



# Appeal Application

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

099-150-016

ASSESSOR'S PARCEL NUMBER(S)

End of Sweeney Road, Lompoc, CA

PROPERTY ADDRESS (IF APPLICABLE)

Cargasacchi Ranch

BUSINESS/ESTABLISHMENT NAME (IF APPLICABLE)

### STEP 2: PROJECT DETAILS

Blanco Grading for Access Road Improvements

PROJECT TITLE

15LUP-00000-00072; 24APL-00004

CASE NO(S).

County Planning Comm  July 10, 2024

DECISION MAKER

DATE OF ACTION

Is the appeal related to cannabis activities?  Yes  No

### STEP 3: APPEAL CONTACTS

#### APPELLANT

**John Cargasacchi**

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

137 E. Anapamu Street

STREET ADDRESS

Santa Barbara, CA 93101

CITY, STATE ZIP

805.560.9833 epmlawsb@gmail.com

PHONE EMAIL

#### AGENT

**E. Patrick Morris**

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

137 E. Anapamu Street

STREET ADDRESS

Santa Barbara, CA 93101

CITY, STATE ZIP

805.560.9833 epmlawsb@gmail.com

PHONE EMAIL

#### ATTORNEY

**E. Patrick Morris**

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

137 E. Anapamu Street

STREET ADDRESS

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805.560.9833 epmlawsb@gmail.com

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### STEP 4: APPEAL DETAILS

Is the Appellant the project Applicant?  Yes  No

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

I am a co-owner of the property to be developed in 15LUP-00000-00072, APN 099-150-016.

I am a co-owner of the easement claimed as the basis for the permits.

I am a lessor of the agricultural land to be graded in 23GRD-00221.

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

- Why the decision or determination is consistent/inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law;
- There was error or abuse of discretion;
- The decision is not supported by the evidence presented for consideration;
- There was a lack of a fair and impartial hearing; or
- There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- Coastal Zone – Accessory Dwelling Unit appeals: Appellant must demonstrate that the project is inconsistent with the applicable provisions and policies of the certified Local Coastal Program or that the development does not conform to the public access policies set forth in the Coastal Act.

See Attachment to this Appeal with Exhibits, and such other and further documents as may timely be provided prior to any hearing.

RECEIVED  
 2024 JUL 22 P 3:23  
 Santa Barbara County Planning and Development Department


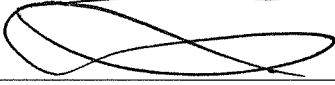

**STEP 5: APPELLANT, AGENT, AND ATTORNEY ACKNOWLEDGEMENTS**

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

1. I have carefully reviewed and prepared the appeal application in accordance with the instructions; and
2. I provided information in this appeal application, including all attachments, which are accurate and correct; and
3. I understand that the submittal of inaccurate or incomplete information or plans, or failure to comply with the instructions may result in processing delays and/or denial of my application; and
4. I understand that it is the responsibility of the applicant/appellant to substantiate the request through the requirements of the appeal application; and
5. I understand that upon further evaluation, additional information/documents/reports/entitlements may be required; and
6. I understand that all materials submitted in connection with this appeal application shall become public record subject to inspection by the public. I acknowledge and understand that the public may inspect these materials and that some or all of the materials may be posted on the Department’s website; and
7. I understand that denials will result in no refunds; and
8. I understand that Department staff is not permitted to assist the applicant, appellant, or proponents and opponents of a project in preparing arguments for or against the project; and
9. I understand that there is no guarantee – expressed or implied – that an approval will be granted. I understand that such application must be carefully evaluated and after the evaluation has been conducted, that staff’s recommendation or decision may change during the course of the review based on the information presented; and
10. I understand an aggrieved party is defined as any person who in person, or through a representative, appears at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either; and
11. Pursuant to California Civil Code Section 1633.5(b), the parties hereby agree that where this Agreement requires a party signature, an electronic signature, as that term is defined at California Civil Code Section 1633.2(h), shall have the full force and effect of an original (“wet”) signature. A responsible officer of each party has read and understands the contents of this Agreement and is empowered and duly authorized on behalf of that party to execute it; and
12. I understand that applicants, appellants, contractors, agents or any financially interested participant who actively oppose this project who have made campaign contributions totaling more than \$250 to a member of the Planning Commission or Board of Supervisors since January 1, 2023, are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount and date of the campaign contribution and identify the recipient Board member and may be made either in writing as part of this appeal, in writing to the Clerk of the legislative body before the hearing, or by verbal disclosure at the time of the hearing; and
13. If the approval of a Land Use Permit required by a previously approved discretionary permit is appealed, the applicant shall identify:
  - How the Land Use Permit is inconsistent with the previously approved discretionary permit;
  - How the discretionary permit’s conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed;
  - How the approval is inconsistent with Section 35.106 (Noticing).

