

**Appeal of the  
Busy Bee's Organics, Inc.  
Cannabis Cultivation Land Use Permit**

**Case Nos. 19APL-00000-00030 and -00031;  
18LUP-00000-00496**

**Board of Supervisors Hearing  
March 17, 2020**



County of Santa Barbara  
Planning and Development  
Stephen Peterson, Senior Planner

# Vicinity Map





# Parcel Info & Surrounding Uses



N. Highway 246 EDRN

AG-I-20

AG-II-40

AG-II-40

Project Site

AG-II-40

AG-I-5

W. Buellton EDRN

AG-II-40

AG-II-100

# Background

- May 7, 2019, LUP approved by Director
- May 17, 2019, LUP appealed to the Planning Commission
- October 30 and November 7, 2019, PC Hearings
  - Denied appeal, Approved project 5-0 with conditions
- November 18, 2019, two appeals (opponents and applicant)

# Project Description

- 23-acre cannabis operation
  - 22-acres: outdoor cannabis cultivation
  - 1-acre: nursery, processing, and storage
- 22 acres under hoops
- Eight full-time employees, + 16 seasonal employees
- No limit on number of annual harvests
- One existing 2,700 sq. ft. greenhouse
- Two existing 320 sq. ft. agricultural storage buildings
- Two new 3,000 sq. ft. cannabis processing structures
- One new 1,080 sq. ft. well pump shade structure
- Hours: 7:00 a.m. – 4:00 p.m. Monday-Saturday



# Original Site Plan

1180 W Hwy 246					
Builton	Zip	93427	County	Santa Barbara	
34	37	23.9999	N Longitude	-120	13 30 W
34	37	23.9999	Dec. Long	-120.225	



North  
←

HIGHWAY 246  
791.54'

1,174.66'

100 0 50 100

EXISTING PERIMETER SCREEN TREES

FIRE TRUCK TURN AROUND SEE SHEET A103

SEPARATE TAX LOT W/ HISTORIC WELL

RV AREA

LIVESTOCK GRAZING AREA

RIPARIAN SETBACK

LIVESTOCK GRAZING AREA

RIPARIAN SETBACK

EXISTING PERIMETER SECURITY FENCING

FERTILIZER TANKS

ENTRANCE ROAD

BLDG C

TO HWY 246

D

D

DRIVEWAY ENTRANCE

D

T

C

T

B

A

E

E

ACCESS ROAD

2,308.70'

COMPOST AREA

4,000 SF

AGRICULTURAL SOUTHWEST FIELD #5

H01

H02

H03

H04

H05

H06

H07

H08

H09

H10

H11

H12

H13

H14

H15

AGRICULTURAL MIDDLE FIELD #2

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

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1,511.89'

EXISTING AG. STORAGE

EXISTING AG. STORAGE

EXISTING PERIMETER SCREEN TREES

EXISTING RESIDENTIAL WELL

EXISTING RESIDENCE

EXISTING MANAGER'S RESIDENCE

EXISTING GARAGE #1

EXISTING GARAGE #2

EXISTING STORAGE CONCRETE #1

EXISTING STORAGE CONCRETE #2

EXISTING HOOD HOUSES (3)

EXISTING FENCING

EXISTING HOOD HOUSES (3)

EXISTING AG. STORAGE

EXISTING AG. STORAGE

EXISTING OLIVE TREE

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# Comparison

	PC Conditioned Project	Applicant Proposal
Acres of cannabis	18	22
Acres of hoops	5	14
Hoop location	Along east and west property lines	Areas A, D, E, F
Drying onsite	No	Yes, if in a sealed building w/ odor control filtration
Handling of product	Flash-freeze or box and ship within 2 hours unless vacuum sealed	Options: flash freeze, box and ship or dry in sealed building, no time limit for shipping
Harvests	No staggered harvests	3 per year
Director Re-review	Yes	No



