

Applicant Appeal of the Planning Commission Denial of the West Coast LLC Cannabis Cultivation Project

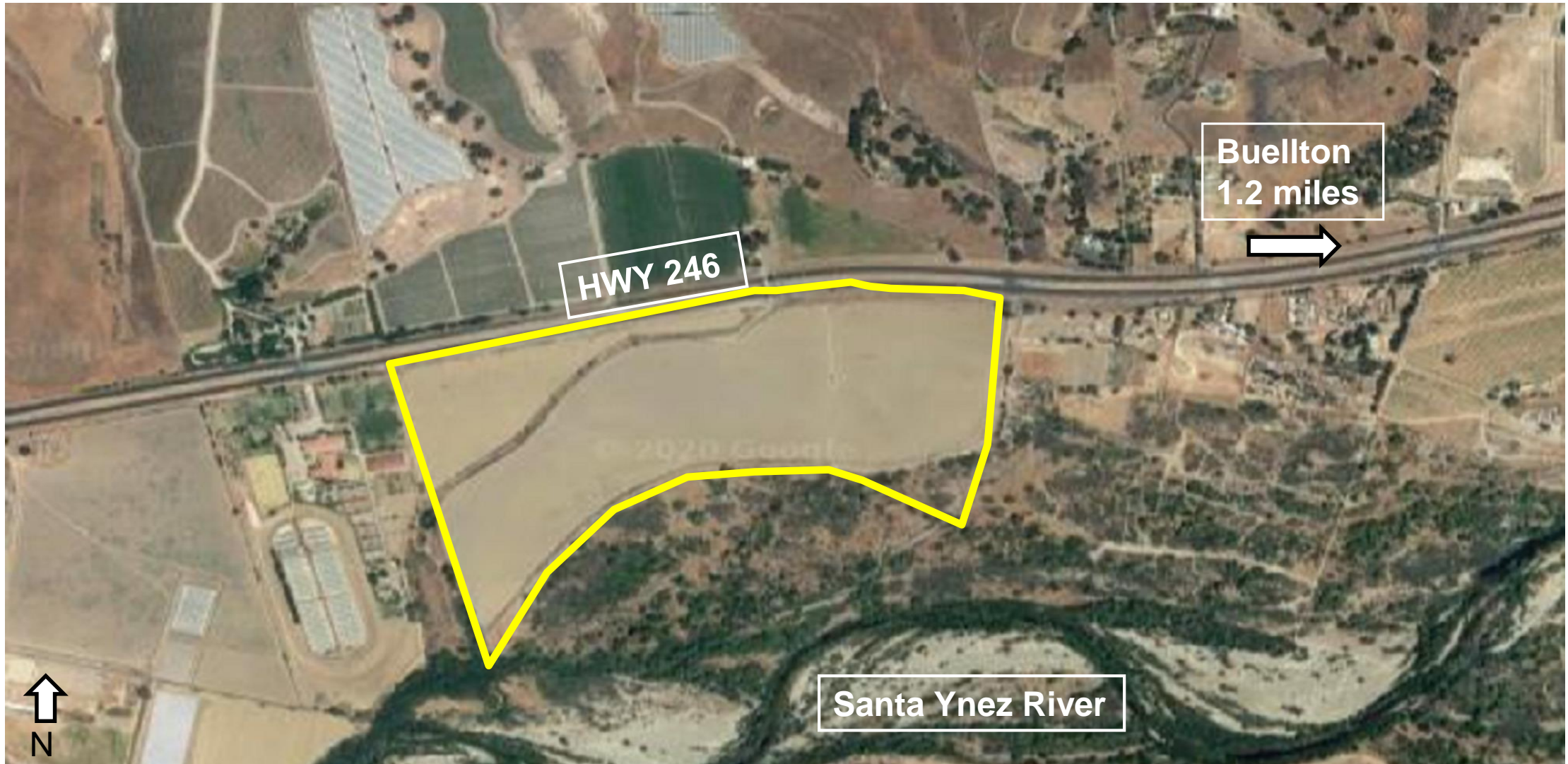
Case Nos. 19APL-00000-00036 and
19LUP-00000-00064

