BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	Planning and Development
Department No.:	053
For Agenda Of:	December 14, 2021
Placement:	Departmental
Estimated Time:	1.5 hrs. on December 14, 2021
Continued Item:	Yes
If Yes, date from:	October 19, 2021
Vote Required:	Majority

TO:	Board of Supervisors	
FROM:	Department Director(s)	Lisa Plowman, Director, Planning and Development (805) 568-2086
	Contact Info:	Travis Seawards, Deputy Director, Planning and Development (805) 568-2518
SUBJECT:	**Case No. 21APL-00000-00027, Bien Nacido Vineyards, et al. Appeal of the Planning Commission Approval of the Canna Rios, LLC Cannabis Cultivation Project, Case No. 19LUP-00000-00116, Fifth Supervisorial District**	

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: N/A

Other Concurrence:
As to form: N/A

Recommended Actions:

Staff recommends that your Board take the following actions to deny the appeal and uphold the Planning Commission's approval of the Project:

a) Deny the appeal, Case No. 21APL-00000-00027;

b) Make the required findings for approval of the revised Project as specified in Attachment 1 of this Board Agenda Letter, including California Environmental Quality Act (CEQA) findings;

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 Sections §15162 and 15168(c)(2) (Attachments 3 and 4); and

d) Grant *de novo* approval of the revised Project, Case No. 19LUP-00000-00116, subject to conditions of approval (Attachment 2).

Summary Text:
On April 1, 2019, the Applicant submitted an application for approval of a Land Use Permit, Case No. 19LUP-00000-00116 (hereinafter Project), to allow outdoor cannabis cultivation and cannabis nursery. Cannabis is currently being cultivated and processed on site based on an affidavit of legal nonconforming use. On February 8, 2021, the Planning and Development Department Director (hereinafter Director) approved the Project, and on February 18, 2021, the Appellant filed a timely appeal of the Director's approval. On May 5, 2021, the County Planning Commission granted *de novo* approval of the Project, and on May 17, 2021, the same Appellant filed a timely appeal of the Planning Commission's approval.

Following the Planning Commission's May 5, 2021, *de novo* approval of the Project, the Project Description and Site Plans (Attachment 7) were revised and include the following changes:

- The layout of the Project was reconfigured to provide a 1,000-foot setback from the proposed outdoor cannabis cultivation to the Appellant's wine tasting room currently under construction on the adjacent property to the east. The reconfiguration resulted in a reduction of the proposed outdoor cannabis cultivation area from 46.73 acres to 46.29 acres and a reduction of the proposed transport vehicle staging area from 2.61 acres to 0.50 acres.
- The parking and general agricultural equipment storage areas were reduced in size from 1.75 acres to 0.64 acres.
- The compost and waste storage area was reduced in size from 0.76 acres to 0.67 acres.
- The proposed flash freezer was removed from the Project.
- Additional hoop structures were added in the outdoor cannabis cultivation area.

A revised Project Description is provided below. Additionally, the Findings, Conditions of Approval, and CEQA Guidelines § 15168(c)(4) Environmental Checklist were revised to align with the revised Project Description. The revised Findings, Conditions of Approval, and CEQA Guidelines § 15168(c)(4) Environmental Checklist are provided in Attachments 1, 2, and 4, respectively.

A. Proposed Project:
The Project includes a request for approval of a Land Use Permit to allow 46.29 acres of outdoor cannabis cultivation and 1.45 acres of cannabis nursery. The outdoor cannabis cultivation area will include 35.95 acres of hoop structures (18 feet in width/300 feet in length) and the cannabis nursery area will include 0.95 acres of hoop structures (20 feet in width/147-248 feet in length). Hoop structures will have a maximum height of 16 feet and will not include any permanent structural elements, utilities, or lighting. The operation will involve two harvests per year for a duration of approximately three weeks per harvest, not to exceed four weeks per harvest. All harvested cannabis will be transferred off site for processing the same day it is harvested. There will be no processing (i.e., drying, curing, trimming, storing, packaging, or labeling) of harvested cannabis on the Project site. The total cannabis cultivation area (as defined by the LUDC) will be approximately 47.74 acres in size.

