., fire, police, public works).
 - f. Moving vehicle lights.
 - g. Navigation lights (e.g., airports, heliports, radio/television towers).
 - h. Seasonal decorations with individual lights in place no longer than 60 days.
 - i. Lighting for special events as provided by Subsection C.9 (Temporary exemption).
 - j. Temporary lighting for agricultural activities of a limited duration, not including unshielded arena lights.
 - k. Security lights of any wattage that are controlled by a motion-sensor switch and which do not remain on longer than 10 to 12 minutes after activation.
 - l. Projects with approved construction plans prior to the effective date of this Subsection C are excluded from compliance with this Subsection in the initial installation only.
 - m. Solar walkway lights.
7. **General requirements.** All non-exempt light fixtures requiring a County permit for their installation shall be subject to the following general requirements:
- a. All outdoor lighting fixtures installed after the effective date of this Subsection C and thereafter maintained upon private property, public property, or within the public right-of way shall be fully shielded (full cutoff).
 - b. All replaced or repaired lighting fixtures requiring a permit shall be subject to the requirements of this Subsection C.
 - c. Light trespass and glare shall be reduced to the maximum extent feasible through directional lighting methods.
 - d. Externally illuminated signs, advertising displays and building identification shall use top mounted light fixtures which shine downward and are fully shielded (full cutoff).
 - e. Outdoor light fixtures used for outdoor recreational facilities shall be fully shielded (full cutoff) except when such shielding would cause impairment to the visibility required in the intended recreational activity. In such cases, partially shielded fixtures and downward lighting methods shall be utilized to limit light pollution, glare, and light trespass to a reasonable level as determined by the Director.

SANTA BARBARA COUNTY PLANNING COMMISSION

Staff Report for the Appeal of Decker Greenhouse

Hearing Date: August 5, 2020

Staff Report Date: July 28, 2020

Case No.: 20APL-00000-00011 and
19LUP-00000-00469

Environmental Document: Exempt pursuant to
Section 15301, 15303, and 15304 of the State
CEQA Guidelines

Deputy Director: Travis Seawards

Division: Development Review

Supervising Planner: Holly Owen

Supervising Planner Phone #: (805) 934-6297

Staff Contact: Ben Singer

Staff Contact Phone #: (805) 934-6587

OWNER / APPLICANT:

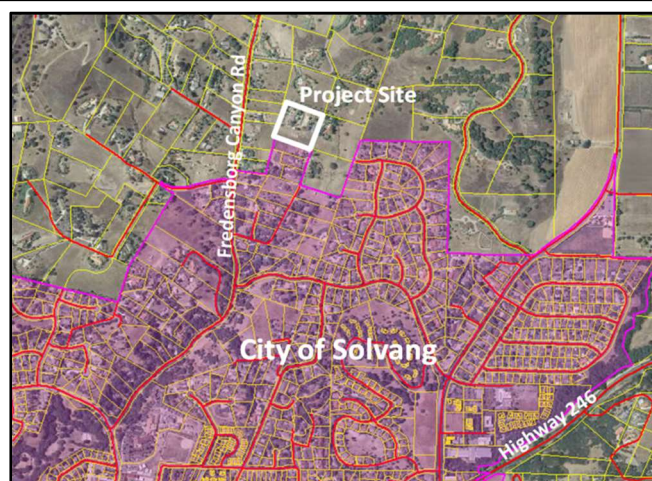
Steve Decker
988 Fredensborg Canyon Road
Solvang, CA 93463
(805) 691-9449

APPELLANT:

Stephen Jacobs
1690 Fredensborg Way
Solvang, CA 93463
(310) 488-6496

Land Use Approval: June 8, 2020

Appeal Filed: June 16, 2020



The site is identified as Assessor Parcel Number 137-140-033, located at 988 Fredensborg Canyon Road, in the Solvang Area, Third Supervisorial District

1.0 REQUEST

Hearing on the request of Stephen Jacobs, Appellant, to consider Case No. 20APL-00000-00011 [application filed on June 16, 2020], an appeal the Director's approval of Case No. 19LUP-00000-00469, which authorized the construction of a 15,648 sq. ft. greenhouse for the cultivation of vegetables. The appeal was filed in compliance with Chapter 35.102 of the Land Use and Development Code. The subject property is zoned AG-I-5 and is located at 988 Fredensborg Canyon Road, Solvang area (Assessor Parcel No. 137-140-033), Third Supervisorial District.

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below, deny the appeal, Case No. 20APL-00000-00011, and affirm the decision of the Director to conditionally approve Case No. 19LUP-00000-00469 marked “Officially Accepted, County of Santa Barbara August 5, 2020, County Planning Commission Attachments A-G” based upon the project’s consistency with the Comprehensive Plan, including the Santa Ynez Valley Community Plan, and based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Deny the appeal, Case No. 20APL-00000-00011.
2. Make the required findings for approval of the project specified in Attachment A of this staff report, including California Environmental Quality Act (CEQA) findings.
3. Determine the project is exempt from CEQA pursuant to CEQA Guideline Section 15301, Section 15303, and Section 15304 of CEQA, included as Attachment C.
4. Grant *de novo* approval of the project, Case No. 19LUP-00000-00469, subject to the conditions included as Attachment B.

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

3.0 JURISDICTION

This project is being considered by the County Planning Commission based on Section 35.102.040.A.3. of County Land Use and Development Code, which states that “[a]ny decision of the Director to approve or deny an application for a Land Use Permit” may be appealed to the Commission. As the Land Use Permit was approved by the Director and subsequently appealed, the County Planning Commission is the decision maker.

4.0 ISSUE SUMMARY

On June 8, 2020, the Director of the Planning and Development Department approved the Decker Greenhouse LUP application (Case No. 19LUP-00000-00469), finding the project to be consistent with the development standards for Land Use Permits (LUDC Section 35.82.110.E) and for Greenhouses (35.42.140.B.1).

The Appellant filed a timely appeal of the Director’s approval on June 16, 2020. The Appellant cites the following issues as the basis of the appeal: incompatibility with the neighborhood, inadequate water supply, and non-compliance with LUDC Cannabis Ordinance. The Appellant’s appeal issues are outlined in Section 6.1 of this staff report, below.

Staff reviewed the appeal and recommends that the Commission find that the proposed project is consistent with the Santa Barbara County Comprehensive Plan, the Santa Ynez Valley Community Plan (SYVCP), and the Land Use and Development Code, and *de novo* approve Case No. 19LUP-00000-00469.

5.0 PROJECT INFORMATION

5.1 Site Information

Site Information	
Comprehensive Plan Designation	A-I-5
Ordinance, Zone	LUDC, AG-I-5
Site Size	5.24
Present Use & Development	Existing single-family dwelling and garage, pool, guesthouse, existing greenhouses and storage structures (to be removed as part of 19LUP-00000-00469)
Surrounding Uses/Zone(s)	North: AG-I-5; single-family dwellings South: City of Solvang; single-family dwellings East: AG-I-5; single-family dwellings West: AG-I-5; single-family dwellings, equestrian accessory structures and riding areas
Access	Existing driveway off Fredensborg Canyon Road
Public Services	Water Supply: Shared private water system, proposed private well Sewage: Private onsite wastewater treatment system Fire: County Fire Police Services: County Sheriff

5.2 Project Description

19LUP-00000-00469 was a request to authorize the construction of a 15,648 sq. ft. greenhouse for vegetable cultivation. The greenhouse would have a maximum height of 20 feet. The project includes the demolition/removal of 3,329 sq. ft. of existing development. A new fence is proposed around the greenhouse. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately 6 full-time employees will be working 8am - 5pm Mon-Fri

and occasional Saturdays. The proposed project includes a new private septic system and 3,930 square feet of new landscaping. Water to the new greenhouse will be provided by a new agricultural water well.

5.3 Background Information

The subject property is a 5.24 acre parcel that is shown as Lot C of Parcel Map 12, shown on Recorded Map Book 6, Pages 17-26 of the County of Santa Barbara Maps and Surveys, and also shown on Assessor's Map Book 137, Page 14. There is an existing 2,855 square-foot residence, 500 square foot guesthouse, pool, garage, and agriculture accessory structures.

On October 31, 2018, the Applicant submitted an application for a Land Use Permit for mixed-light cannabis cultivation (Case No. 18LUP-00000-00458). Following approval of this LUP on July 30, 2019, the Planning and Development Department received an appeal of the project on August 9, 2019 (Case No. 19APL-00000-00024).

On July 9, 2019 the Board of Supervisors adopted amendments to the Land Use Development Code that prohibited commercial cannabis cultivation on all inland area parcels Zoned AG-I that are 20 acres or less in size, and that required a Conditional Use Permit on lots zoned AG-I greater than 20 acres in size. These amendments became effective on August 9, 2019. The lot that is the subject of the proposed project is located within the Inland area of the county, has an AG-I zoning designation, and is only 5.24 acres in size. Therefore, the proposed cannabis cultivation project was not allowed. Both the LUP and appeal were withdrawn following these amendments becoming effective.

On November 1, 2019, the Applicant submitted an application for a Land Use Permit for a 15,648 sq. ft. greenhouse for vegetable cultivation (Case No. 19LUP-00000-00469). The Director approved the application on June 8, 2020. A timely appeal of the Director's approval (20APL-00000-00011) was filed by the Appellant on June 16, 2020 (Attachment D). The appeal issues and staff's responses are addressed in Section 6.1 of this staff report.

On November 13, 2019, a Zoning Violation was filed against the Applicant for a cannabis related odor on the property. Planning and Development Zoning Enforcement staff opened a zoning enforcement case (Case No. 19ZEV-00000-00425) and investigated the complaint. Zoning Enforcement Staff conducted a site visit and did not find any evidence of cannabis cultivation or a noticeable odor on the property. No evidence of a zoning violation was found, additional odor complaints were not received, and the enforcement case was closed on March 31, 2020.

6.0 PROJECT ANALYSIS

6.1 Appeal Issues

The appeal issues raised by the Appellant are summarized below, followed by staff's analysis. Key concerns include neighborhood incompatibility, inadequate water supply, and non-compliance with LUDC Cannabis Ordinance. The Applicant has provided a response to the issues raised by the Appellant, which has been included as Attachment G to this staff report and is incorporated by reference.

Appeal Issue #1 – Neighborhood Incompatibility

The Appellant contends that the proposed project would result in a significant nuisance to surrounding properties related to increased traffic, operational noise, visual impact, and night lighting. The Applicant asserts that these would cause significant impacts and have a deleterious effect on the neighborhood character.

Staff Response

The subject property is located within the AG-I-5 zone district. Per Section 35.21.020.A. of the Santa Barbara County Land Use and Development Code “[t]he AG-I zone is applied to areas appropriate for agricultural use within Urban, Inner Rural, and Existing Developed Rural Neighborhood areas, as designated on the Comprehensive Plan maps. The intent is to provide standards that will support agriculture as a viable land use and encourage maximum agricultural productivity.” Greenhouses are a permitted use in the AG-I zone district, allowing for up to 20,000 square feet to be permitted with a Land Use Permit.