**REQUIRED SIGNATURES:** All aggrieved parties must sign the appeal application prior to the appeal deadline in order to be considered an aggrieved party. Please attach additional signature pages, as needed.

I have read and understand the above acknowledgements and consent to the submittal of this application.

 SIGNATURE – APPELLANT	by <i>E. Patrick Morris</i> PRINT NAME	John Cargasacchi DATE
 SIGNATURE – AGENT	E. Patrick Morris PRINT NAME	July 22, 2024 DATE
 SIGNATURE – ATTORNEY	E. Patrick Morris PRINT NAME	July 22, 2024 DATE

**Appeals to the Planning Commission.** Appeals to the Planning Commission must be filed with Planning and Development no later than 10 days following the date of the decision, along with the appropriate fees. Please contact P&D staff below for submittal instructions and to determine the appropriate fee.

South County projects: [front@countyofsb.org](mailto:front@countyofsb.org) or (805) 568-2090  
 North County projects: [nczoning@countyofsb.org](mailto:nczoning@countyofsb.org) or (805) 934-6251

**Appeals to the Board of Supervisors.** Appeals to the Board of Supervisors must be filed with the Clerk of the Board and must be filed no later than 10 days following the date of the decision, along with the appropriate fees. Appeal instructions are located online at the Clerk of the Board website: <https://www.countyofsb.org/2837/Filing-Land-Use-Appeals-Claims>

SUMMARY STATEMENT OF JOHN CARGASACCHI  
FOR APPEAL OF PLANNING COMMISSION DENIAL OF 24APL00004

Appellant owns APN 099-150-016. He appeals from the Planning Commission's denial of 24APL00004. Inter alia, the Planning Department had could not approve plans that fail to comply with granted easement rights, because Henry Blanco was not legally an "applicant" for permits that alter his limited easement interest.

**Attachment to John Cargasacchi's Appeal  
of Planning Commission Denial of Appeal of 15LUP-00000-00072 &  
23GRD-00221 Approvals**

**1. The decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances and other applicable laws.**

The purposes of the Santa Barbara Zoning Ordinances is to provide for orderly planning and development consistent with the promotion of safety. The approved plans fall far short of these goals, particularly with regard to safety of citizens and first responders.

The Cargasacchi Ranch and Lakeview owners long ago privately provided for the orderly planning of access when they entered into an easement agreement titled "Memorandum of Agreement and Easement Location Document" ("MOA"). The MOA grants no ownership interest to anyone, as "ownership" is defined by law (all rights of land, to the exclusion of others.) Like all easements, the rights of the Dominant Tenement holder are rights of "use," not ownership.

The MOA defined easement restricts the rights of Blanco to a limited use of APN 099-150-016, owned by Appellant and other family members, to be exercised in concert with others. The MOA details what can be done within the located easement, the "easement rights" of Blanco and his co-owners. It did so 24 years ago in conjunction with input from the County of Santa Barbara. The MOA is detailed and specific about what can be built, when it can be built, how it can be built, and how it can be used. The plans as approved do not comply, in many respects, with the MOA, including what can be built, when it can be built, how it can be built, and how it can be used.

The MOA is the "blueprint" for the one agreed upon access road easement from the end of Sweeney Road to 39 parcels, some of which are legally developed and inhabited, others illegally developed but inhabited, and several of which are actively farmed.

The permit approved materially varies from the easement rights granted to "applicant" Blanco in the MOA easement he owns with others, whose rights to have the MOA road will effectively be eliminated if the Blanco plans for a different proceed within their easement. Further, his plans conflict with the rights of the landowners whose land will be affected, and those of their agricultural tenants who have crops in the ground pursuant to contracts with third parties. The property burdened with the easement is entitled to be only so burdened as its owners agreed to be.