The secure cannabis operational area will also include a 0.67 acre compost and waste area, 0.64 total acres of compacted soil parking and general agricultural equipment storage area, and a 0.50 acre transport staging (packing and shipping) area. The transport staging area will be used for weighing and recording, boxing, and vehicle loading for movement of cannabis offsite. The Project also includes five 280-sq. ft. storage containers and a 224 sq. ft. temporary office trailer. The five storage containers will be used for general material/equipment storage and pesticide/chemical storage, and will not hold any cannabis plant or product. The temporary office trailer will be permitted for a maximum of one year following land use

permit issuance, after which time the trailer will be removed from the site, not to return. The Project will not include any grading in excess of 50 cubic yards. The Project will not include any tree removal or native vegetation removal.

The proposed cannabis operation will be secured with 6-foot-high "no-climb" chain link fencing along the perimeter of the proposed cannabis operational area. Access to the proposed cannabis operation will be controlled with 6-foot high, 20-foot-wide "no-climb" chain link gates that will remain locked at all times except during times of active ingress/egress. Additional security features include security cameras and security lighting that will be installed around the perimeter and throughout the cannabis operational area. All light fixtures will be fully shielded and directed downward, and installed at a maximum height of 10 ft. All light fixtures will be motion activated, and when triggered, will remain on for a maximum of six minutes. Screening will be provided by approximately 127,899 sq. ft. of landscaping planted along portions of the western, eastern and southern Project boundaries.

The proposed cannabis operation will involve a maximum of 24 regular full-time employees and a maximum of 43 additional seasonal employees who will be employed on site for a maximum of 60 days per year during planting and harvest periods. The hours of operation will be 6:30 a.m. to 4:30 p.m. Monday through Friday.

An existing onsite groundwater well will provide irrigation water for the Project. All sanitation facilities will be provided in compliance with OSHA. Fire protection will be provided by the Santa Barbara County Fire Department, law enforcement will be provided by the Santa Barbara County Sheriff's Department, and electricity will be provided by Pacific Gas & Electric Co. The Project will not include the use of generators.

The Project site is accessed via White Rock Lane, an existing 25-foot wide private road off of Santa Maria Mesa Road. The Project site is on a 431.4-acre lot, zoned Agriculture II (AG-II-100) and shown as Assessor's Parcel Numbers 129-040-010, -018, and 129-030-022, located at 4651 Santa Maria Mesa Road in the unincorporated area of Santa Maria, 5th Supervisorial District.

B. Background:

On April 1, 2019, the Applicant submitted a Land Use Permit (LUP) application for the Project, Case No. 19LUP-00000-00116. The Planning and Development Department reviewed the LUP application for compliance with the applicable policies of the County Comprehensive Plan and development standards set forth in Section 35.42.075 (Cannabis Regulations) of the County Land Use and Development Code (LUDC), and on February 8, 2021, the Director approved the Project. On February 18, 2021, the Appellant filed a timely appeal (Case No. 21APL-00000-00008) of the Director's approval, and the appeal was heard by the County Planning Commission on May 5, 2021.

The appeal issues raised by the Appellant in the Planning Commission Appeal Application and staff's responses to the appeal issues are addressed in detail in the Planning Commission Staff Report dated April 27, 2021 (Attachment 6). On May 5, 2021, the Planning Commission considered evidence set forth in the record, statements given by the Appellant and the Applicant, and public testimony, and granted de novo approval of the revised Project. On May 17, 2021, the Appellant filed a timely appeal (Case No. 21APL-00000-00027) of the Planning Commission's approval of the Project. The Appellant's appeal issues and staff's responses are discussed in further detail under Section C of this Board Agenda Letter.