The project is supported by the Santa Ynez Valley Community Plan and Santa Barbara County Comprehensive Plan Agricultural Element goals and policies that encourage the protection, expansion, and intensification of agricultural operations as follows:

- Policy I.B recognizes “the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions.”
- Policy I.E recognizes “that the generation of noise, smoke, odor, and dust is a natural consequence of the normal agricultural practices provided that agriculturalists exercise reasonable measures to minimize such effects.”
- Policy III.B states “it is a County priority to retain blocks of productive agriculture within Urban Areas where reasonable, to continue to explore programs to support that use, and to recognize the importance of the objectives of the County’s Right to Farm Ordinance.”

- Policy LUA-SYV-2 of the Santa Ynez Valley Community Plan states “land designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.”

The proposal would increase the agricultural productivity of land that is zoned for agricultural purposes and would therefore be consistent with the goals and policies of the Santa Barbara County Comprehensive Plan.

The project is also consistent with the landscaping/screening requirements for greenhouses. In the AG-I-5 zone district, greenhouses of less than 20,000 square feet are required to be screened from adjacent public streets and parking areas are required to be screened from adjacent residential uses. The proposed greenhouse would not be visible from Fredensborg Canyon Road. Landscaping is proposed on the eastern and southern sides of the property consisting of 107 Catalina Cherry trees, which would reach 30 ft. in height at maturity. This would adequately screen the greenhouse from Ringsted Drive, which is not adjacent to the property. The associated parking area would be screened from adjacent residences by existing fences that meet the requirements of the LUDC as well as the proposed landscaping.

Proposed hours of operation for the project are 8am – 5pm, Monday – Friday and occasional Saturdays. These would be the primary hours of noise generation. The Applicant has provided sound calculations that show the maximum sound level would be 46.56 dB at the southern property line, which is well below the maximum allowable level of 65 dB. The project is required to conform with the County’s noise ordinance. All proposed lighting of the project meets the requirements of the Santa Ynez Valley Community Plan, which requires lights to be full cut-off, downward facing, and dark sky compliant.

Appeal Issue #2 – Inadequate Water Supply.

The Appellant contends that the existing shared water well is not adequate for the proposed agricultural uses in addition to the existing residential uses that use the well. The Applicant also states that the proposed well has not yet been drilled, and as such adequate water supply is not available.

Staff Response

The project proposes to drill a new agricultural well, which is exempt from obtaining a permit from the Planning and Development Department. The Applicant proposes to drill this well to handle the water needs for the proposed agriculture. The proposed well was reviewed by the Environmental Health Services Department as part of the previous Land Use Permit application. It was deemed a feasible project design by Environmental Health Services at that time, and it remains a feasible design. Land Use approval can be granted prior to when a well has been drilled,

or to when a well application has been approved, as long as Environmental Health Services confirms the well design is feasible.

Appeal Issue #3 – Non-Compliance with LUDC Cannabis Ordinance

The Appellant contends that the current LUP application (Case No. 19LUP-00000-00469) is fundamentally unchanged from the previous LUP application (Case No. 18LUP-00000-00458), which was withdrawn after the Board of Supervisors amended the Cannabis Ordinance, effective August 9, 2019. The Appellant states that the current LUP application is therefore not in compliance with the Santa Barbara County Land Use and Development Code.

Staff Response

No cannabis cultivation or processing is proposed as part of this Land Use Permit. The project is only a request to authorize the construction of a greenhouse for vegetable cultivation, and it is therefore not subject to the Cannabis Ordinance.

6.2 Environmental Review

The proposed project is exempt from environmental review under CEQA pursuant to Section 15301 [Existing Facilities], Section 15303 [New Construction or Conversion of Small Structures], and Section 15304 [Minor Alterations to Land] of the State CEQA Guidelines. Section 15301 exempts the demolition and removal of accessory structures. Section 15303 exempts construction and locations of limited numbers of new, small facilities or structures. Section 15304 exempts minor private alterations to the condition of land which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. See the Notice of Exemptions (Attachment C) for a more detailed discussion of the CEQA exemption.

6.3 Comprehensive Plan Consistency

LAND USE DEVELOPMENT POLICIES	
REQUIREMENT	DISCUSSION
<i>Land Use Development Policy 4: Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e. water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in</i>	<p>Consistent: The proposed project is consistent with policies that require the project is served by adequate public and private services and resources. The following paragraphs discuss the services available to the proposed greenhouse development:</p> <p><i>Water:</i> A new well is proposed to be drilled as a part of this project. Environmental Health</p>

service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan.

Services has deemed the project design to be feasible based upon a submitted percolation test.

Sewer: A new private wastewater treatment system is proposed as a part of this project. Environmental Health Services has deemed the project design to be feasible based upon a submitted percolation test and onsite wastewater treatment system (OWTS) design.

Roads: Access to the site would continue to be provided by an existing private driveway within a private easement from Fredensborg Canyon Road.

Fire & Police: Fire protection services would continue to be provided by the Santa Barbara County Fire Department, and Police Service would continue to be provided by the County Sheriff.

HILLSIDE AND WATERSHED PROTECTION POLICIES

Hillside and Watershed Protection Policy 1: *Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

Hillside and Watershed Protection Policy 2: *All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Consistent: The project is consistent with watershed and hillside protection policies that require protection and maintenance of surrounding terrain. The project proposes 3,200 cu. yd. of cut and 3,106 cu. yd. of fill. No import or export of earth is proposed. The proposed project site has a maximum slope of six percent. No natural features or landforms would be significantly impacted. Native vegetation such as trees would not be impacted.

All proposed grading would occur on slopes of less than ten percent. No grading is proposed in a waterway and all project components are set back at least 100 feet from the mapped blue line creek (Adobe Canyon Creek). The project does not involve the removal of any healthy, mature, or scenic trees.

<p>Hillside and Watershed Protection Policy 6: Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained onsite whenever possible to facilitate groundwater recharge.</p> <p>Policy FLD-SYV-2: Short-term and long-term erosion associated with development should be minimized.</p>	<p>The project was reviewed by the Santa Barbara County Public Works Flood Control and Project Clean Water. Flood Control issued a condition letter for the project dated February 11, 2020 and confirmed that the project met all Flood Control requirements on June 5, 2020.</p>
<p>VISUAL RESOURCES POLICIES</p>	
<p>Visual Resource Policy 2: In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.</p> <p>Policy VIS-SYV-1: Development of property should minimize impacts to open space views as seen from public roads and viewpoints and avoid destruction of significant visual resources.</p>	<p>Consistent: The project is consistent with visual resources policies that require development preserve the natural environment and existing views. The project site is in a designated inner-rural area. The greenhouse would be located on the downward slope of a hill, and would not be visible from Fredensborg Canyon Road to the west or intrude into the skyline as seen from public viewing places. The greenhouse would have a maximum height of 20 feet, and its placement would not significantly obstruct open space views. Neighboring properties have barns and agricultural accessory structures of a similar height and visibility. Landscaping is also proposed to lessen any visual impact that the greenhouse would have.</p>
<p>Policy VIS-SYV-3: The night sky of the Santa Ynez Valley shall be protected from excessive and unnecessary light associated with new development and redevelopment.</p>	<p>Consistent: All new exterior lighting as shown on the project plans would be downward facing, full cutoff, and dark sky compliant, thus meeting the requirements of the Santa Ynez Valley Community Plan. Additionally, the Applicant proposes to use light deprivation</p>

	curtains in the greenhouse to minimize the impact of the lighting necessary for the agricultural processes.
NOISE POLICIES	
<p>Noise Element Policy 1: <i>In the planning of land use, 65 dB Day-Night Average Sound Level should be regarded as the maximum exterior noise exposure compatible with noise-sensitive uses unless noise mitigation features are included in project designs.</i></p> <p>Policy LUG-SYV-7: <i>The public shall be protected from noise that could jeopardize health and welfare.</i></p>	<p>Consistent: The project is consistent with noise policies that require noise exposure to be limited. The Applicant has provided calculations for the sound levels at the property lines for all proposed noise generating machines. Per the calculations listed on the Applicant’s plans, the maximum sound level would be 46.56 dB at the southern property line. This is well below the required maximum of 65 dB.</p>

6.4 Zoning: Land Use and Development Code Compliance

The proposed project is located within the AG-I-5 zone district. The AG-I zone is applied to areas appropriate for agricultural use within Urban, Inner Rural, and Existing Developed Rural Neighborhood areas, as designated on the Comprehensive Plan maps. The intent is to provide standards that will support agriculture as a viable land use and encourage maximum agricultural productivity.

Pursuant to Table 2-1 of Section 35.21.030, which identifies permit requirements for greenhouses, the proposed project is an allowable use in the AG-I zone district with a Land Use Permit. Pursuant to Section 35.21.030.C.1, a Development Plan is required for development in the AG-I zone district that “when added to the gross floor area of existing structures on the lot, will equal or exceed 20,000 square feet.” Additionally, Section 35.42.140 requires that a Development Plan be approved for greenhouses and greenhouse related development of 20,000 square feet or more. The greenhouse would be 15,648 which, when added to the existing 3,760 square foot single family dwelling and the 500 square foot guesthouse, would equal 19,908 square feet of total development, after the proposed removal of 3,329 sq. ft. of existing structures. This is less than 20,000 square feet and thus a Development Plan is not required.

The AG-I zone district requires side and rear setbacks of 20 feet from the property line. The proposed greenhouse development would be located approximately 32 feet from the rear property line, 24 feet from the south side property line, and over 100 feet from the north side property line, and is therefore consistent with all setback requirements. There is no maximum height for non-residential structures in the AG-I zone district.

Pursuant to Section 35.34.050, new greenhouse development is required to provide landscaping to screen the view of greenhouses from adjacent public streets, however, the proposed greenhouse would not be visible from adjacent public streets. The proposed greenhouse would be visible from Ringsted Drive, which is not an adjacent public street, and the applicant is proposing to voluntarily install 107 Catalina Cherry tree as screening.

Commercial greenhouses require two parking spaces per acre of land in use. The project would consist of 0.36-acres of greenhouse development and proposes 11 parking spots. Parking lots are required to be screened from residential uses pursuant to Section 35.34.100. An existing solid block wall and an existing wood fence, both at least 5 ft. tall, would adequately screen the parking lot from the neighboring residences, as well as the proposed landscaping.