The plans as submitted ignore and violate local and state wide standards for emergency ingress and egress by permitting not only a far lesser road than the MOA mandates, but one that is well below the minimum safety standards for access to 39 parcels and which, if allowed, will present a real and present danger to the safety of inhabitants, visitors, employees and first responders occupying over 15000 acres of steep hills with minimal internal roads.

Appellant does not know the entire process that went into the development of the current plans because some of the information was intentionally withheld from him, and he was not consulted regarding the plans nor allowed any meaningful input. He was forced to file a California Public Records Act demand to be allowed access to what files he was given

The 20 foot wide, unpaved road the County has permitted applicant to build is not the proper, or safe access the law requires, contrary to P&D's own mandate to act in the best interest of providing safe development to the citizens.

Santa Barbara Superior Court Judge Timothy Staffel ruled that Blanco is limited to building the road as it is detailed in the MOA, but subject to current access road standards being applied. The current plans do not comply with current access road requirements.

Blanco appealed Judge Staffel's ruling, and lost again. On his appeal, three judges of the Court of Appeal re-tried the case ("de novo" review). Again, Blanco lost.

The Court of Appeal not only agreed with Judge Staffel that Blanco's only easement rights are to build the MOA road (not some other road so long as it is within the MOA easement location), but found that he must do so according to the detailed terms of the MOA, because that is how easements work.

The MOA does not permit a gravel road, and the three judges of the Court of Appeal unanimously determined that Blanco must build a paved road, just like paragraph 3 of the MOA mandates. The current plans are for an unpaved road, designed to provide emergency access to no more than four parcels, not the 39 parcels the Blanco road, if built, will actually be used to access.

Thus, the LUP as approved does not meet current Santa Barbara access road standards (or current state standards), and provides grossly inadequate first responder access to 39 parcels, at least 7 of which are occupied, and others that are vineyards often with dozens of workers on site.

The proposed road, in addition to not complying with the limited easement rights Blanco obtained with the MOA, ignores the reality of the circumstances (serving 39 parcels) and callously creates an unreasonable risk to safety that is not compliant with County, or State Fire Marshal/Cal Fire requirements. If the permit goes forward, the County of Santa Barbara will have not blood, but charred bodies on its hands should the unnecessarily relaxed design requirements prove fatal.

In addition to outright ignoring safety laws, the grading and road as approved deviate materially from Blanco's limited easement rights, as declared by two separate courts. Permitting him to exceed his easement rights will be a government sanctioned taking of private land rights.

## **2. The Approval Is Based On Error of Law And Gross Abuse of Discretion**

Problem 1: Henry Blanco does not qualify as a "applicant" pursuant to LUDC 35.110. LUDC 35.110 defines an "applicant as (1) "the owner or lessee of he property." Blanco does not lease

any portion of APN 099-150-016. Therefore, he would need to qualify as an "owner," or have the owners' permission to modify the land. LUDC defines "owner" as having two concurrent rights "possession and control" of the land.

Blanco's concurrent MOA easement rights do not give him possession of any portion of APN 099-150-016. Like all "Dominant Tenement" owners, he has only a right of "use" of a portion of APN 099-150-016. His rights of "use" are only those granted by Appellant's predecessor to Blanco and the other Dominant Tenements as set forth in the MOA, and the MOA does not allow Blanco any "possession" of any part of APN 099-150-016. A "possession" interest in land is the right to exclude others. Blanco has no such right.

Blanco also cannot "control" any portion of APN 099-150-016. As noted by the courts, the MOA at paragraph 5 expressly leaves "control" of the easement area to the landowners ("servient tenement landowners") including Appellant.

Thus, the only way pursuant to LUDC 35.110 that Blanco can build any road is with the permission of the landowners, the "servient tenement owners." This he does not have for any road other than as specifically prescribed in the MOA.

Blanco, by the wording of Santa Barbara County's LUDC is not a legally permitted "applicant." The County is powerless to approve any uses of APN 099-150-016 he is not expressly authorized to use, even if the uses otherwise comply with all or some of the governing County regulations.