C.1 Appeal Issues and Staff Responses

The Appeal Application (Attachment 5) contains a letter outlining the issues on appeal. Staff reviewed the appeal issues and found they are without merit. The appeal issues and staff's responses are discussed in detail below.

Appeal Issue No. 1 - Inconsistent with the Comprehensive Plan and the LUDC:

The Appellant asserts that the Project is inconsistent with the Comprehensive Plan and the LUDC, and, as such, must be denied. This appeal issue is broken into two parts, as further discussed below.

1.A Inconsistent with the Agricultural Element of the Comprehensive Plan

The Appellant asserts that the Project is inconsistent with Goal 1 and Policy 1.E of the Agricultural Element of the Comprehensive Plan in that it conflicts with the legacy agricultural operations in the area and fails to include reasonable measures to minimize odors. Specifically, the Appellant asserts that approval of the Project would restrict the Appellant's ability to apply pesticides on their crops, cannabis terpenes will contaminate the Appellant's wine grapes, and cannabis odors would preclude the operation of the Appellant's wine tasting room.

Staff Response:

As demonstrated in Section 6.3 of the Planning Commission Staff Report dated, April 27, 2021, and incorporated herein by reference, the Project is consistent with all applicable goals and policies of the Agricultural Element.

GOAL 1 of the Agricultural Element states:

> "*Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported."*

Policy 1.E. of the Agricultural Element states:

> *"The County shall recognize that the generation of noise, smoke, odor and dust is a natural consequence of the normal agricultural practices provided that agriculturalists exercise reasonable measures to minimize such effects."*

The plain language of Goal 1 and the accompanying policies in the Agricultural Element reflect an intent to protect agriculture from other uses that are incompatible with agriculture. Cultivation of cannabis is compatible with agriculture; cultivation of cannabis is an agricultural use and allowed within agricultural zones. Applying Goal 1 in such a way as to prevent an agricultural use of an agriculturally-zoned property is contrary to the stated purpose of the goal. The Project will continue the agricultural use of the property through the cultivation of cannabis crop. Additionally, in regard to Policy 1.E., the Appellant states, "there are no odor abatement requirements in the Project Conditions of Approval – the lack of such measures on its face is a failure to include reasonable measures to minimize odors." However, the Appellant's statement is incorrect; Condition 1 of the Conditions of Approval (Attachment 2) contains clear measures to minimize cannabis odor. Harvesting and processing are the primary means of odor generation associated with cannabis activities. Condition 1 requires all harvested cannabis to be transferred offsite the same day it is harvested and ensures no cannabis processing will occur onsite. These are operational measures that

minimize the effect of odor associated with the proposed cannabis operation. Therefore, the Project will be a continuation of agriculture, consistent with Goal 1, and includes measures to minimize the effect of Project odor, consistent with Policy 1.E.

In addition, the Appellant identified restrictions on pesticide application as the basis of the cited conflict between the Project and legacy agricultural operations in the area. However, the California Department of Pesticide Regulation (DPR) does not allow substantial pesticide drift onto non-target crops or non-target private property (California Code of Regulations, Title 3 – Food and Agriculture, Section 12972 and 12973). The regulatory framework governing pesticide drift and the requirement for all agricultural operators to comply with those regulations is not limited to areas adjacent to cannabis cultivation. Further, the proposed cannabis cultivation area under the scope of the Project is sited no less than 190 feet from the existing vineyards on the Appellant's property. Therefore, the Project will not affect pesticide applications on surrounding properties provided that the pesticides are being applied in compliance with State regulations.