Section 35.21.050.C gives additional development standards for agricultural structural development in the AG-I zone district. Standard C.1 requires that development avoid or minimize impacts to agriculture. The proposed greenhouse is not sited on prime soils and would not impact any existing productive agricultural land. Standard C.2 requires development to minimize impacts on natural features and resources, including a setback from environmental sensitive habitat areas. The project is outside of the required setback from any environmental sensitive habitat. Standard C.3 requires development to preserve natural features, landforms, and native vegetation. As discussed in Section 6.3 of this staff report, the proposed project would not significantly impact natural features or landforms and would not impact native vegetation. Standard C.4 requires development to be compatible with the natural environment, subordinate to natural landforms, and not intrude into the skyline from public viewing places. As discussed in Sections 6.3 and 6.4 of this staff report, the project would not significantly intrude into the skyline. The greenhouse would have a maximum height of 20 feet and is sited to be subordinate to the existing landforms.

7.0 APPEALS PROCEDURE

The action of the Planning Commission may be appealed to the Board of Supervisors within 10 calendar days of said action. The appeal fee to the Board of Supervisors is \$701.06.

ATTACHMENTS

- A. Findings
- B. Conditions of Approval
- C. CEQA Notice of Exemption
- D. Appellant Appeal Package
- E. Approved LUP, Dated June 8, 2020
- F. Approved Site Plan
- G. Applicant Response to Appeal Issues, Dated June 23, 2020

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

The County Planning Commission (Commission) finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 [Existing Facilities], Section 15303 [New Construction or Conversion of Small Structures], and Section 15304 [Minor Alterations to Land] of the State CEQA Guidelines. For further details and discussion regarding this exemption, please see the Notice of Exemption, included as Attachment C to the staff report, dated July 28, 2020, and incorporated herein by reference.

2.0 ADMINISTRATIVE FINDINGS

2.1 FINDINGS FOR ALL LAND USE PERMITS

2.1.1 The proposed development conforms:

- (1) To the applicable provisions of the Comprehensive Plan including any applicable community or area plan; and**
- (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).**

The Commission finds that the proposed development conforms to the Comprehensive Plan, including the Santa Ynez Valley Community Plan, and applicable provisions of the LUDC. As discussed in Sections 6.3 and 6.4 of the staff report, dated July 28, 2020 and incorporated herein by reference, adequate services are available to serve the proposed development, the project is consistent with applicable provisions of the Comprehensive Plan, including the Santa Ynez Valley Community Plan, and the project is consistent with applicable provisions of the Land Use and Development Code.

2.1.2 The proposed development is located on a legally created lot.

The Commission finds that the subject parcel is an existing legal lot of record and was created as Parcel C of Parcel Map 12,800 on February 22, 1982, and is shown in Parcel Maps Book 29, Pages 84 and 85, in the Office of the County Recorder of the County of Santa Barbara, State of California.

2.1.3 The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement and processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots)

The Commission finds that as conditioned, and as discussed in Sections 6.3 and 6.4 of the staff report, dated July 28, 2020, and incorporated herein by reference, the subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks, and any other applicable provisions of this Development Code for the AG-I zone district, and for the development of greenhouses. There are no open Notices of Violation on the subject property.

ATTACHMENT B: CONDITIONS OF APPROVAL

**CONDITIONS OF APPROVAL
DECKER GREENHOUSE
CASE NO. 19LUP-00000-00469
APN: 137-140-033**

PROJECT DESCRIPTION

- 1. Proj Des-01 Project Description.** This Land Use Permit is based upon and limited to compliance with the project description, the hearing exhibits marked A-I, dated August 5, 2020, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

The project is for construction of a 15,648 sq. ft. greenhouse for vegetable cultivation. The greenhouses would have a maximum height of 20 feet. The project includes the demolition/removal of 3,329 sq. ft. of existing development. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately 6 full-time employees will be working 8am - 5pm Mon-Fri and occasional Saturdays. Project includes 3,930 square feet of new landscaping. The project includes a new private septic system. Water will provided by a new agricultural/domestic water well. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

- 2. Proj Des-02 Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

PROJECT SPECIFIC CONDITIONS

- 3. Air-01 Dust Control.** The Owner/Applicant shall comply with the following dust control components at all times including weekends and holidays:
- a. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site.
 - b. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, use water trucks or sprinkler systems to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - c. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site.
 - d. Wet down the construction area after work is completed for the day and whenever wind exceeds 15 mph.
 - e. When wind exceeds 15 mph, have site watered at least once each day including weekends and/or holidays.
 - f. Order increased watering as necessary to prevent transport of dust off-site.
 - g. Cover soil stockpiled for more than two days or treat with soil binders to prevent dust generation. Reapply as needed.
 - h. If the site is graded and left undeveloped for over four weeks, the Owner/Applicant shall immediately: (i) Seed and water to re-vegetate graded areas; and/or (ii) Spread soil binders; and/or; (iii) Employ any other method(s) deemed appropriate by P&D or APCD.

PLAN REQUIREMENTS: These dust control requirements shall be noted on all grading and building plans. **PRE-CONSTRUCTION REQUIREMENTS:** The contractor or builder shall provide P&D Building Inspectors and APCD with the name and contact information for an assigned onsite dust control monitor(s) who has the responsibility to:

- a. Assure all dust control requirements are complied with including those covering weekends and holidays.
- b. Order increased watering as necessary to prevent transport of dust offsite.
- c. Attend the pre-construction meeting.

TIMING: The dust monitor shall be designated prior to Grading Permit. The dust control components apply from the beginning of any grading or construction throughout all development activities until Final Building Inspection Clearance is issued. **MONITORING:** P&D processing planner shall ensure measures are on plans. P&D grading and building inspectors shall spot check; Grading and Building shall ensure compliance onsite. APCD inspectors shall respond to nuisance complaints.

- 4. Bio-01b Tree Protection Plan-Construction Component.** The Owner / Applicant shall submit a Tree Protection Plan (TPP) prepared by a P&D-approved arborist and/or biologist and designed to protect existing trees to the maximum extent feasible. The Owner Applicant shall comply with and specify the following as notes on the TPP and Grading and Building Plans:

- a. Fencing of all trees to be protected at least six feet outside the dripline with chain-link (or other material satisfactory to P&D) fencing at least 3 ft. high, staked to prevent any collapse, and with signs identifying the protection area placed in 15-ft intervals on the fencing.
- b. Fencing/staking/signage shall be maintained throughout all grading and construction activities.
- c. All trees located within 25 ft. of buildings shall be protected from stucco and/or paint during construction.
- d. No irrigation is permitted within 6 ft. of the dripline of any protected tree unless specifically authorized.
- e. The following are not permitted:
 - i. Any trenching within the dripline or sensitive root zone of any specimen.
 - ii. Cutting any roots of one inch in diameter or greater.
 - iii. Tree removal and trimming.
- f. Grading shall be designed to avoid ponding and ensure proper drainage within driplines of oak trees.

PLAN REQUIREMENTS: The Owner/Applicant shall: (1) submit the TPP; (2) Include all applicable components in Tree Replacement Plan and/or Landscape and Irrigation Plans if these are required; (3) include as notes or depictions all plan components listed above, graphically depicting all those related to earth movement, construction, and temporarily and/or permanently installed protection measures.

TIMING: The Owner/Applicant shall comply with this measure prior to issuance of Land Use Permit. Plan components shall be included on all plans prior to the issuance of Grading and Building permits. The Owner/Applicant shall install tree protection measures onsite prior to issuance of grading/building permits and pre-construction meeting. **MONITORING:** The Owner/Applicant shall demonstrate to P&D building/grading inspectors that trees identified for protection were not damaged or removed or, if damage or removal occurred, that correction is completed as required by the TPP prior to Final Building Inspection Clearance.

5. **CulRes-09 Stop Work at Encounter.** The Owner/Applicant and/or their agents, representatives or contractors shall stop or redirect work immediately in the event archaeological remains are encountered during grading, construction, landscaping or other construction-related activity. The Owner/Applicant shall immediately contact P&D staff, and retain a P&D approved archaeologist and Native American representative to evaluate the significance of the find in compliance with the provisions of the County Archaeological Guidelines and conduct appropriate mitigation funded by the Owner/Applicant. **PLAN REQUIREMENTS:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D permit processing planner shall check plans prior to issuance of Land Use Permit and P&D building inspectors shall spot check in the field throughout grading and construction.

- 6. Noise-02 Construction Hours.** The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m. Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating interior construction activities such as plumbing, electrical, drywall and painting (which does not include the use of compressors, tile saws, or other noise-generating equipment) are not subject to these restrictions.

Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein. **PLAN REQUIREMENTS:** The Owner/Applicant shall provide and post a sign stating these restrictions at all construction site entries. **TIMING:** Signs shall be posted prior to commencement of construction and maintained throughout construction. **MONITORING:** The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors and shall spot check and respond to complaints.
- 7. Special Condition – New Agricultural Well.** A new well shall be drilled on the property for the purposes serving the proposed greenhouse. **TIMING:** The well shall be drilled prior to Final Building Clearance.
- 8. Special Condition – New Septic System.** A new septic system shall be installed on the property to serve the restrooms in the proposed greenhouse. **TIMING:** The septic system shall be installed prior to Final Building Clearance.

COUNTY RULES AND REGULATIONS

- 9. DIMF-24d DIMF Fees-Fire.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid. The total Fire DIMF amount is currently estimated to be \$0.35/sq. ft. (July 27, 2020). This is based on a project type non-retail commercial. **TIMING:** Fire DIMFs shall be paid to the County Fire Department prior to Final Building Permit Inspection and shall be based on the fee schedules in effect when paid, which may increase at the beginning of each fiscal year (July 1st).
- 10. Rules-05 Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.

- 11. Rules-23 Processing Fees Required.** Prior to issuance of Land Use Permit, the Owner/Applicant shall pay all applicable P&D permit processing fees in full as required by County ordinances and resolutions.
- 12. Rules-29 Other Dept Conditions.** Compliance with Departmental/Division letters required as follows:
 - a. Flood Control letter dated February 11, 2020
- 13. Rules-30 Plans Requirements.** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 14. Rules-33 Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project.
- 15. Rules-37 Time Extensions-All Projects.** The Owner / Applicant may request a time extension prior to the expiration of the permit or entitlement for development. The review authority with jurisdiction over the project may, upon good cause shown, grant a time extension in compliance with County rules and regulations, which include reflecting changed circumstances and ensuring compliance with CEQA. If the Owner / Applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.

ATTACHMENT C: NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Ben Singer, Planning and Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County guidelines for the implementation of CEQA.

APN: 137-140-033

Case No.: 19LUP-00000-00469

Location: 988 Fredensborg Canyon Rd. in the Solvang Area, Third Supervisorial District.

Project Title: Decker Greenhouse

Project Applicant: Steven Decker

Project Description:

The project is for construction of a 15,648 sq. ft. greenhouse for vegetable cultivation. The greenhouses would have a maximum height of 20 feet. The project includes the demolition/removal of 3,329 sq. ft. of existing development. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately 6 full-time employees will be working 8am - 5pm Mon-Fri and occasional Saturdays. Project includes 3,930 square feet of new landscaping. The project includes a new private septic system. Water will provided by a new agricultural/domestic water well. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District.

