



PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: 1180 W Hwy 246, Buellton, CA 93427

ASSESSOR PARCEL NUMBER: 099-240-072, -010

Are there previous permits/applications? no yes numbers: 18LUP-00000-00496
(include permit# & lot # if tract)

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

Are there previous environmental (CEQA) documents? no yes numbers: Sect. 15168(c)(4)

1. **Appellant:** Busy Bee's Organics Phone: 917-886-7989 FAX: _____

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Street City State Zip

2. **Owner:** Sara Rotman Phone: 917-886-7989 FAX: _____

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3. **Agent:** Suzanne Elledge Planning & Permitting Services, Inc. Phone: 805-966-2758 FAX: _____

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4. **Attorney:** Brownstein Hyatt Farber Schreck, LLP Phone: 805-882-1405 FAX: _____

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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
BOARD OF SUPERVISORS
2019 NOV 18 PM 2:09

ATTACHMENT A
BUSY BEE'S ORGANICS APPEAL
November 18, 2019

Busy Bee's Organics, project applicant, hereby appeals certain conditions as adopted by the County Planning Commission on November 7, 2019, as part of its approval of Busy Bee's Organics application for a Land Use Permit (18LUP-00000-00496). Busy Bee's Organics does not appeal the approval, and accepts the large majority of the thirty-five (35) conditions imposed on the project including the new buffer requirement, but is taking this opportunity to address certain conditions that result in conflicts with other County and State requirements on cannabis operations, or impair agricultural productivity on the site. The purpose of the proposed revisions to the conditions identified below is to ensure agricultural viability on this AG Preserve contracted property and achievable compliance with the conditions.

These conditions are:

Condition 3. Reduction in Hoop Structures. *The total amount of hoop structures shall be reduced to five acres. Hoop structures shall cover the planted cannabis areas along the eastern and western edges of the cannabis cultivation. Additional hoop structures may be allowed within the interior planted cannabis areas so long as the total of five acres of hoop structures is not exceeded. The project plans shall be revised to be consistent with this condition prior to issuance of the Land Use Permit. [Emphasis added]*

This condition was revised by the Planning Commission at their last hearing on the project and requires that hoop structures cover the planted cannabis areas along the eastern and western edges of the cannabis cultivation, and limits total area of hoop coverage to 5-acres. We understand that the intent of the condition is two-fold: 1) to protect the eastern and western edges of cannabis cultivation from pesticide overspray that might drift to the site from neighboring spraying operations, and 2) to limit total area of hoops to 5-acres.

The problem with the condition, as adopted, is that the eastern and western edges of cannabis cultivation run an intermittent linear length of approximately 2300 and 2400 feet. Compliance with the condition, assuming the property's standard hoop length of 200-feet along the eastern and western edges of cannabis cultivation, would result in a total of approximately 9 - 10 acres of hoops, exceeding the condition's 5-acre limit. The two different components of the condition are not aligned, and therefore, render the condition infeasible.

In addition, the Planning Commission imposed 100-foot buffers along the eastern and western property boundaries, within which no planted cannabis may be located (Condition 5). Busy Bee's Organics has accepted this condition and will comply with the 100-foot buffers along the eastern and western property boundaries, intended to address

the issue of compatibility with neighboring agricultural operations. Therefore, the requirement to also install hoop structures along the eastern and western edges of cannabis cultivation is redundant and is not aligned with Busy Bee's Organics farming practices. In addition, hoop structures along the eastern and western edges of the middle field (Field "B") would be the most visible from HWY 246. Busy Bee's Organics has no intention of installing hoop structures on Field B. (Refer to enclosed Site Plan)

During the Planning Commission Hearing, Busy Bee's Organics requested that the Commission allow hoops on the upper field and the lower fields identified as Fields "A", "D", and "E" in addition to the existing hoops in Area "F" (totaling 14-acres) because these areas are the most productive fields and also are areas that cannot be easily viewed from off-site. These fields are substantially screened from public views from HWY 246 by tall, dense landscaping and by the site's topography. Busy Bee's Organics has worked with the neighboring farming operations to address concerns and potential impacts of pesticide overspray, and does not believe that hoops along the entire eastern and western boundaries is necessary to address this concern.