Problem 3: Lack of proper notice and opportunity to be heard. The other Dominant Tenements Owners were never notified about, or consulted about, construction within their easement, which is not a Blanco easement, it is an easement "for use in common with others." Some may have been notified, but not all, as my clients own 20% of the Lakeview lots and did not get notice as Lakeview owners, only as Cargasacchi Ranch owners (and then, only some of them) even though not all are Cargasacchi Ranch owners. The co-easement owners did not ever receive timely (or any) notice of the Commission hearing (check your records of notice).

Problem 4: Paragraph 3 of the MOA Easement rights/obligations document specifically requires that "the road shall be paved." Two courts have upheld this mandatory requirement specifically as to Blanco. "Shall" is a word of mandate, not option. The approved plans do not provide for paving, and Blanco has no easement rights to build an unpaved road.

Problem 5: Paragraph 4 of the MOA Easement rights/obligations document specifically requires that the Servient Tenement Owners "may place gates on the new road," but they were never consulted about the gates, and thus the gates are not provided for on the plans.

Problem 6: Paragraph 6 of the MOA Easement rights/obligations document specifically requires that the engineer designing the road "shall consult with Servient Tenements Owners in order to become familiar with the problems of surface flow on the Servient Tenement." "Shall" is a word of requirement. This requirement never happened. Blanco has no easement rights to build any road without conducting that mandatory consultation.

Problem 7: Paragraph 7 of the MOA Easement rights/obligations document specifically requires that the tractor crossings be at locations designated by the Servient Tenement Owners. As we all know, the Servient Tenement Owners not only were not consulted, the planning process was hidden from them. Likewise, the MOA Easement rights/obligations document mandates that there are to be three culverts to carry water lines, again at locations to be designated by the Cargasacchi Ranch owners. Same problem as the crossings: Blanco was allowed by the County to whatever he wanted without regard to his easement obligations to my clients, and has been supported by the County in so doing. Blanco has no easement rights to build any road without the required consultations and approvals.

Problems 7, 8 & 9: These three problems are encompassed by Paragraph 8 of the MOA Easement rights/obligations document. (7) Paragraph 8 specifically requires that the costs of "design, construction and *maintenance* of the road" shall be the legal responsibility of the Dominant Tenement Owners, and that this responsibility must be provided for "before the road is constructed." There is no provision for this easement mandate, which is not surprising as the County has always proceeded as if this was Blanco's "private driveway" when the easement rights clearly designate it otherwise. Given that the Dominant Tenement Owners were not even consulted about this plan, it is not surprising that this has not been provided for. Until it is, Blanco has no easement to start construction of any road. (8) Paragraph 8 also mandates that part of the plans include plans to remove the old road in portions. Again, there has been no compliance with this easement obligation, so Blanco has no easement rights to commence. (9) Finally, the paved road may only be constructed "between crop seasons, and must be completed by March 30th of the year in which construction occurs." The land over which the easement runs is presently leased, and has a crop planted on it. Additionally, March 30 of 2024 has already passed, prior to any construction, meaning Blanco cannot exercise his easement rights, even if he obtains them by fulfilling all his obligations, this calendar year. Again, this is one of those impediments created solely by the County's unilateral alliance with Blanco, which could long ago have been dealt with if the County had dealt openly and fairly with the affected landowners. There is plenty of time for Blanco to comply with his easement obligations, re-submit compliant plans (since it appears the County allows permit applications to remain open for many, many years at a time), but it appears the County is itching for a legal fight, just as Blanco has unsuccessfully pursued since 2017.

Problem 10: Paragraph 9 of the MOA Easement rights/obligations document specifically requires insurance to be extended by all parcels using the road before they can use it. While the County, particularly Santa Barbara County Fire, turned a blind eye to the fact that 39 parcels, more than 4 of which are residentially occupied and others which are farmed with outside workers (all of whom who would need a road adequate for their rapid escape from a wildland fire while SBFD and mutual aid agencies are ingressing at the same time) treats this road as a "private driveway," which the easement rights Blanco claims are his to build it do not. It is a mutual access road serving 39 parcels, and those 39 parcels, starting with Blanco's, need to provide insurance to the Cargasacchi Ranch owners. This easement requirement also not having been met, Blanco has no easement rights.