Name of Public Agency Approving Project: Santa Barbara County

Name of Person or Agency Carrying Out Project: Steven Decker, Property Owner

Exempt Status: (Check one)

Ministerial

Statutory Exemption

Categorical Exemption(s)

Emergency Project

Cite specific CEQA and/or CEQA Guideline Section: Section 15301 [Existing Facilities], Section 15303 [New Construction or Conversion of Small Structures], and Section 15304 [Minor Alterations to Land]

Reasons to Support Exemption Findings: The proposed project is categorically exempt from environmental review pursuant to Section 15301 [Existing Facilities], Section 15303 [New Construction or Conversion of Small Structures], and Section 15304 [Minor Alterations to Land] of the *Guidelines for Implementation of the California Environmental Quality Act*. Section 15301 exempts the demolition and removal of individual small structures. This includes garages, carports, and other accessory structures. The proposed demolition of 3,329 sq. ft. of existing small greenhouses and storage structures qualifies under this exemption. Section 15303 exempts the construction of a limited numbers of new, small facilities or structures. This includes single-family dwellings, multi-family dwellings, and accessory structures as examples. The proposed greenhouse is of a similar scale to these examples of what falls under this exemption. Section 15304 exempts private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry and agricultural purposes, including grading on land with a slope of less than ten (10) percent, except in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard. Section 15304 also specifically exempts new gardening or landscaping. Proposed landscaping consists of 107 Catalina Cherry trees to be planted along the property line. All proposed grading would occur on slopes of less than ten percent. No grading is proposed in a waterway and all project components are set back at least 100 feet from the mapped blue line creek (Adobe Canyon Creek). The project does not involve the removal of any healthy, mature, or scenic trees.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the CEQA Guidelines are:

- (a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

The project site is located entirely outside of any designated or existing Environmentally Sensitive Habitat (ESH) areas. There are no other designated or mapped environmental resources of hazardous or critical concern on or adjacent to the project site. Therefore, no significant impacts that threaten the environment would result from the project.

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The proposed greenhouse would be constructed within an existing developed agricultural area where greenhouses are allowable by ordinance. The project meets all development standards applied to AG-I zones and there is no expectation that similar uses on this lot or other adjacent lots in the vicinity would cause significant cumulative impacts. The cumulative impact of successive projects of the same type in the same place, or time, would not be significant. Therefore, this exception to the categorical exemption does not apply.

- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

There is no substantial evidence that the proposed project involves unusual circumstances, including future activities, resulting in or which might reasonably result in significant effects on the environment. Therefore, this exception to the categorical exemption does not apply.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

The site is not visible from any highway officially designated as a state scenic highway. As such, there are no protected scenic views impacted by the project. Therefore, this exception to the categorical exemption does not apply.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code (hazardous and toxic waste sites). In addition, there is no evidence of historic or current use or disposal of hazardous or toxic materials on the project site. Therefore, this exception to the categorical exemption does not apply.

- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

The proposed development would have no impact on any historical resource. The subject parcel is currently developed with a single-family dwelling, guesthouse, and agricultural accessory structures. No structures on the property are of historical value and there is no record of historical resources on the property. Therefore, the project would not have the potential to cause a substantial adverse change in the significance of a historic resource.

Lead Agency Contact Person: Ben Singer, Planner **Phone No.:** (805) 934-6587

Department/Division Representative: _____ **Date:** _____

Acceptance Date: _____

Note: A copy of this form must be posted at P&D six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35-day statute of limitations on legal challenges.

Distribution: Hearing Support Staff, Case File

Date Filed by County Clerk:

ATTACHMENT D: APPELLANT APPEAL PACKAGE



PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: 988 FREDERICKS BOULDER CANYON ROAD, SOLVANG, CA 93463
ASSESSOR PARCEL NUMBER: 137-140-033

Are there previous permits/applications? no yes numbers: ADN 137-140-033
(include permit# & lot # if tract)

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

Are there previous environmental (CEQA) documents? no yes numbers: _____

1. Appellant: STEPHEN R. JACOBS Phone: 310 488-6496 FAX: _____
Mailing Address: 1690 FREDERICKS BOULDER WAY, SOLVANG, CA 93463 E-mail: annette.manejacobs@gmail.com
Street City State Zip

2. Owner: _____ Phone: _____ FAX: _____
Mailing Address: _____ E-mail: _____
Street City State Zip

3. Agent: _____ Phone: _____ FAX: _____
Mailing Address: _____ 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:

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title DECKER GREENHOUSE

Case No. 19 LUP - 00000 - 00469

Date of Action 6/8/2020

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? _____

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

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:

MR. JACOBS LIVES A FEW PARCELS TO THE SOUTH OF THE
PROPOSED SITE (APN 137-140-033). HE HAS EXPRESSED CONCERN
TO STAFF OVER THE PHONE AND IS FILING THIS APPEAL
PERSONALLY AND ON BEHALF OF SEVERAL NEIGHBORS. HE ALSO
APPEARS AT PUBLIC HEARINGS IN REGARDS TO A PREVIOUS
PERMIT REQUEST AT THIS SITE (APN 137-140-033)

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 GROUNDS FOR APPEAL

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.

STEPHEN R. JACOBS *Stephen R. Jacobs* 6/16/20
Print name and sign – Firm Date

STEPHEN R. JACOBS *Stephen R. Jacobs* 6/16/20
Print name and sign – Preparer of this form Date

Print name and sign – Applicant Date

Print name and sign – Agent Date

Print name and sign – Landowner Date

G:\GROUP\IP&D\Digital Library\Applications & Forms\Planning Applications and Forms\AppealSubReqAPP.doc

Grounds for Appeal
19LUP-00000-00469
Steve Decker — 15,648 SQ FT Greenhouse for Vegetable Cultivation

1. Neighborhood Compatibility. The proposed vegetable cultivation project will result in significant nuisance to neighboring and surrounding properties related to increased traffic, operational noise, visual impact, and nightlight intrusion. The project does not incorporate sufficient measures to mitigate these impacts, nor do the conditions of approval adequately address the resultant deleterious effects on neighborhood character. Therefore, the project must be denied as staff erred in approving this project by failing to make the necessary findings of approval in each of the above categories.

2. Water Supply. Water for the project site is served by a well that is shared with three adjacent parcels. However, this well does not produce adequate volume to provide both domestic water for the existing four parcels, as well as agricultural water for the proposed vegetable facility. As such, the project description notes that the project will be served by a new water well. However, this well has yet to be drilled. Therefore, the finding that adequate water supply exists cannot be made and the project must be denied.

3. Code Compliance. On July 9, 2019, the County Board of Supervisors approved an amendment to the Land Use Development Code (LUDC) that prohibits all forms of cannabis cultivation on parcels zoned AG-I of 20 acres or less in size. This amendment became effective on August 8, 2019. Subsequent to and on account of that legislative change, the Applicant withdrew his earlier application (18LUP-00000-00458) seeking to establish a commercial cannabis operation. However, the current “vegetable cultivation” application remains fundamentally unchanged from the earlier, withdrawn application for a purpose-designed cannabis cultivation facility. Therefore, the permit should be denied as not complying with the LUDC.

Thank you for your attention to this important matter. We will provide additional details to support this appeal prior to the Planning Commission hearing. Meanwhile, please do not hesitate to contact us should you have any questions.

ATTACHMENT E: APPROVED LUP, DATED JUNE 8, 2020



LAND USE PERMIT NO.: 19LUP-00000-00469

Project Name: DECKER GREENHOUSE
Project Address: 988 FREDENSBORG CYN RD, SOLVANG, CA 934632019
A.P.N.: 137-140-033
Zone: AG-I-5

The Planning and Development Department hereby approves this Land Use Permit for the project described below based upon compliance with the required findings for approval and subject to the attached terms and conditions.

APPROVAL DATE: 6/8/2020
LOCAL APPEAL PERIOD BEGINS: 6/9/2020
LOCAL APPEAL PERIOD ENDS: 6/18/2020
DATE OF PERMIT ISSUANCE (if no appeal filed): 6/19/2020

APPEALS:

1. The approval of this Land Use Permit may be appealed to the County Planning Commission by the applicant, owner, or any aggrieved person. An aggrieved person is defined as any person who, either in person or through a representative, appeared at a public hearing in connection with this decision or action being appealed, or who by other appropriate means prior to a hearing or decision, informed the decision-maker of the nature of their concerns, or who, for good cause, was unable to do either. The appeal must be filed in writing and submitted in person to the Planning and Development Department at either 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, prior to 5:00 p.m. on or before the date that the local appeal period ends as identified above (CLUDC Chapter 35.102 Appeals).
2. Payment of a fee is required to file an appeal of the approval of this Land Use Permit.

PROJECT DESCRIPTION SUMMARY: The project is for construction of a 15,648 SQ FT greenhouse for vegetable cultivation. The greenhouses would have a maximum height of 20 feet. The project includes the demolition/removal of 3,329 SQ FT of existing development. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately 6 full-time employees will be working 8am - 5pm Mon-Fri and occasional Saturdays. Project includes 3,930 square feet of new landscaping. The project includes a new private septic system. Water will be provided by a new agricultural/domestic water well. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District. To receive additional information regarding this project and/or to view the application and/or plans, please contact Ben Singer at 624 West Foster Road, Suite C, Santa Maria, by email (bsinger@co.santa-barbara.ca.us) or by phone ((805) 934-6587).

PROJECT SPECIFIC CONDITIONS: See Attachment "A"

ASSOCIATED CASE NUMBERS: 18LUP-00000-00458

PERMIT ISSUANCE: This Land Use Permit will be issued following the close of the appeal period provided an appeal is not filed, or if appealed, the date of final action on the appeal which has the effect of upholding the approval of the permit. Issuance of this permit is subject to compliance with the following terms and conditions:

1. **Notice.** Notice of this project shall be posted on the project site by the applicant utilizing the language and form of the notice provided by the Planning and Development Department. The notice shall remain posted continuously until at least 10 calendar days following action on the permit, including an action on any appeal of this permit (CLUDC Chapter 35.106 Noticing and Public Hearings). The **Proof of Posting of Notice on Project Site** shall be signed and returned to the Planning and Development Department prior to the issuance of the permit.

2. **Compliance with conditions.** All conditions that are required to be satisfied prior to issuance of the permit have been satisfied and the permit has been signed by the applicant or owner.
3. **Design Review.** If required, the project has been granted final approval by the appropriate Board of Architectural Review (BAR), and an appeal of that final approval has not been filed.
4. **Appeals.** An appeal of the approval of this permit, or an appeal of the final approval by the BAR, has not been filed with the County. If an appeal has been filed then the permit shall not be issued until final action on the appeal(s) has occurred which has the effect of upholding the approval of this permit, and, if applicable, the final approval by the BAR.
5. **Other approvals.** Any other necessary approvals required prior to issuance of this Land Use Permit have been granted.