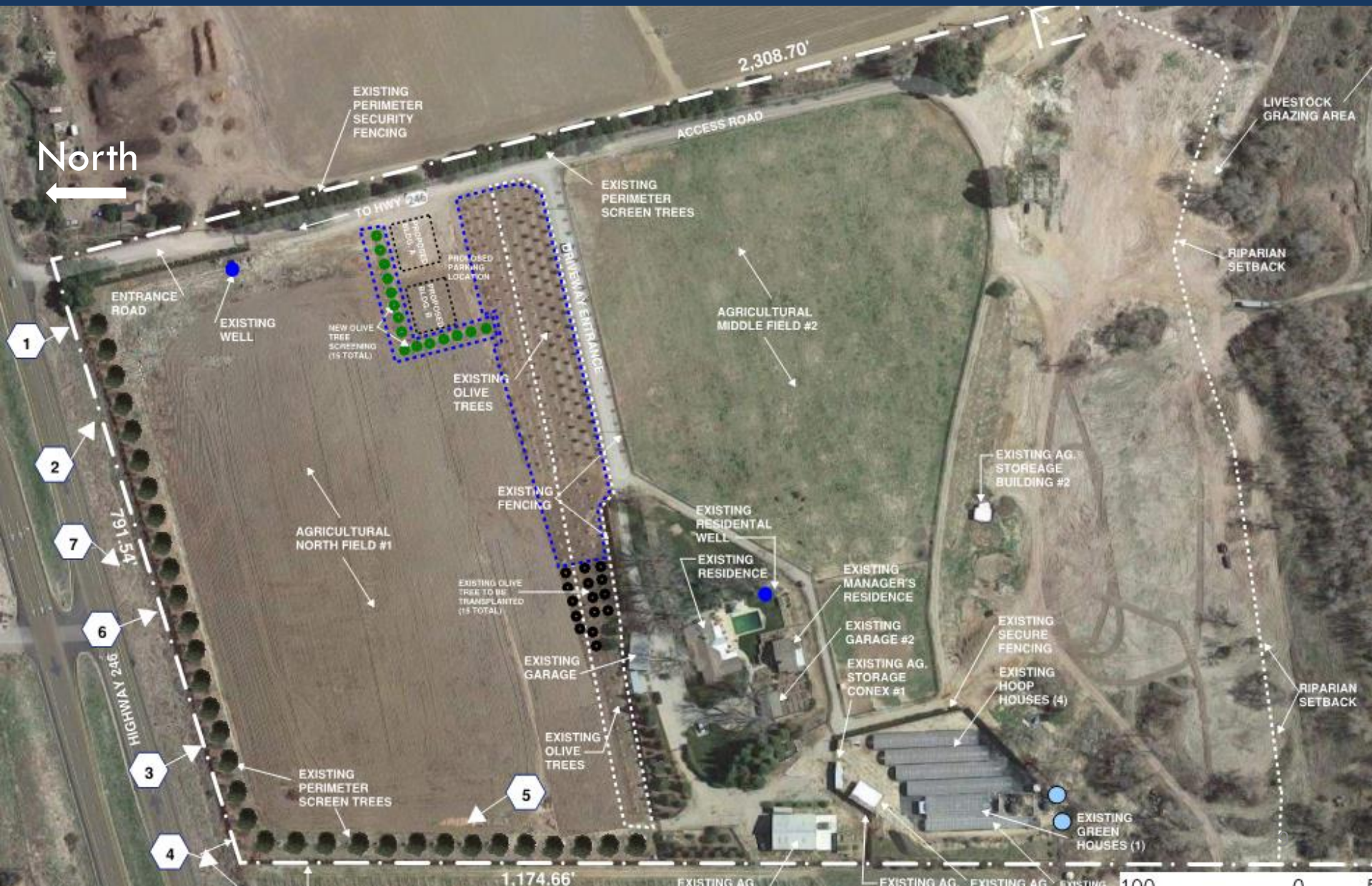
# Current View from Highway 246



Photos taken while driving eastbound on Highway 246



# Landscaping Plan





# Five-Year Landscape Projections





# Five-Year Landscape Projections



CURRENT LANDSCAPING



## LANDSCAPE SCREENING PLAN | 5-YEAR PROJECTION

Assuming 3' of growth laterally and vertically per year.

View from Hwy 246  
looking south

# Two Appeals

## **Applicant**

### **Busy Bee's Organics, LLC**

Appealing 4 conditions of approval

- Reduction and location of hoop structures
- Reduction in cannabis area
- Odor Abatement Plan
- Director review

## **Appellant**

### **SB Coalition for Responsible Cannabis**

Appealing 7 issues related to:

- Transparency/public involvement
- CEQA
- Findings
- Comprehensive Plan, Community Plan and LUDC consistency



# Applicant Appeal Issue #1

## Hoops

### **Appellant**

PC's condition reducing hoops from 22 acres to 5 acres, and requiring hoops along the east and west property lines is not feasible

### **Staff Response**

- PC's intent: to reduce visual impacts and protect cannabis from pesticide drift

# Applicant Appeal Issue #2

## Cannabis Area

### **Applicant**

Reducing cannabis area from 22 acres to 18 acres would be inconsistent with APAC determination

### **Staff Response**

- PC's intent: reduce project impacts by reducing cannabis acreage
- APAC considered presence of SY River and concluded 22 acres should be cultivated



# Applicant Appeal Issue #3

## Odor Abatement

### **Applicant**

Odor abatement conditions applied by the PC are impractical and would impair the proposed cannabis activities

### **Staff Response**

- PC's intent: to safeguard against odor impacts
- BOS has the discretion to determine adequate odor control measures

# Applicant Appeal Issue #4

## Director Review

### **Appellant**

The Director Review condition is unnecessary as the existing annual business license review process provides an avenue for regular re-review of the project