Whatever Blanco's easement rights could be if he complied with the MOA, which are not for his private driveway in any event, they require that he, and others, fulfill obligations, or they cannot

exercise the easement that is conditioned on those obligations being performed. Because none of that has happened, Blanco has *no* easement rights to build the road as permitted in 15LUP00072 (or any road other than as mandated by the MOA)

**3. The Decision to Deny the Appeal Was Against the Manifest Weight of the Information Before the Planning Commission**

For months the Planning Commission had before it the MOA (which it dismissed as a mere “private agreement” with which the County need not concern itself); and Judge Staffel’s ruling expressly limiting Blanco’s easement right to building the MOA road as detailed in the MOA. The ruling of the Court of Appeal, making it absolutely clear what easement activities the County could approve, including that any easement road comply fully with the MOA, and be paved, was only issued January 12, 2024 and was promptly provided to the Director of planning by Appellant, but was apparently ignored.

As noted above, the Planning Commission, the County, and this Board are legally obligated to deal with the “private agreement” that forms an non-owner applicant’s only easement right. To ignore the words of an easement, “private” though it may be, is to ignore the superior rights of the landowner, whose private agreement defines what rights the non-landowner, like Blanco, has over the land of the owner of title. After all, the deed creating that land ownership is also a “private agreement.” Does the County believe it can also ignore deeds of ownership at its whim? Why then does it believe it can ignore the MOA?

In the short period of time that the Appellant had any input (which appears to be well after the matter had actually been decided), the Director and then the Commission were directed to the specific paragraphs of the MOA with which Blanco and/or his plans did not comply. Those MOA paragraphs are 3, 4, 6, 7, 8 & 9, Blanco’s easement rights of record. In these paragraphs, it is mandated that Blanco work with the Cargasacchi Ranch owners on the road design. He did not, even when the courts told him to do so. The County has ignored that requirement, not surprisingly as it refuses to work with the Cargasacchis either.

Perhaps had P&D and its “Director” actually involved all the affected parties, this gross abuse and the legal error(s) could have been avoided. P&D, just as it has for nearly 10 years, if not longer, chose to deal solely with Blanco, and evaded any opinions or facts to the contrary.

Why are we here again? What has changed, other than that in the ensuing 10 years two courts, and a total of four judges, have mandated the same result. Yet, the County ignores the MOA, ignores the law of easements, ignores the rights of the Cargasacchis, ignores the clear rulings of judges, and instead cozies up to Blanco, forging ahead by permitting Blanco to take the Cargasacchis' land for his own use.

**4. The Approved Plans Materially Interfere With Agricultural Lease Rights and By Their Conditions Appear to Mandate Use of Cargasacchi Ranch Land Outside the Easement Location**



**4. The Approved Plans Materially Interfere With Agricultural Lease Rights and By Their Conditions Appear to Mandate Use of Cargasacchi Ranch Land Outside the Easement Location**

Paragraph 8 of the MOA deals with the agricultural nature of the land to be disturbed, and mandates compliance with crop cycles. None of those requirements are in the plans or conditions of approval, and Blanco's contractors have told the Cargasacchis that they intend to do all the work forthwith.

The land over which Blanco is being permitted to grade is subject to a lease for growing crops, with a crop in the ground, and another planned during the leases, all pursuant to contracts between the tenant and those it supplies. Who is going to pay for the loss of a portion of that crop, and depriving the tenant of another crop? The County will, if it keeps up these shenanigans.

**CONCLUSION**

This appeal can only be **granted**, the current permit must be **denied**, and any permit for Blanco can only be for him **strictly to comply with the terms of the easement he was granted, as detailed in MOA**, just as the Board of Supervisors ordered following virtually the same appeal, only twenty years ago. Alternatively, the Board can, and should do exactly what it did 20 years ago when this issue was before it, approve the permit on the condition that it comply in all respects with the MOA.

It is time to solve safe, year round access to Lakeview Estates, just as all the affect landowners long ago agreed.

The Courts have correctly concluded that the solution has been right in front of everyone, for years, in the form of the MOA, but no governmental body or person(s) other than the Cargasacchi Ranch owners and the Cargasacchi Lakeview owners, have had the will to implement the MOA.

Now is the time to do so, or it is back to the courts where due process will prevail, as will the rules of easement law, all without "back room" deals and the bending of regulations, for what compensation remains to be seen, but that will be fully explored in any resulting litigation.

John Cargasacchi