The Appellant also identified contamination of wine grapes with cannabis terpenes as the basis of the cited conflict between the Project and legacy agricultural operations in the area. However, there continues to be a lack of evidence that terpenes from cannabis cultivation result in detrimental impacts to surrounding vineyards. Terpenes are biogenic volatile organic compounds (VOCs). As explained by Dr. William Vizuete, professor of environmental sciences and engineering at the University of North Carolina during the Planning Commission hearing of June 5, 2019[1] (Attachment 12), and incorporated by reference, all living things emit biogenic VOCs. Therefore, biogenic VOCs are ubiquitous. Cannabis plants primarily produce a kind of biogenic VOC called monoterpenes, which are aromatic oils that provide cannabis varieties with distinctive flavors like citrus, berry, mint, and pine. These are the same kind of terpenes that are found in other plants such as roses, orange trees, rosemary, and pine trees. Santa Barbara native oak and pine trees are also significant VOC emitters. The Appellant has not produced sufficient evidence to demonstrate that terpenes from cannabis cultivation can result in detrimental impacts surrounding vineyards or, if such an impact were shown to exist, that said impact would result in the conversion of vineyards to a non-agricultural use. Additionally, as discussed by Dr. William Vizuete during the Planning Commission Hearing of December 11, 2019[2], a study conducted to estimate emissions, concentrations, and deposition of monoterpenes from a similar proposed outdoor cannabis farm within Santa Barbara County (Attachment 14) demonstrated gas phase (VOC) transport of monoterpenes to grape tissue is not a significant route to wine taint as it would require greater exposure time at greater sustained concentrations than could occur in practice.

The Appellant also identified impacts of cannabis odors on wine tasting rooms as the basis of the cited conflict between the Project and legacy agricultural operations in the area. However, tasting rooms are considered an accessory use on agriculturally zoned properties and are not essential to the continuation of agriculture. As stated in Section 35.42.280.C.7(a), "*tasting rooms shall be clearly incidental, accessory, and subordinate to the primary operation of the associated winery as a production facility*." Cultivation of cannabis on the subject property does not preclude the continuation of agriculture on the neighboring property.

[1] Dr. William Vizuete Presentation at the Planning Commission Hearing of June 5, 2019 at 5:02:10 http://sbcounty.granicus.com/player/clip/3544?view_id=3&redirect=true

[2] Dr. William Vizuete Presentation at the Planning Commission Hearing of December 11, 2019 at 2:29:25 http://sbcounty.granicus.com/player/clip/3663?view_id=3&redirect=true

Lastly, the Appellant asserts that projects that conflict with local policies or ordinances entail a potentially significant impact for which environmental review is required. However, as established above, the Appellant has failed to demonstrate that the Project is inconsistent with local policies or ordinances and therefore, additional project environmental review on the basis of inconsistency with Goal 1 or Policy 1.E. of the Agricultural element is not warranted.

1.B Inconsistent with Section 35.42.075.D.1(o) of the LUDC

The Appellant asserts that the Project is inconsistent with Section 35.42.075.D.1(o) (Limitations on cannabis harvesting activities) of the LUDC. Additionally, on November 24, 2021 the Appellant submitted a Supplemental Appeal Letter (Attachment 11) analyzing the definition of "trimming" in support this appeal issue.

Staff Response:

The Project is consistent with all applicable policies and regulations of the LUDC including Section 35.42.075.D.1(o), which states:

> *"In order to minimize cannabis odors, the drying, curing, and/or trimming of harvested cannabis shall either (1) be located within an enclosed structure which utilizes best available control technology, or (2) include techniques and/or equipment (e.g., the use of freeze drying techniques/equipment and immediate packaging of harvested cannabis in the field) that shall achieve an equivalent or greater level of odor control as could be achieved using an enclosed structure which utilizes best available control technology."*