PERMIT EXPIRATION AND EXTENSION: This permit shall remain valid only as long as compliance with all applicable requirements of the CLUDC and the permit continues, including the conditions of approval specific to this permit. Additionally:

1. The approval of this permit shall expire either 12 months from the effective date of the permit or other period allowed in compliance with an approved Time Extension, and shall be considered void and of no further effect unless the permit is either issued within the applicable period in compliance with the terms indicated above or a valid application for a Time Extension is submitted prior to the expiration of this 12 month period and is subsequently approved (CLUDC: Section 35.82.110).
2. This permit shall expire two years from the date of issuance and be considered void and of no further effect unless the use and/or structure for which the permit was issued has been lawfully established or commenced in compliance with the issued permit or an application for a Time Extension is submitted prior to the expiration of this two year period and is subsequently approved (CLUDC: Section 35.82.110).
3. The effective date of this permit shall be (a) the day following the close of any applicable appeal period provided an appeal is not filed, or (b) if appealed, the date of final action on the appeal which has the effect of upholding the approval, or (c) some other date as indicated in this permit (CLUDC: Section 35.82.020).

WORK PROHIBITED PRIOR TO PERMIT ISSUANCE: No work, development, or use intended to be authorized pursuant to this permit approval shall commence prior to issuance of this permit and/or any other required permit (e.g., building permit).

OWNER/APPLICANT ACKNOWLEDGMENT: Undersigned permittee acknowledges receipt of this approval and agrees to abide by all conditions and terms thereof. Undersigned permittee also acknowledges that issuance of this permit for this project does not allow construction or use outside of the project description, nor shall it be construed to be an approval of a violation of any provision of any County policy, ordinance or other governmental regulation.

STEVE DECKER
Steve Decker
4/8/2020

Print name Signature Date

Land Use Approval By:

[Signature]
6/8/2020

Director, Planning and Development Date

PERMIT ISSUANCE: The permit shall be issued and deemed effective on the date signed and indicated below.

Planning and Development Department Issuance By:

[Signature]
Date

Planner Date

ATTACHMENT A: CONDITIONS OF APPROVAL

Project Description

1. **Proj Des-01 Project Description:** This Land Use Permit is based upon and limited to compliance with the project description and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

The project is for construction of a 15,648 SQ FT greenhouse for vegetable cultivation. The greenhouses would have a maximum height of 20 feet. The project includes the demolition/removal of 3,329 SQ FT of existing development. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately 6 full-time employees will be working 8am - 5pm Mon-Fri and occasional Saturdays. Project includes 3,930 square feet of new landscaping. The project includes a new private septic system. Water will be provided by a new agricultural/domestic water well. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

2. **Proj Des-02 Project Conformity:** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

Conditions By Issue Area

3. **Air-01 Dust Control:** The Owner/Applicant shall comply with the following dust control components at all times including weekends and holidays:
 - a. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site.
 - b. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, use water trucks or sprinkler systems to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - c. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site.
 - d. Wet down the construction area after work is completed for the day and whenever wind exceeds 15 mph.
 - e. When wind exceeds 15 mph, have site watered at least once each day including weekends and/or holidays.

- f. Order increased watering as necessary to prevent transport of dust off-site.
- g. Cover soil stockpiled for more than two days or treat with soil binders to prevent dust generation. Reapply as needed.
- h. If the site is graded and left undeveloped for over four weeks, the Owner/Applicant shall immediately:
 - i. Seed and water to re-vegetate graded areas; and/or
 - ii. Spread soil binders; and/or
 - iii. Employ any other method(s) deemed appropriate by P&D or APCD.

PLAN REQUIREMENTS: These dust control requirements shall be noted on all grading and building plans.

PRE-CONSTRUCTION REQUIREMENTS: The contractor or builder shall provide APCD with the name and contact information for an assigned onsite dust control monitor(s) who has the responsibility to:

- a. Assure all dust control requirements are complied with including those covering weekends and holidays.
- b. Order increased watering as necessary to prevent transport of dust offsite.
- c. Attend the pre-construction meeting.

TIMING: The dust monitor shall be designated prior to Grading Permit. The dust control components apply from the beginning of any grading or construction throughout all development activities until Final Building Inspection Clearance is issued.

MONITORING: P&D processing planner shall ensure measures are on plans. P&D grading and building inspectors shall spot check; Grading and Building shall ensure compliance onsite. APCD inspectors shall respond to nuisance complaints.

4. Bio-01b Tree Protection Plan–Construction Component: The Owner / Applicant shall submit a Tree Protection Plan (TPP) prepared by a P&D-approved arborist and/or biologist and designed to protect existing trees to the maximum extent feasible. The Owner Applicant shall comply with and specify the following as notes on the TPP and Grading and Building Plans:

- 1. Fencing of all trees to be protected at least six feet outside the dripline with chain-link (or other material satisfactory to P&D) fencing at least 3 ft high, staked to prevent any collapse, and with signs identifying the protection area placed in 15-ft intervals on the fencing.
- 2. Fencing/staking/signage shall be maintained throughout all grading and construction activities.
- 3. All trees located within 25 ft of buildings shall be protected from stucco and/or paint during construction.
- 4. No irrigation is permitted within 6 ft of the dripline of any protected tree unless specifically authorized.
- 5. The following are not permitted:
 - a. Any trenching within the dripline or sensitive root zone of any specimen.
 - b. Cutting any roots of one inch in diameter or greater.
 - c. Tree removal and trimming.
- 6. Grading shall be designed to avoid ponding and ensure proper drainage within driplines of oak trees.

PLAN REQUIREMENTS: The Owner/Applicant shall: (1) submit the TPP; (2) Include all applicable components in Tree Replacement Plan and/or Landscape and Irrigation Plans if these are required; (3) include as notes or depictions all plan components listed above, graphically depicting all those related to earth movement, construction, and temporarily and/or permanently installed protection measures.

TIMING: The Owner/Applicant shall comply with this measure prior to issuance of Land Use Permit. Plan components shall be included on all plans prior to the issuance of Grading and Building Permits. The Owner/Applicant shall install tree protection measures onsite prior to issuance of grading/building permits and pre-construction meeting.

MONITORING: The Owner/Applicant shall demonstrate to P&D building/grading inspectors staff that trees identified for protection were not damaged or removed or, if damage or removal occurred, that correction is completed as required by the TPP prior to Final Building Inspection Clearance.

5. CulRes-09 Stop Work at Encounter: The Owner/Applicant and/or their agents, representatives or contractors shall stop or redirect work immediately in the event archaeological remains are encountered during grading, construction, landscaping or other construction-related activity. The Owner/Applicant shall immediately contact P&D staff, and retain a P&D approved archaeologist and Native American representative to evaluate the significance of the find in compliance with the provisions of the County Archaeological Guidelines and conduct appropriate mitigation funded by the Owner/Applicant. **PLAN REQUIREMENTS:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D permit processing planner shall check plans prior to issuance of Land Use Permit and P&D building inspectors shall spot check in the field throughout grading and construction.

6. Noise-02 Construction Hours: The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m. Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating interior construction activities such as plumbing, electrical, drywall and painting (which does not include the use of compressors, tile saws, or other noise-generating equipment) are not subject to these restrictions.

Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein.

PLAN REQUIREMENTS: The Owner/Applicant shall provide and post a sign stating these restrictions at all construction site entries.

TIMING: Signs shall be posted prior to commencement of construction and maintained throughout construction.

MONITORING: The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors shall spot check and respond to complaints.

County Rules and Regulations

7. Rules-05 Acceptance of Conditions: The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.

8. Rules-23 Processing Fees Required: Prior to issuance of Land Use Permit, the Owner/Applicant shall pay all applicable P&D permit processing fees in full as required by County ordinances and resolutions.

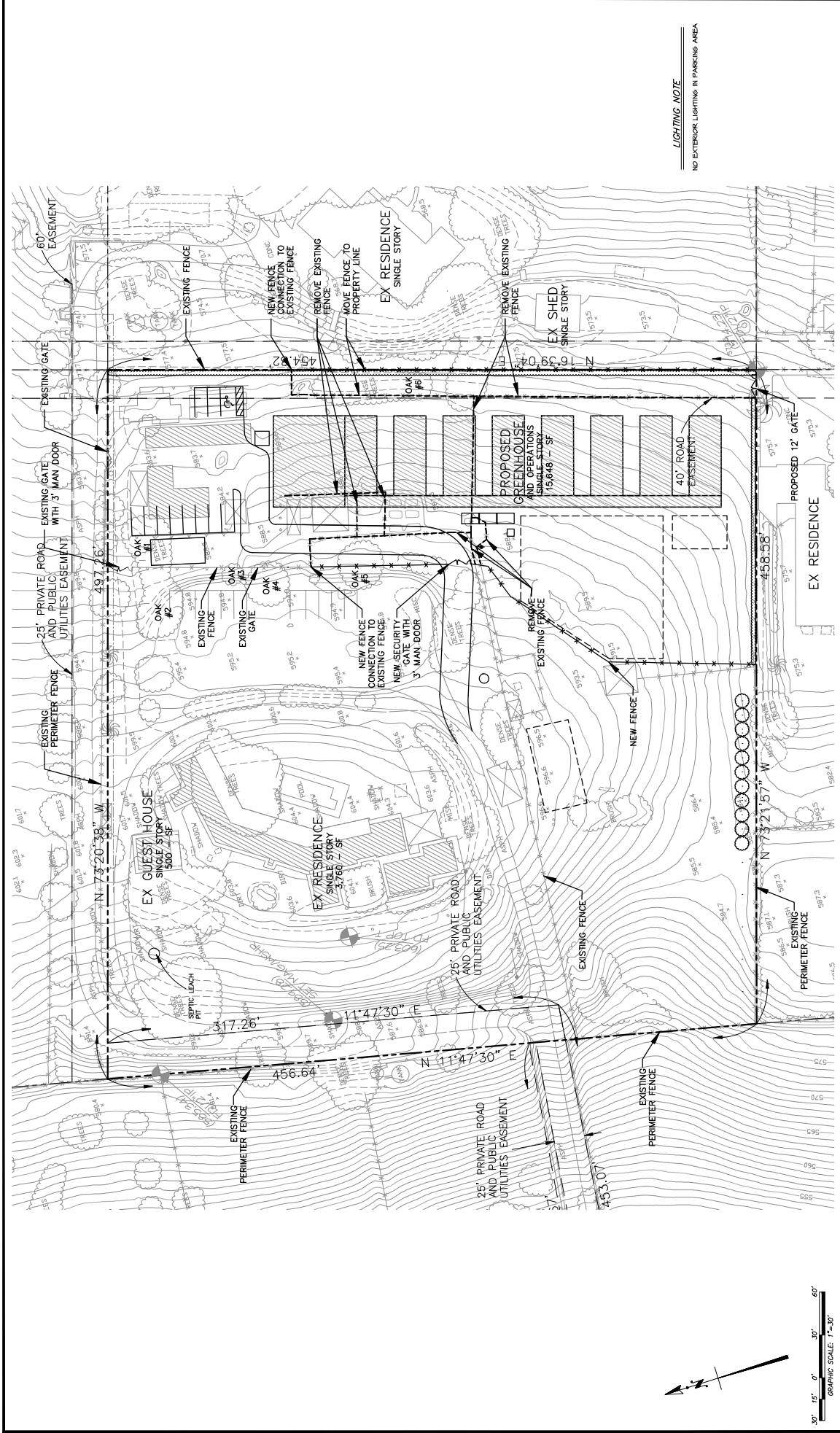
9. Rules-29 Other Dept Conditions: Compliance with Departmental/Division letters required as

follows:

1. Flood Control letter dated February 11, 2020;

- 10. Rules-30 Plans Requirements:** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 11. Rules-33 Indemnity and Separation:** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 12. Rules-37 Time Extensions-All Projects:** The Owner / Applicant may request a time extension prior to the expiration of the permit or entitlement for development. The review authority with jurisdiction over the project may, upon good cause shown, grant a time extension in compliance with County rules and regulations, which include reflecting changed circumstances and ensuring compliance with CEQA. If the Owner / Applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.