Santa Barbara County Board of Supervisors
April 21, 2020



County of Santa Barbara
Planning and Development
Kathryn Lehr

Vicinity Map



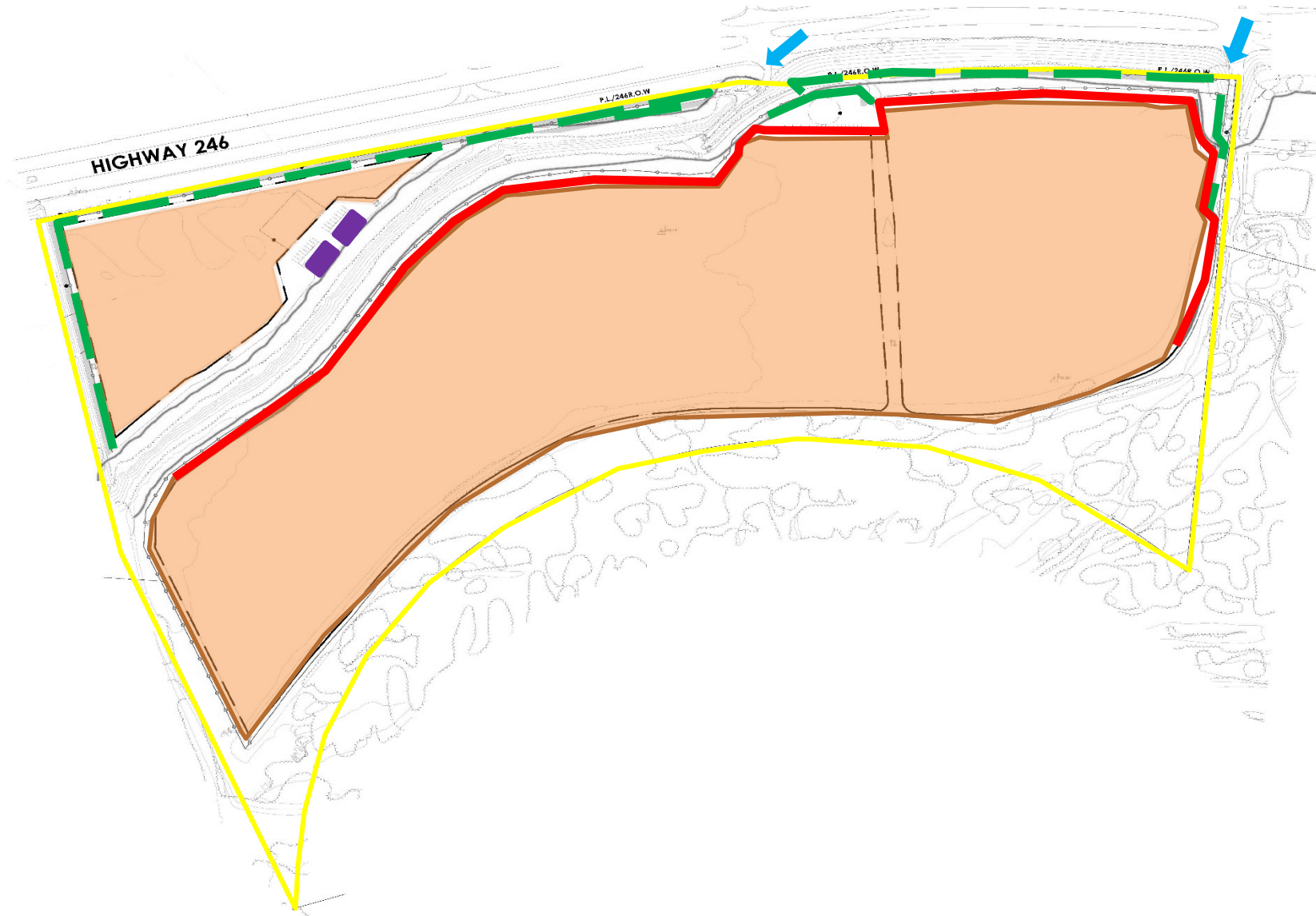
Proposed Project

- 73 acre parcel, zoned AG-II
- Historically under agricultural production
- Approximately 50-acres of cannabis cultivation
 - 46.12 acres of outdoor cultivation
 - 4 acres of nursery and processing structures
 - Two 3,000 square foot agricultural accessory structures
- Access directly off Highway 246
- 10 full time staff and an additional 20 staff during harvest
- All cannabis products grown and processed onsite