Therefore, we request that the condition be revised to limit hoops to Fields A, D, E, and Area F with a maximum of 14-acres of hoop structures.

Condition 4. Reduction in Planted Cannabis Area. *The total area of planted cannabis shall be reduced to 18 acres. The project plans shall be revised to be consistent with this condition prior to issuance of the Land Use Permit.*

At their last hearing on the project, the Planning Commission reduced the project's cannabis cultivation area from 22 acres to 18 acres. The problem with this reduction is that the County's Uniform Rules for Agricultural Preserves require that this property, which is contracted under the Agricultural Preserve Program and contains prime soils, must maintain 50 percent of the premises (minus area that is considered a sensitive resource or other constraint) in commercial agricultural production. This equates to 22 acres for the Busy Bee's Organics property, which is why the LUP was originally approved for 22 acres of cultivation. Given that the primary commercial crop will be cannabis, it will be extremely challenging to commercially farm something other than cannabis at this property to make up the 4 -acre difference and remain in conformance with the County's Uniform Rules. It should be noted that the County's Cannabis Business License requires detailed information regarding all agricultural employees associated with the cannabis operation; we are not certain if non-cannabis agricultural employees on the premises would raise conflicts or issues with the Business License requirements.

Therefore, we request that the condition be revised to limit the total area of planted cannabis to 22 acres. This represents approximately 35% of the total property acreage.

Condition 15. Odor Abatement Plan. *The Applicant shall implement the Odor Abatement Plan stamped "Zoning Approved" (Attachment K to the Staff Report dated October 10, 2019). The Applicant shall follow the methods for reducing odors outlined in the Odor Abatement Plan, as follows:*

- 1. The Applicant shall not dry cannabis onsite.*
- 2. The Applicant shall harvest fresh plants and immediately flash freeze them in temporary freezers on wheels or to box and ship them as fresh cut flowers upon harvest.*
- 3. All plant material shall either be vacuum-sealed and flash frozen or shipped offsite within two hours of harvest.*
- 4. The Applicant shall not stagger harvest periods throughout the property.*
- 5. The Applicant shall grow genetics that feature citrus, pine and floral flavor profiles, reducing the potential for the 'skunk' odor anecdotally associated with cannabis cultivation.*
- 6. The only indoor cultivation onsite shall occur within the one existing greenhouse and is for plants in vegetative state only. These plants shall not be scheduled to mature to the flower stage and therefore shall not emit any odor.*

In keeping with their good-neighbor policies, Busy Bee's Organics submitted an Odor Abatement Plan that goes above and beyond the requirements of the County Ordinance and the Santa Ynez Valley Community Plan. During their last hearing on the project, the Planning Commission added the above conditions to the applicant-offered Odor Abatement Plan. These conditions, as presently written, could significantly impair agricultural operations in the future and are impractical.

Therefore, we request the following changes be made to the above conditions (condition as written in italics, and condition as proposed in bold):

- 1. The Applicant shall not dry cannabis onsite.*
- 1. The Applicant may dry cannabis onsite if the drying operations occur within a sealed building with appropriate filtering on any vents to prevent the escape of odors.**

Explanation: Although the Applicant currently uses flash freezing for preservation, that technique could become infeasible or uneconomical (e.g., the freezer fails during harvest) and new technologies likely will be developed to expedite drying. The purpose of the condition is to control odor and drying indoors with discharge air being properly filtered meets that objective.