ATTACHMENT F: APPROVED SITE PLAN



LIGHTING NOTE
NO EXTERIOR LIGHTING IN PARKING AREA

SHEET 7
OF 12

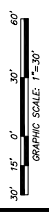
STEVE DECKER GREENHOUSE PROJECT
988 FREDENSBORG CANYON RD, SOCLING CA, 93463
A.P.N. 137-140-023

FILE NO.
PROJECT NO.

COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

LEAVIS ENGINEERING
1102 E MAIN STREET, SUITE 100
VENTNRE, CALIFORNIA 93025
[Signature]

NO.	DATE	DESCRIPTION
1	02/17/19	PLANNING AND DEVELOPMENT NOTATIONS
2		
3		
4		
5		
6		



ATTACHMENT G: APPLICANT REPOSENSE TO APPEAL ISSUES, DATED JUNE 23, 2020

June 23, 2020

Stephen R. Jacobs
1690 Fredensborg Way
Solvang, CA 93463

Re: Appeal of LUP 19LUP-0469

Dear Mr. Jacobs,

I have prepared the attached response to your grounds for appeal. This response has been forwarded to Ben Singer, Planner for our project at the County Planning & Development Department.

This document will also be given to each of the five Planning Commissioners prior to the hearing. They will all be invited to make a site visit prior to the hearing. I will also be presenting an extensive Power Point presentation, with aerial depictions of the neighborhood and its multiple uses.

It is indeed unfortunate you did not request a site visit, nor request to view the plans and the shared water system records. That you did not makes your claims appear frivolous and without any research to substantiate them.

If you would like to make a site visit, review our plans and well production records, you are most welcome to do so. Just call me and we will gladly accommodate you and anyone else interested.

You should know that this farm project is vitally important to me and my ten other family members associated with and to be financially supported by its development. We sincerely hope your review of the facts will result in withdrawal of your appeal.

Respectfully,

Steve Decker
988 Fredensborg Canyon Road
Solvang, CA 93463
805 708-6400
stevedecker44@icloud.com

CC: Ben Singer, Planner
Planning & Development
Development Review Division
Santa Barbara County

Appellant, Stephen Jacobs, has cited three categories of concern as the basis for denial of Steve Decker’s Land Use Permit Approval: WATER SUPPLY, NEIGHBORHOOD COMPATIBILITY AND CODE COMPLIANCE.

Mr. Jacobs has not reviewed Decker’s plans. Nor has he visited the project site or reviewed the records of Decker’s shared water system.

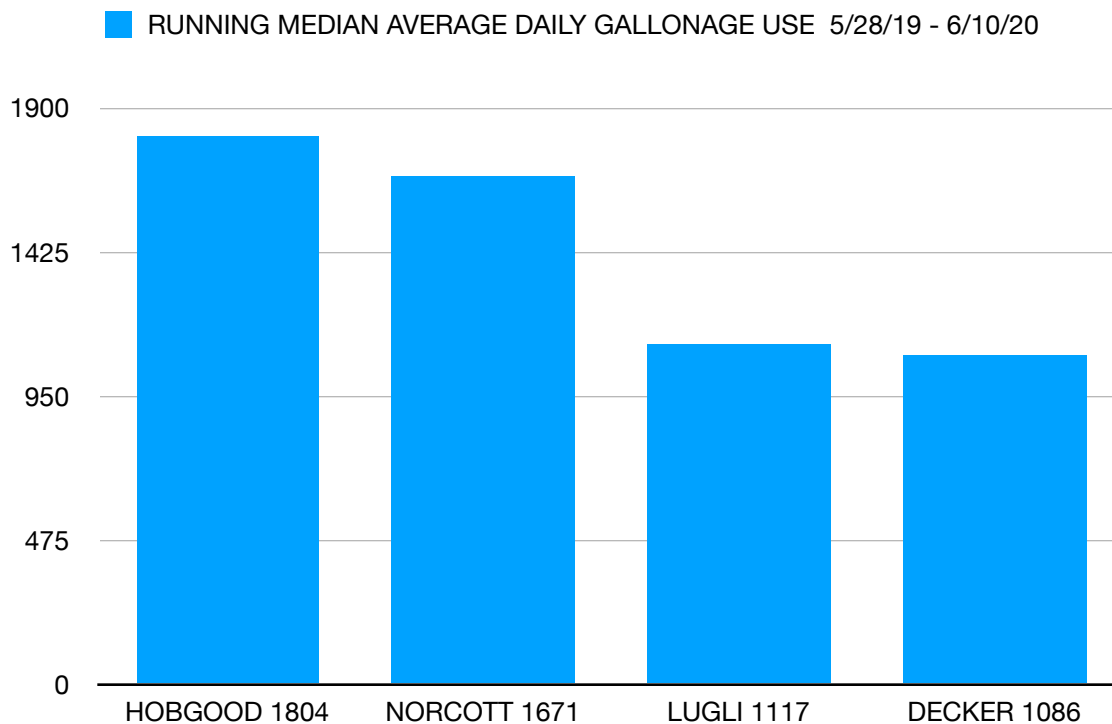
WATER SUPPLY

Mr. Jacobs is uninformed as to the status of the water production capabilities of the shared water system that serves the Decker agricultural property and others.

Steve Decker is the designated Water Master for the four member shared water system referenced in Mr. Jacob’s appeal. Mr. Decker has continuously been the Water Master since July of 2006.

Decker has metered the individual water usage since 9/2/2018. As such, he recorded and retained applicable water usage data for the four members since then. The data compilation Excel sheets are available to any member to review.

The chart below shows the median average daily water use per member for the period of 5/28/2019 through 6/12/2020.



This data was compiled from 33 separate meter readings over the approximately 12 month period. Meter readings were taken close to three times per month.

As the chart indicates the Lugli and Decker families use substantially less water than the other two members.

Section III, GRANT OF WATER RIGHTS of the Covenants, Conditions and Restrictions Concerning Private Water System states:

*A. The owners of each of the parcels identified on Parcel Map 12,800 as Parcels A, B, C and D shall each be entitled to and are hereby granted the right to **three gallons of water per minute** produced by and from the Water System to fulfill the minimum source yield requirements of Santa Barbara County Ordinance No. 3096. Emphasis added*

All members receive from 12-15 gallons per minute. At least four times the rate of flow minimally required by County Code.

The total average median daily usage of all four members is **5,678 gallons**. When the well serving the four homes was permitted, Santa Barbara County Ordinance No. 3096 required the well to produce a minimum of 3 gallons per minute per property served. Therefore the well had to produce a minimum of 12 gallons per minute. That translates to a total daily gallonage production requirement of **17,280 gallons. At 5,678 gallons, that is 1/3 of the well's total daily production capability.**

Section IV. USE OF WATER states:

*Except for declarants' rights reserved under Section III, B., water from the Water System shall be used and usable solely for the following purposes: Supplying **domestic and agricultural water service** for beneficial purposes to all improvements now and hereafter located on said property and any further parcels into which they may be divided from time to time. Emphasis added.*

Mr. Jacob's claims there is an inadequate water supply to support the Decker family agricultural business. He claims so without any knowledge of the actual water usage of the four water system members or the water usage that the Decker agriculture business will additionally use.

The Decker greenhouse project will use an average of less than 500 gallons of water per day! Bringing the Decker total median average daily use to approximately **1586 gallons per day**. Still below the usage by Hobgood and Norcott at 1804 and 1671 gallons respectively.

Therefore, the claim by Mr. Jacobs that the existing water system does not produce adequate water supplies for the Decker greenhouse additional usage (0.34 GPM in 24 hours) is fallacious.

Decker Private Well

The addition of Decker's own private well will add to the available, reliable water source for his property. It is well known that the Fredensborg Canyon area has ample groundwater at more than adequate rates of flow to meet minimum code requirements.

It is Decker's right to drill his own well. The shared water agreement, of which he is a member, does not prohibit him from doing so.

Recently, a new well was successfully drilled on property immediately adjacent to the Decker property. The four member shared well is located on the Lugli property adjacent to the Decker property. Including the well on the Lugli property, there are three known active water wells on three properties contiguous to the Decker property. The notion that Decker would be unsuccessful in drilling a new well is without merit.

CODE COMPLIANCE

Decker's greenhouse project complies with all Santa Barbara County Land Use Development Code sections for AG-1 properties.

The approval of Decker's Land Use Permit application was granted pursuant to the following:

E. Findings required for approval. A Land Use Permit application shall be approved or conditionally approved only if the Director first makes all of the following findings: 1. Findings for all Land Use Permits: a. The proposed development conforms: (1) To the applicable provisions of the Comprehensive Plan including any applicable community or area plan; and (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots). b. The proposed development is located on a legally created lot. c. The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement and processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).

Regarding the purpose of AG-1 zoned properties, **County Code Section 35.21.030** states in part ***“the intent is to provide standards that will support agriculture as a viable land use and encourage maximum agricultural productivity.”***

Code section 35.21.030 states greenhouses are permitted with a Land Use Permit, and not a Development Plan or Conditional Use Permit, if the totality of structures on site do not exceed **20,000 square feet**. The Decker plan totals **19,908 square feet**.

Decker's Greenhouse Project is not for Cannabis.

Mr Jacobs checked “yes”, to the Appeal Form question, “Is this appeal (potentially) related to cannabis activities? There are no current cannabis activities nor any planned cannabis activities on Decker's property.

The property is not zoned for commercial cannabis cultivation and, therefore, the state will not issue a cannabis cultivation license for the property. End of story.

