



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 & Development
Department No.: 053
For Agenda Of: October 15, 2024
Placement: Departmental
Estimated Time: 45 min.
Continued Item: Yes
If Yes, date from: October 1, 2024
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director(s) (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Planning and Development
(805) 568-2518
SUBJECT: Appeal of the County Planning Commission Approval of the Sierra Botanicals, LLC – Cannabis Processing Project, Case Nos. 24APL-00020 and 22LUP-00000-00465, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Staff recommends that the Board of Supervisors take the following actions to deny the appeal and approve the Project:

- a) Deny the appeal, Case No. 24APL-00020;
- b) Make the required findings for approval of the Project, Case No. 22LUP-00000-00465, including California Environmental Quality Act (CEQA) findings included as Attachment 1 to this Board Letter;
- c) Determine that the previously certified Programmatic Environmental Impact Report (PEIR) (17EIR-00000-00003) is adequate and no subsequent Environmental Impact Report or Negative Declaration is required pursuant to CEQA Guidelines §15162 and 15168(c) (Attachments 3 and 4); and
- d) Grant approval of the Project, Case No. 22LUP-00000-00465, subject to the conditions of approval included as Attachment 2 to this Board Letter.

Summary Text:

Edward Seaman (hereinafter Appellant) requests a hearing to consider Case No. 24APL-00020, an appeal of the County Planning Commission's decision to approve the Sierra Botanicals, LLC – Cannabis

Processing Project. The appeal was filed on August 12, 2024, in compliance with Chapter 35.102 of the County Land Use and Development Code (LUDC).

Section A of this Board Agenda Letter contains a description of the prior actions related to the Project, Section B contains a detailed description of the Project scope, and Section C contains the Appellant's appeal issues and staff's responses. Staff reviewed the appeal and finds the issues raised are without merit. As discussed in Section 6.2 of the Planning Commission Staff Report (Attachment 6), the Project was appropriately reviewed under CEQA with preparation of a State CEQA Guidelines Section 15168(c)(4) Checklist (Attachment 4). Additionally, as discussed in Sections 6.3 and 6.4 of the Planning Commission Staff Report (Attachment 6), the Project is consistent with the Santa Barbara County Comprehensive Plan and applicable policies and standards set forth in the LUDC. The information included in the administrative record, including this Board Agenda Letter, supports approval of the Project.

A. Background:

On February 14, 2019, a Land Use Permit (Case No. 18LUP-00000-00525) was approved for approximately 2.3 acres of outdoor cannabis on the Project site. On October 31, 2022, Sierra Botanicals LLC (hereinafter Applicant) submitted an application for a Land Use Permit (LUP), Case No. 22LUP-00000-00465, to allow cannabis processing in addition to the permitted existing cannabis cultivation. In addition, the Applicant requested approval of various small structures consisting of a windscreen, additional fencing, and a 7' by 7' shade structure. The subject property is a 4.71-acre parcel, zoned AG-II-40. On April 26, 2024, the Planning and Development Department Director approved the Project, finding it within the scope of the project covered by the previously-certified PEIR (Case No. 17EIR-00000-00003), and consistent with all applicable policies and standards set forth in the Santa Barbara County Comprehensive Plan and Land Use and Development Code (LUDC).

On May 6, 2024, two timely appeals of the Director's approval were filed, citing inadequate water, odor impacts, setback issues, and lack of well access as the basis of the appeals. On July 31, 2024, the County Planning Commission considered all evidence set forth in the record¹ and took action to deny the appeal and grant *de novo* approval of the Project.

On August 12, 2024, the Appellant filed a timely appeal of the County Planning Commission's approval of the Project, citing the following issues as the basis of the appeal:

- The Project will allow for up to 60% of cannabis processed to be grown off-site, which is not a "minor change"; and
- The Project is inconsistent with the requirement for a minimum of 10% of the cannabis project distributed to be sourced from cannabis plant material cultivated on the same lot on which distribution activities will occur, and to be subordinate and incidental to the cultivation use of the lot.