- 2. & 3. The Applicant shall harvest fresh plants and immediately flash freeze them in temporary freezers on wheels or to box and ship them as fresh cut flowers upon harvest. All plant material shall either be vacuum-sealed or shipped offsite within two hours of harvest.*

- 2 & 3. The Applicant shall have a variety of options upon harvesting the crop, either (a) flash freezing them in temporary freezers; or (b) boxing and shipping them as fresh cut flowers upon harvest; or (c) placing in a sealed building with odor control for drying; or, (d) any combination of the foregoing methods. Regardless of the harvest method used, the crop shall be weighed within two hours of cutting in order to comply with State regulations.**

Explanation: The conditions as adopted, because of their frequent use of the word "shall" are internally conflicting. If an Applicant "shall" flash freeze, that precludes fresh flower shipping or indoor drying, and vice versa. The proposed condition combines all potential harvest treatments and includes the 2-hour requirement addressing odor concerns. The Planning Commission requirement to complete shipping offsite within 2 hours of harvest is impractical. The 2-hour requirement likely arose out of the State requirements pertaining to weighing within 2 hours of harvest. That is feasible and is mandatory.

4. *The Applicant shall not stagger harvest periods throughout the property.*
4. The Applicant shall conduct no more than three (3) harvests per year, each for an approximate 2-week period.

Explanation: As written, the condition is ambiguous, and we do not understand what is meant by "stagger harvest periods throughout the property". Does it mean that the harvest crews can't move around the property as they harvest, working in different spots on different days and even different spots on the same day? The condition as proposed is consistent with the approved Project Description (Condition 1), is clear and enforceable.

Condition 25. Director Review. *The Director shall review the Proposed Project two years after issuance of the Land use Permit Case No. 18LUP-00000-00496. The purpose of this review is to assess the effectiveness of the project conditions that address odor control and potential pesticide related conflicts with adjacent agricultural operations. The Director shall report back to the Planning Commission on the efficacy of these conditions and any required modifications to the conditions of approval.*

We understand that the objective of this condition, added at the last hearing, is to ensure that the conditions of approval that are designed to minimize impacts to the community and conflicts with adjacent agricultural operations are effective. However, there are already existing codified regulations contained in Chapter 50, Licensing of Cannabis Operations that meet this objective. The code currently requires that an operator obtain a business license every year from the County. As part of the annual business license review, the operation is reviewed by P&D staff, EHS, Fire, County Sheriff, and the AG Commissioner's Office to ensure that it complies with Chapter 50, Chapter 35 (including the Cannabis Development Standards), and the project conditions, among other

standards. Annual reporting and review are also required at the State level by the California Water Board and California Department of Food and Agriculture.

The renewal of a license can be denied pursuant to Santa Barbara County Code Section 50.20, Denial of renewal licenses, and Section 50-17, Grounds for denial of a business license.

Sec. 50-17, Grounds for Denial of a License, includes the following criteria:

“(d) The applicant's operations, energy conservation, equipment, inventory control, quality control, security waste management or cultivation plans, **or other information in the application are determined to be insufficient to maintain the health, safety and general welfare of employees or the public** or fail to comply with state law or the County Code by staff from the agricultural commissioner, fire, planning and development, community services, public health or sheriff's departments.” [emphasis added]

We and County Staff, as represented in their November 5, 2019 staff memo to the Planning Commission, believe that Chapter 50 is sufficiently broad to allow for the denial of a business license renewal if the CEO's office, with other departments, determines that the standards imposed upon the operation are “insufficient to maintain the health, safety, and general welfare of employees or the public”.

Furthermore, Sec. 50-26 *Suspension or revocation of a cannabis business license*, allows the CEO's office to suspend or revoke a business license, based on substantial evidence, if the land use entitlement is suspended or revoked or if the operator is “engaging in conduct that constitutes a nuisance, where the licensee has failed to abate the nuisance.”

The business license renewal process was specifically designed to continuously monitor operations and to ensure that the operator conform to the project's required conditions and ordinance standards and that impacts to the surrounding community and uses are avoided or minimized.

Therefore, we request that the condition be removed from the Land Use Permit.