Mr. Jacobs curiously argues that because the greenhouse application “remains fundamentally unchanged” from Decker's previously withdrawn cannabis cultivation application, the permit should be denied as not complying with the County land Use Development Code.

Mr. Jacobs described Decker's previous application as having a “purpose-designed cannabis cultivation facility”. Without explaining how the proposed greenhouse is, in the first place,

purposely designed for cannabis cultivation and, secondly, how such a greenhouse can't be used for the cultivation of any other plant, Mr. Jacobs would have the project denied.

Cannabis is a plant that is cultivated in numerous environments. In greenhouses formerly used for flower and vegetable cultivation. Indoors in buildings that are outfitted to cultivate plants. In hoop houses set out in open fields. In open fields without hoop structures. All are used to cultivate cannabis, along with numerous other plants as well.

Greenhouses are universally used to cultivate a myriad of plants around the world. Decker designed his greenhouse to accommodate any plant cultivation business; not just cannabis. He did so as to not limit the facility's potential use should a change in crop be necessary. As it turned out to be.

The proposed facility does not violate the County Land Use Code. Greenhouses are permitted in AG-1 zones.

NEIGHBORHOOD COMPATIBILITY

Mr Jacobs cites four items of concern justifying denial of the permit:

1. **Traffic**
2. **Operational Noise**
3. **Visual Impact**
4. **Nightlight Intrusion**

Mr. Jacobs did not request to see the project plans submitted by Decker. If he had he would have seen three of these four issues specifically addressed on the plans.

1. Traffic. Traffic being the only one on the plan not addressed because the County Land Use Permit ordinance does not require traffic studies for Land Use Permits issued for greenhouses

2. Operational Noise: Sheet 10 of Decker's plans specifically address noise. It shows that none of the operational equipment exceed the county's maximum decibel levels allowed. In fact, all levels are significantly below county limits.

3. Visual Impact: Sheet 6 of Decker's plans show the elevations and style of the proposed greenhouse structure. The tallest elevation is the greenhouse head house at 20'. The greenhouses are 16' in elevation at their highest point. Comparable to a single story home.



20' in height is comparable to the commercial or industrial style building recently erected at 1108 Fredensborg Canyon Road, with no screening at all. See above and below.



The building is surrounded with old cars in a generally dilapidated condition. See above. This structure is on an AG-1 zoned property and is contiguous to Decker's AG-1 property.

Decker submitted a visual screening landscape plan that exceeded the county's minimal screening requirements. The plan requires the planting of 107, 15 gallon, Catalina Cherry. . When matured at 15'-20', these plants will visually screen the greenhouse from the immediate properties to the east and south. Because of the elevation of the greenhouse location and existing plants and trees, properties immediately to the west and north will not be able to see

the greenhouse, regardless of the added screening. Again, Mr. Jacobs did not ask to see the plans Decker submitted to the County. Nor did he request a site visit.

The area of Decker's property is an eclectic mix of uses. Some residential only and some with active agricultural uses. Some with uses that are comparable to commercial or industrial uses. As seen at 1108 Fredensborg Canyon Road.



For example, Decker's immediate neighbor raises and cares for horses. Above is an image of their barns and riding ring. There is no visual screening from the street nor neighbors.

Decker's greenhouse is to be located on the other side of the hill, behind this horse farm. Away from any view from properties along Fredensborg Canyon.

1165 Fredensborg Canyon Road is the home to the Wolf Family Farm. They farm mushrooms for sale to the community and invite visitors to the farm.



1181 Fredensborg Canyon Road, next to the Wolf Farm, is home to Lil Orphan Hammies. This is a pig and hog rescue farm that takes in these animals from people who can't or do not want to keep them. Both farm operations are in the immediate vicinity of the Decker property and can be seen in the aerial image below. The Wolf greenhouse is visible on the left side of the image. The hog farm is in the upper right side of the image.



4. Nightlight Intrusion: Decker's plan complies with the Outdoor Lighting Regulations for the Santa Ynez Valley Community Plan Area. Sheet 11 of the plan, that Mr. Jacobs did not view, shows the lighting ordinance compliance. Further, Decker proposes to use light deprivation curtains for his horticultural practices.

As for light emitted from interior greenhouse lighting, Santa Barbara County Land Use Code, Article 35.30.120, Section C. 6. J. exempts lighting for agricultural activities of a limited duration.

CONCLUSION

Decker's property is zoned to support agriculture and to encourage maximum agricultural productivity. His plan attempts to do just that.

Mr. Jacobs' appeal, on the other hand, attempts to negate the intent of the County's land use ordinance with spurious arguments and should, therefore, be denied.



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: County Planning Commission

FROM: Travis Seawards, Deputy Director

STAFF CONTACT: Ben Singer, Planner

DATE: September 24, 2020

HEARING DATE: October 7, 2020

RE: Jacobs Appeal of the Decker Greenhouse
Case No. 20APL-00000-00011

1.0 Background

On August 5, 2020, the County Planning Commission (Commission) held a public hearing regarding the Jacobs Appeal of the Decker Greenhouse (Case No. 20APL-00000-00011) and directed staff to return to the September 30, 2020 hearing with findings for denial. The requested Findings for denial are included as Attachment A to this memorandum. A CEQA Exemption for the denial of the proposed project is included as Attachment B.

2.0 Community Plan Consistency

SANTA YNEZ VALLEY COMMUNITY PLAN	
REQUIREMENT	DISCUSSION
<i>Policy LUA-SYV-3: New development shall be compatible with adjacent agricultural lands.</i>	Inconsistent: The proposed project is inconsistent with policies that require the project to be compatible with neighboring agricultural lands. The scale of the project, a 15,648 sq. ft. greenhouse, is significantly larger than structures in the surrounding area. The

neighboring properties adjacent to the project site are not developed with larger-scale greenhouses or similar large scale agricultural related development. The properties adjacent to the project site predominately consist of single-family dwellings, personal equestrian facilities, and small accessory structures. In addition, the only nearby commercial agricultural use in the area is a small-scale mushroom farm, which does not include any agricultural structures. Finally, the proposed new development of a 15,648 sq. ft. greenhouse is not compatible with the adjacent agricultural areas as the scale, bulk, and size is not consistent with the surrounding developed area. In addition, the proposed lighting within the greenhouse is not compatible with the adjacent agricultural areas as the proposed lighting would introduce excessive new lighting to the area based on the size of the new development.

Policy VIS-SYV-3: The night sky of the Santa Ynez Valley shall be protected from excessive and unnecessary light associated with new development and redevelopment.

Inconsistent: The proposed project is inconsistent with requirements that require that the night sky in the Santa Ynez Valley be protected from excessive and unnecessary light. The project proposes the construction of a new 15,648 sq. ft. greenhouse that would utilize interior lighting to extend daytime hours in order to increase plant growth, which would introduce new and excessive light to the neighborhood and night sky. The proposed greenhouse would be constructed with glass on the ceiling and walls, so any interior lighting would be visible from outside areas. In addition, the existing area is developed with single-family dwellings, personal equestrian facilities, and small accessory structures, which create minimal light pollution, and therefore the introduction of new lighting associated with a new 15,648 sq. ft. greenhouse would

comprise a larger-scale light source compared to existing conditions in the area.

3.0 Recommended Actions

Staff recommends upholding the appeal, Case No. 20APL-00000-00011, and denying Case No. 19LUP-00000-00469, based upon the project's inconsistency with the Santa Ynez Valley Community Plan, and based on the inability to make the required findings.

Your Commission's motion should include the following:

1. Uphold the appeal, Case No. 20APL-00000-00011;
2. Make the required findings for denial of the project (Case No. 19LUP-00000-00469) as specified in Attachment A of this memorandum, including CEQA findings;
3. Determine that denial of the project (Case No. 19LUP-00000-00469) is exempt from CEQA pursuant to State CEQA Guidelines Sections 15061(b)(4) and 15270(a) included as Attachment B to this memorandum; and
4. Deny the project, Case No. 19LUP-00000-000469.

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings

Attachments:

- A. Findings
- B. CEQA Notice of Exemption

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

The County Planning Commission (Commission) finds that the proposed project is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061(b)(4) and Section 15270(a). More specifically, a project is exempt from CEQA environmental review if the project will be rejected or disapproved by a public agency. As discussed in the memorandum from staff to the Planning Commission, dated September 22, 2020, incorporated herein by reference, and in the administrative findings set forth below, the project is denied by the Commission because certain findings cannot be made to approve the project.

2.0 ADMINISTRATIVE FINDINGS

In order for a Land Use Permit for new development to be approved, the proposed development must comply with all applicable requirements of the County Land Use and Development Code (LUDC) and policies of the County Comprehensive Plan, including any applicable community or area plan. The following required findings in the County LUDC cannot be made for this project. Only findings that cannot be made are discussed below:

2.1 FINDINGS FOR ALL LAND USE PERMITS

2.1.1 The proposed development conforms:

- (1) To the applicable provisions of the Comprehensive Plan including any applicable community or area plan; and**
- (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).**

The Commission finds that the proposed development does not conform to the Santa Ynez Valley Community Plan, as discussed in Section 2.0 of the memorandum, dated September 22, 2020 and incorporated herein by reference. The proposed greenhouse is not compatible with the surrounding area due to its size, scale, and excessive lighting.

ATTACHMENT B: NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Ben Singer, Planning and Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County guidelines for the implementation of CEQA.

APN: 137-140-033

Case No.: 19LUP-00000-00469

Location: 988 Fredensborg Canyon Rd. in the Solvang Area, Third Supervisorial District.

Project Title: Decker Greenhouse

Project Applicant: Steven Decker

Project Description:

The project is for construction of a 15,648 sq. ft. greenhouse for vegetable cultivation. The greenhouses would have a maximum height of 20 feet. The project includes the demolition/removal of 3,329 sq. ft. of existing development. Proposed grading is 3,200 cubic yards of cut and 3,106 cubic yards of fill. No tree or vegetation removal is proposed. Access would continue to be provided from an existing private driveway off of Fredensborg Canyon Road. Proposed parking includes 11 new spaces (1 ADA). Approximately 6 full-time employees will be working 8am - 5pm Mon-Fri and occasional Saturdays. Project includes 3,930 square feet of new landscaping. The project includes a new private septic system. Water will provided by a new agricultural/domestic water well. The project is located on a 5.24-acre parcel zoned AG-I-5 shown as APN 137-140-033 and addressed as 988 Fredensborg Canyon Road, Solvang, CA 93463, Third Supervisorial District.

Name of Public Agency Approving Project: Santa Barbara County

Name of Person or Agency Carrying Out Project: Steven Decker, Property Owner

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption(s)
- Emergency Project

Cite specific CEQA and/or CEQA Guideline Section: Section 15061(b)(4) and Section 15270(a)

Reasons to Support Exemption Findings: CEQA Guidelines Section 15061(b)(4) states that a project is exempt from CEQA if “the project will be rejected or disapproved by a public agency.” Furthermore, CEQA Guidelines Section 15270(a) states that “CEQA does not apply to projects which a public agency rejects or disapproves.” The project is recommended for disapproval and therefore CEQA Section 15061(b)(4) and Section 15270(a) apply.