Staff reviewed the appeal and finds that the appeal issues raised are without merit. Additionally, staff reviewed the Project in accordance with the LUP permit processing procedures provided in Section 35.82.110 of the LUDC, and findings for approval of the Project application can be made (Attachment 1).

B. Proposed Project:

¹ The staff report and hearing materials of the July 31, 2024, County Planning Commission hearing are available online at: <https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyyrrdhu3dgtkqy/folder/276403467737>

The Project is a request for a Land Use Permit to allow cannabis processing on a site with an existing, permitted cannabis operation. Cannabis processing will occur in an existing, permitted 3,149-square-foot barn and two existing, permitted 320-square-foot shipping containers. All processing areas will be equipped with carbon filters for the purpose of odor abatement. Processing will consist of drying, trimming, curing, storing, and packaging. Up to 60% of cannabis processed will be grown off-site. Up to ten permanent employees will be employed for processing. The barn and shipping containers were previously approved for agricultural support uses, storage, and cannabis nursery cultivation in the barn under Permit Number 18LUP-00525. Two of the 320-square-foot shipping containers approved under Permit Number 18LUP-00525 will be relocated on the Project site.

An existing windscreen along the northern property line will be validated under the Proposed Project. The windscreen is made of shade cloth attached to 4-inch oil pipe of approximately 10 feet in height. The windscreen is not attached to the security fencing. A new 7' x 7' shade structure will be located over an existing chemical storage tank. The Proposed Project will also reconfigure the parking area and fire truck turnaround. Additional six-foot-high chain link fencing will be added around the manager's residence. Four new parking spaces will be added, for a total of 15 spaces. Five parking spaces will be dedicated carpool spaces. Cannabis processing will occur from March to December. The hours of operation for processing activities will be 6:00 am to 6:30 pm.

Access to the Project site will continue to be taken via a private driveway off Highway 101. Water service will continue to be provided by a private well. A new private wastewater treatment system will be constructed to serve the barn. The Proposed Project includes less than 50 cubic yards of grading and does not include removal of trees or vegetation. The Project site is a 4.71-acre parcel zoned AG-II-40, shown as APN 083-430-015, and addressed as 1999 Hwy 101, Buellton, Third Supervisorial District.

C. Appeal Issues and Staff Responses:

Appeal Issue 1 – Project is Not a Minor Change

The Appellant asserts that the Project will allow for up to 60% of cannabis processed to be grown off-site, and will be distributed to places such as Salinas, Ventura, Sacramento, and San Diego, which is not a “minor change”.

Staff Response:

The Applicant is not requesting a “minor change” to their project. The Applicant applied for a Land Use Permit for the proposed processing, consistent with Section 35.42.075.7.a of the LUDC, which requires a Land Use Permit for “processing activities that will be added to existing commercial cannabis cultivation that is subject to an approved Land Use Permit for cannabis cultivation”. LUDC Section 35.84.040.G, Minor Changes to Land Use Permits for Commercial Cannabis Cultivation, states that the Director may approve a minor change to an approved Land Use Permit if it meets certain criteria. The Project does not meet the LUDC criteria for a minor change to the approved Land Use Permit for cannabis cultivation (Case No. 18LUP-00000-00525), and therefore a new Land Use Permit is required. The Applicant applied for a new LUP for the proposed processing, Case No. 22LUP-00000-00465, consistent with all LUDC code requirements.

The Proposed Project is consistent with all of the findings required for approval of an LUP (Attachment 1). As discussed in Sections 6.3 and 6.4 of the Planning Commission Staff Report (Attachment 6), the Project conforms with all applicable regulations, policies, and development standards from the Comprehensive Plan and the LUDC. The Proposed Project is consistent with policies regarding adequate services, agriculture, visual resources, hillside and watershed protection, noise, and groundwater resources, and with the intent, setbacks, height, and parking regulations for the AG-II Zone District as

well as all cannabis regulations applicable to the Proposed Project. There is no requirement for the cannabis processed to be grown on-site.