### **Staff Response**

- Annual Business License renewal provides for yearly review
- License may be suspended or revoked



# Appellant Appeal Issue #1

## Transparency / Public Involvement

### **Appellant**

There is a lack of transparency and public involvement in the County process

### **Staff Response**

- All legal noticing requirements have been fulfilled
- Mailed notice provided to 23 surrounding neighbors (within 1,000 feet)
- Placard posted
- Cannabis website

# Appellant Appeal Issue #2

## CEQA Review

### **Appellant**

County's CEQA review was inadequate, particularly terpene and pesticide drift were not considered

### **Staff Response**

- The Board of Supervisors certified the PEIR, given that it was prepared in accordance with State CEQA Guidelines Section 15168 and fully evaluated the Cannabis Program's environmental impacts
- The 30-day statute of limitations to challenge the adequacy of the PEIR has expired



# Appellant Appeal Issue #2

## CEQA Review (Continued)

### **Appellant**

Terpene drift not addressed in the PEIR

### **Staff Response**

- PEIR did analyze terpenes (BVOC's) in the context of odor impacts in the Air Quality section
- Impacts: Unavoidably significant
- Mitigation: Odor Abatement Plan requirement

# Appellant Appeal Issue #2

## CEQA Review (Continued)

### **Appellant**

Pesticide drift not addressed in the PEIR

### **Staff Response**

- CEQA analyzes the impact of the project on the environment, not the impact of the environment on the project
- California Department of Pesticide Regulations does not allow pesticide drift onto non-target crops or non-target private property
- Ag Commissioner's working group efforts (new guide)

# Appellant Appeal Issue #3

## Compatibility with Neighboring Ag

### **Appellant**

APAC did not review compatibility with neighboring agricultural uses

### **Staff Response**

- APAC reviewed and found the project consistent with the Uniform Rules on January 11, 2019
- § 2.1.1 Principles of Compatibility



# Appellant Appeal Issue #4

## Permit Path – CUP?

### **Appellant**

The project site should have been processed as a CUP because it is adjacent to an EDRN

### **Staff Response**

- Subject parcel is not within or adjacent to an EDRN

# Appellant Appeal Issue #5

## Comp Plan, SYVCP and LUDC Consistency

### **Appellant**

The project violates a number of SYVCP, LUDC and Comprehensive Plan Policies.

### **Staff Response**

- As outlined in Attachments 16 (PC version) and 17 (Applicant version) the project conforms to the Comp Plan, SYVCP and LUDC

# Appellant Appeal Issue #6

## H-2A Ag Workers

### **Appellant**

Finding 2.1.1 “that adequate public or private services or resources are available to serve the proposed development” cannot be made because portable toilets would be provided by the H-2A program, but H-2A is impermissible for cannabis cultivation under Federal law

### **Staff Response**

- Findings have been revised to remove mention of the H-2A program
- Project proposes permanent and temporary restrooms, subject to the approval of EHS



# Appellant Appeal Issue #7

## Expanded Past Legal Non-Conforming Size

### **Appellant**

Finding 2.1.2 “the subject property is in compliance with all laws, regulations and rules...” cannot be made because the existing cannabis operation expanded beyond its existing legal nonconforming size and therefore was not in compliance with the law

### **Staff Response**

- LUP approved in May 2019 authorized the existing cannabis operation
- As conditioned, project is compliant with all laws, rules and regulations pertaining to zoning, allowed uses, subdivisions, setbacks and all other applicable provisions of the LUDC

# Recommended Action (PC)

Board's motion should include the following:

1. Deny the appeals, Case No. 19APL-00000-00030 and 00031;
2. Make the required findings for approval of the project, including CEQA findings; (Attachment I)
3. Determine that previously certified Program Environmental Impact Report (PEIR) (17EIR-00000-00003) is adequate and no subsequent environmental review is required pursuant to CEQA Guidelines Sections 15162, and 15168 (c)(2); and
4. Grant *de novo* approval of the project Case No. 18LUP-00000-00496, subject to the conditions in Attachment 2A

# Recommended Action (Applicant)

Board's motion should include the following:

1. Uphold the appeals by Busy Bee Organics, Inc., Case No. 19APL-00000-00030;
2. Deny the appeal by SB County Coalition for Responsible Cannabis, Case No. 19APL-00000-00031
3. Make the required findings for approval of the project, including CEQA findings; (Attachment 1)
4. Determine that previously certified Program Environmental Impact Report (PEIR) (17EIR-00000-00003) is adequate and no subsequent environmental review is required pursuant to CEQA Guidelines Sections 15162, and 15168 (c)(2); and
5. Grant *de novo* approval of the project Case No. 18LUP-00000-00496, subject to the conditions in Attachment 2B



# End of Presentation

## Questions?