Lead Agency Contact Person: Ben Singer, Planner **Phone No.:** (805) 934-6587

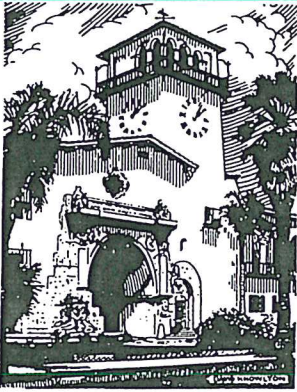
Department/Division Representative: _____ **Date:** _____

Acceptance Date: _____

Note: A copy of this form must be posted at P&D six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35-day statute of limitations on legal challenges.

Distribution: Hearing Support Staff, Case File

Date Filed by County Clerk: _____



COUNTY OF SANTA BARBARA CALIFORNIA

PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU ST.
SANTA BARBARA, CALIF. 93101-2058
PHONE: (805) 568-2000
FAX: (805) 568-2030

October 9, 2020

Stephen Jacobs
1690 Fredensborg Way
Solvang, CA 93463

PLANNING COMMISSION
HEARING OF OCTOBER 7, 2020

RE: Jacobs Appeal of the Decker Greenhouse; 20APL-00000-00011

Hearing on the request of Stephen Jacobs, Appellant, to consider Case No. 20APL-00000-00011 [application filed on June 16, 2020], an appeal the Director's approval of Case No. 19LUP-00000-00469, which authorized the construction of a 15,648 square foot greenhouse for the cultivation of vegetables. The appeal was filed in compliance with Chapter 35.102 of the Land Use and Development Code. The subject property is zoned AG-I-5 and is located at 988 Fredensborg Canyon Road, Solvang area (Assessor Parcel No. 137-140-033), Third Supervisorial District. (Continued from 8/05/20)

Dear Mr. Jacobs:

At the Planning Commission hearing of October 7, 2020, Commissioner Cooney moved, seconded by Commissioner Bridley and carried by a vote of 5 to 0 to accept a late submittal from Steve Decker into the record.

Commissioner Parke moved, seconded by Commissioner Ferini and carried by a vote of 5 to 0 to:

1. Uphold the appeal, Case No. 20APL-00000-00011;
2. Make the required findings for denial of the project (Case No. 19LUP-00000-00469) as specified in Attachment A of this memorandum, including CEQA findings;
3. Determine that denial of the project (Case No. 19LUP-00000-00469) is exempt from CEQA pursuant to State CEQA Guidelines Sections 15061(b)(4) and 15270(a) included as Attachment B to this memorandum; and
4. Deny the project, Case No. 19LUP-00000-000469.

REVISIONS TO THE FINDINGS FOR DENIAL

Finding 1.0 is revised as follows:

1.0 CEQA FINDINGS

The County Planning Commission (Commission) finds that the proposed project is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061(b)(4) and Section 15270(a). More specifically, a project is exempt from CEQA environmental review if the project will be rejected or disapproved by a public agency. As discussed in the memorandum from staff to the Planning Commission, dated ~~September 22, 2020~~ September 24, 2020, incorporated herein by reference, and in the administrative findings set forth below, the project is denied by the Commission because certain findings cannot be made to approve the project.

Finding 2.1.1 is revised as follows:

2.1.1 The proposed development conforms:

- (1) To the applicable provisions of the Comprehensive Plan including any applicable community or area plan; and**
- (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).**

The Commission finds that the proposed development does not conform to the Santa Ynez Valley Community Plan, as discussed in Section 2.0 of the memorandum, dated ~~September 22, 2020~~ September 24, 2020 and incorporated herein by reference. The proposed greenhouse is not compatible with the surrounding area due to its size, scale, and excessive lighting.


The attached findings and conditions reflect the Planning Commission's actions of October 7, 2020.

The action of the Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on Monday, October 19, 2020 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$701.06 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA at the same time the appeal is filed.

Sincerely,



Jeff Wilson
Secretary to the Planning Commission

cc: Case File: 20APL-00000-00011
Planning Commission File
Owner: Steve Decker, 988 Fredensborg Canyon Road, Solvang, CA 93463
County Chief Appraiser
County Surveyor
Fire Department
Flood Control
Community Services Department
Public Works
Environmental Health Services
APCD
Joan Hartmann, Third District Supervisor
John Parke, Third District Planning Commissioner
Jenna Richardson, Deputy County Counsel
Ben Singer, Planner

Attachments - Attachment A - Findings

JW/dmv

G:\GROUP\PERMITTING\Case Files\APL\2020s\20 cases\20APL-00000-00011 Jacobs Appeal of Decker Greenhouses\10-7 Planning Commission\10-07-20actltr.doc

ATTACHMENT A: FINDINGS

2.0 CEQA FINDINGS

The County Planning Commission (Commission) finds that the proposed project is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061(b)(4) and Section 15270(a). More specifically, a project is exempt from CEQA environmental review if the project will be rejected or disapproved by a public agency. As discussed in the memorandum from staff to the Planning Commission, dated September 24, 2020, incorporated herein by reference, and in the administrative findings set forth below, the project is denied by the Commission because certain findings cannot be made to approve the project.

3.0 ADMINISTRATIVE FINDINGS

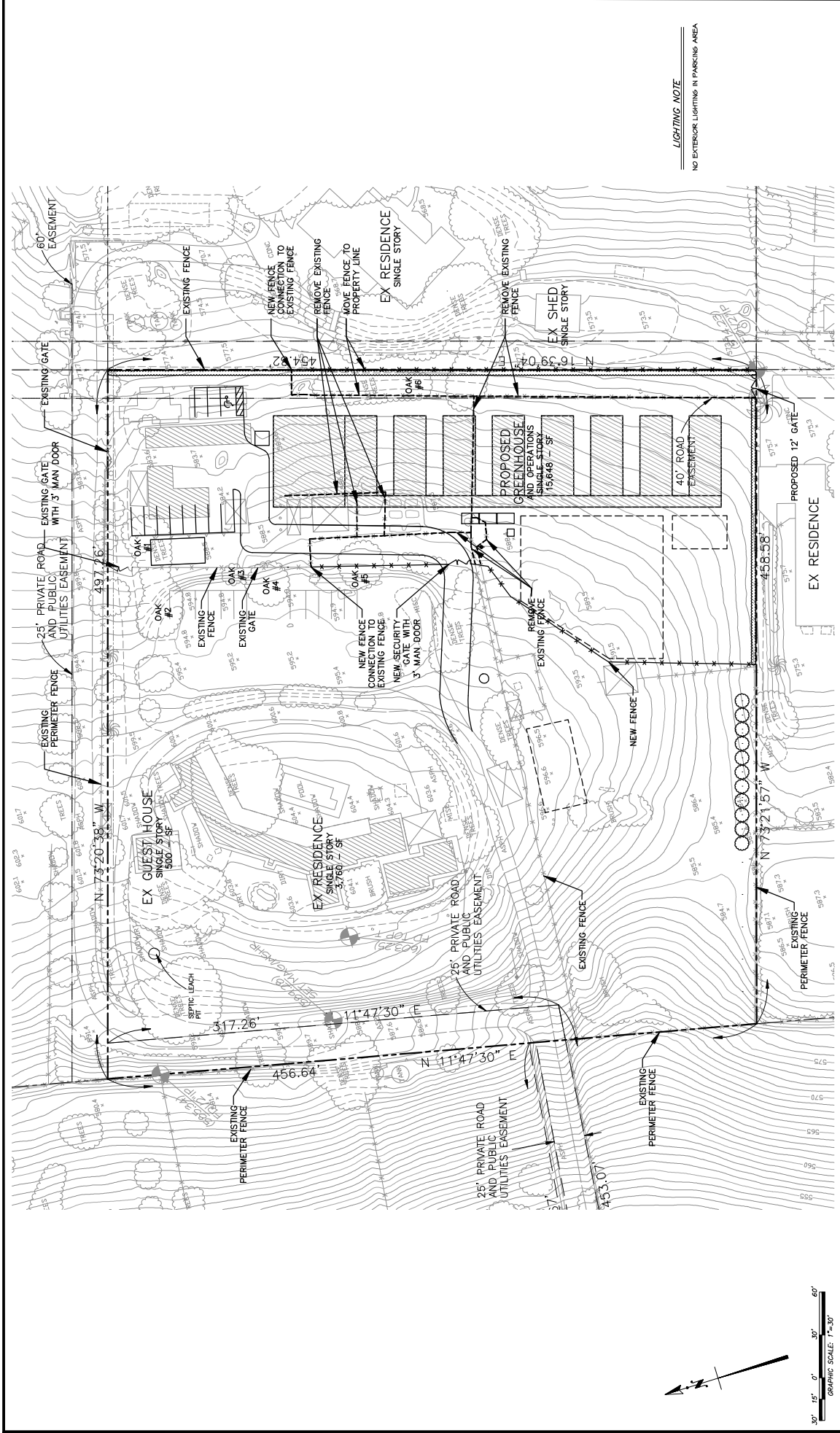
In order for a Land Use Permit for new development to be approved, the proposed development must comply with all applicable requirements of the County Land Use and Development Code (LUDC) and policies of the County Comprehensive Plan, including any applicable community or area plan. The following required findings in the County LUDC cannot be made for this project. Only findings that cannot be made are discussed below:

2.1 FINDINGS FOR ALL LAND USE PERMITS

2.1.1 The proposed development conforms:

- (3) To the applicable provisions of the Comprehensive Plan including any applicable community or area plan; and**
- (4) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).**

The Commission finds that the proposed development does not conform to the Santa Ynez Valley Community Plan, as discussed in Section 2.0 of the memorandum, dated September 24, 2020 and incorporated herein by reference. The proposed greenhouse is not compatible with the surrounding area due to its size, scale, and excessive lighting.



LIGHTING NOTE
NO EXTERIOR LIGHTING IN PARKING AREA



STEVE DECKER GREENHOUSE PROJECT 988 FREDENSBORG CANYON RD, SOCLING CA, 93463 A.P.N. 137-140-023		SHEET <u>7</u> OF <u>12</u>
COUNTY OF SANTA BARBARA PLANNING AND DEVELOPMENT		PROJ. NO. _____ PLAN. NO. _____
LEAVIS ENGINEERING 1102 E MAIN STREET, SUITE 100 VENTURA, CALIFORNIA 93003 		DATE _____ BY _____ CHECKED BY _____
02/17/19		DIVISION _____ EXAMINATION _____
1 PLANNING AND DEVELOPMENT NOTATIONS		DATE
2		DATE
3		DATE
4		DATE
5		DATE