Appeal Issue 2 – Inconsistent with Distribution Requirements

The Appellant asserts that the Project is inconsistent with the requirement for a minimum of 10% of the cannabis project distributed to be sourced from cannabis plant material cultivated on the same lot on which distribution activities will occur, and to be subordinate and incidental to the cultivation use of the lot.

Staff Response:

The Proposed Project is consistent with all LUDC requirements. The Project is proposing processing only and is not proposing any distribution. There are no limits on the amount of cannabis that may be processed from offsite.

Section 35.42.075.D.2.a of the LUDC concerns distribution only, not processing. It states:

Cultivation limits. Distribution on a lot zoned AG-I or AG-II shall only be allowed as an accessory use to cannabis cultivation and shall comply with the following requirements:

- (1) A minimum of 10% of the cannabis product distributed shall be sourced from cannabis plant material cultivated on the same lot on which the distribution activities will occur.*
- (2) Distribution shall be subordinate and incidental to the cultivation use of the lot, and the area designated for distribution shall occupy a smaller footprint than the area that is designated for cultivation on the lot.*

Distribution is defined as “the procurement, sale, and transport of cannabis and cannabis products between licensees”. As stated above, the Applicant is not proposing to do distribution. Processed cannabis will be taken off-site and shipped to a distributor for final testing and packaging. All product will be distributed by a third-party vendor. Additionally, at least 40% of the cannabis processed will be grown on site, exceeding the 10% minimum.

Summary

The Proposed Project, which consists of cannabis processing activities in an existing barn and storage containers and structural development consisting of a windscreen, additional fencing, and a 7’ by 7’ shade structure, is consistent with the Santa Barbara County Comprehensive Plan and applicable policies and standards set forth in the LUDC for cannabis projects, as discussed in Sections 6.3 and 6.4 of the Planning Commission Staff Report (Attachment 6). The Proposed Project includes implementation of a Fencing and Security Plan (Attachment 8) to ensure the cannabis operation will be secured. The Proposed Project is consistent with the Landscape Plan and Screening Plan (Attachment 8) approved under the previously-approved permit for cannabis cultivation, Case No. 18LUP-00000-00525, and no landscaping will be removed as part of the Proposed Project.

Additionally, as discussed in Section 6.2 of the Planning Commission Staff Report (Attachment 6), the Proposed Project was appropriately reviewed under CEQA with preparation of a State CEQA Guidelines Section 15168(c)(4) Checklist (Attachment 4). The environmental impacts of the Proposed Project are within the scope of the project covered by the Programmatic Environmental Impact Report (PEIR) for the Cannabis Land Use Ordinance and Licensing Program (Case No. 17EIR-00000-00003; Attachment 3), and no subsequent Environmental Impact Report or Negative Declaration is required pursuant to CEQA Guidelines Section 15162.

Fiscal and Facilities Impacts:

Budgeted: Yes. Total costs for processing the appeal are approximately \$14,000.00 (45 hours of staff time). The costs for processing cannabis project appeals are partially offset by a fixed appeal fee and cannabis tax revenues. Funding for this Project is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on Page 317 of the County of Santa Barbara Fiscal Year (FY) 2024-25 Adopted Budget.

Special Instructions:

The Planning and Development Department shall publish a legal notice in the *Santa Ynez Valley News* at least 10 days prior to the hearing on October 15, 2024. The Planning and Development Department shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing, proof of publication, and return one printed copy of the Cannabis Program PEIR to the attention of Planning and Development Department: Hearing Support.

Attachments:

1. Findings
2. Land Use Permit with Conditions of Approval
3. Link to the Program Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program, 17EIR-00000-00003
4. CEQA Guidelines Section 15168(c)(4) Environmental Checklist
5. Appeal Application, dated August 12, 2024
6. Planning Commission Staff Report, dated July 23, 2024
7. Planning Commission Action Letter, dated August 2, 2024
8. Project Plans
9. Odor Abatement Memo
10. Facilitation Report, dated September 6, 2024

Authored by:

Willow Brown, Planner (805) 568-2040
Development Review Division, Planning and Development Department