Project Timeline

- **April 26, 2019** – Land Use Permit was approved
- **May 6, 2019** – Land Use Permit was appealed
- **November 6, 2019** – Planning Commission Hearing
- **December 4, 2019** – Planning Commission Hearing
- **December 12, 2019** – Applicant filed timely appeal

Site Plan



Appeal Issues Raised

1. Proposed Project is consistent with applicable goals, policies, and regulations, including:
 - Aesthetics and Visual Resources
 - Agricultural Resources
 - Odor
2. Planning Commission was inconsistent in their denial
3. Cumulative Impacts
4. Economic Impacts

Appeal Issue #1

Appellant:

- Project is consistent with **aesthetics and visual resource** goals, policies, and regulations
- Landscaping is proposed along northern property line
- Proposed landscaping would be comprised of native plants

Staff Response:

- The proposed Landscape and Screening Plan meets LUDC requirements
- The CBAR reviewed the proposed Landscape and Screening Plan and the Applicant has incorporated CBAR's comments
- Land Use Permit Condition 8 requires final CBAR approval

Appeal Issue #1

Appellant:

- Consistent with **agricultural resources** goal, policies, and regulations
- Policy I.B. of the Agricultural Element compels the County to recognize the Applicant’s rights of operation, freedom of choice as to the methods of cultivation, and the choice to grow cannabis.

Staff Response:

- Pesticide drift is not allowed under rules set forth by the California Department of Pesticide Regulation.
- Cannabis cultivation is considered an agricultural use pursuant to the Uniform Rules and qualifies as “agriculture” pursuant to the Land Use Element and LUDC

Appeal Issue #1

Appellant:

- Consistent with **Odor** Goal, Policies, and Regulations
- The proposed odor mitigation system is a Byers waterless vapor phase system that was specifically designed for the proposed project
- The Odor Abatement Plan (OAP) includes all information as required by the SYVCP as well as the Byers System

Staff Response

- SYVCP requires the development of an Odor Abatement Plan (OAP)
- Condition 8 of the Land Use Permit requires OAP analysis and certification from licensed engineer or industrial hygienist

Appeal Issue #2

Appellant:

- The Planning Commission was inconsistent with their denial
- Granted *de novo* approval for two projects subject to project-specific conditions
- All projects had numerous similarities, including: outdoor cannabis cultivation, landscaping along Highway 246, and perimeter fencing

Staff Response:

- Planning Commission exercised discretion to determine project consistency with the ordinance and applicable policies
- The Board has the discretion to determine whether the findings for approval or denial can be made

Appeal Issue #3

Appellant:

- Project denial was based, in part, on *de novo* approval of neighboring projects and cumulative impacts

Staff Response:

- The Programmatic Environmental Impact Report (PEIR) acknowledged the potential for significant impacts and that future cannabis cultivation would likely occur along Highway 246
- The proposed project falls within the scope of the PEIR

Appeal Issue #4

Appellant:

- Cannabis cultivation projects will have a positive economic impact

Staff Response:

- Economic impacts are not a consideration for permit approval

Environmental Review

CEQA Guidelines §15162 and §15168(c)(4)

- All environmental impacts of the proposed commercial cannabis operation are within the scope of the PEIR and subsequent review is not required
- No substantial changes are proposed which will require major revisions of the previous EIR
- No substantial changes have occurred with respect to the circumstances under which the project is undertaken
- No new information of substantial importance, which was not known and could not have been known at the time of PEIR preparation shows potential for new significant or more severe impacts, and mitigation measures or alternatives previously found not to be feasible would in fact be feasible

Recommended Actions (1)

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

Recommended Actions (2)

- a. Uphold the appeal, Case No. 19APL-00000-00036;
- b. Make the required findings, including CEQA findings, for approval of the revised project, Case No. 19LUP-00000-00064 (Attachment 3);
- c. Determine that the previously certified PEIR (17EIR-00000-00003) (Attachment 10) constitutes adequate environmental review as discussed in Attachment 5 and no subsequent Environmental Impact Report or Negative Declaration is required pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2); and
- d. Grant *de novo* approval of the revised project, Case No. 19LUP-00000-00064, subject to the conditions of approval included in Attachment 4, *as revised by the Board of Supervisors on April 21, 2020* .