The Project Description, which is included as Condition 1 of the Conditions of Approval (Attachment 2), states there will be no drying, curing, or trimming of harvested cannabis on the Project site. Pursuant to Condition 1, any deviations from the Project Description, unless reviewed and approved by the Planning and Development Department, will constitute a violation of the Land Use Permit. Given that the Project does not include drying, curing, or trimming of harvested cannabis, the requirements of Section 35.42.075.D.1(o) are not applicable to the Project. In the appeal issues, the Appellant states, "Applicant intends to engage in processing by harvesting and trimming cannabis in the field, flash freezing cannabis onsite, and packing cannabis onsite." This statement improperly characterizes the activities that fall under the definition of cannabis processing pursuant to Section 35.110.020 of the LUDC. Section 35.42.075.D.1(o) only applies to "harvested cannabis;" it does not apply to pruning of planted cannabis plants (a standard farming technique). The act of harvesting requires that the cannabis plants be cut (either by means of cutting down the whole cannabis plant or rough cutting of buds from the cannabis plant) in order to remove the cannabis from the cultivation field. "Trimming," as included in the definition of cannabis processing, refers to fine trimming/manicuring of harvested cannabis to remove leaves, which generally occurs after the cannabis has been dried. As provided in the Project Description, all harvested cannabis will be transferred offsite for processing the same day it is harvested and no cannabis processing (i.e., drying, curing, trimming, storing, packaging, or labeling) will occur onsite. Additionally, fresh harvested cannabis must be placed into a box, bin, or crate before it can be loaded into a van or truck for transport off site. "Packaging," as included in the definition of cannabis processing, refers to finish packaging and labeling of processed or manufactured cannabis product for retail sale. Placing fresh harvested cannabis into a box/bin/crate for transport off site is distinctly different from packaging processed or manufactured cannabis for retail sale. Lastly, as discussed in the summary text above, the Project has been revised to remove the proposed flash freezer component of the Project.

Appeal Issue No. 2 – Scope of Board Discretion and Applicability of CEQA:

The Appellant cites the CEQA definition of "discretionary project" to assert that the subject Land Use Permit is a discretionary permit which gives the Board broad authority and discretion to review and condition the Project or deny the Project.

Staff Response:

The Project is a request for approval of a Land Use Permit (LUP). The Board's discretion to deny or condition LUPs is narrow because the required findings for approval of LUPs are limited to the following:

1. In compliance with Subsection 35.30.100.A of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit, the review authority shall first find, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (e.g., water, sewer, roads) are available to serve the proposed development.
2. In compliance with Subsection 35.82.110.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit, the review authority shall first make all of the following findings:
    a. The proposed development conforms:
        i. To the applicable provisions of the Comprehensive Plan, including any applicable community or area plan.
        ii. With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).
    b. The proposed development is located on a legally created lot.
    c. The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees and processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).

As such, the Board's discretion to place additional conditions on the Project is limited to conditions necessary to allow the Board to make the findings for approval, and/or to find the Project consistent with the Comprehensive Plan and LUDC.

The Project was appropriately reviewed under CEQA as discussed in detail in response to Appeal Issue No. 2.A below, and the required findings for approval, including CEQA findings, can be made as demonstrated in the attached Findings (Attachment 1). While the LUDC allows the decision-maker less discretion on a LUP than on a Conditional Use Permit, the subject LUP is nonetheless discretionary and is treated as such with the preparation of the CEQA Checklist to document that the PEIR remains appropriate environmental review for this Project.

Appeal Issue No. 2.A – CEQA Requires Project-Specific Environmental Review:

The Appellant asserts that there is substantial evidence supporting a fair argument that the Project will have significant impacts that are either new or substantially more severe than those outlined in the PEIR, and accordingly, subsequent environmental review is required.

Staff Response:

The Appellant incorrectly asserts that the "fair argument" standard applies to the determination of whether a subsequent or supplemental environmental impact report is required pursuant to CEQA Guidelines Section 15162. The "fair argument" test is derived from PRC Section 21151, which requires an EIR on any project which may have a significant effect on the environment. That section mandates preparation of an EIR *in the first instance* whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. If there is substantial evidence of such impact, contrary evidence is not adequate to support a decision to dispense with an EIR. However, the "substantial evidence" standard of review applies here because the Project falls under PRC Section 21166.[3] The previously certified PEIR for the Cannabis Land Use Ordinance and Licensing Program, 17EIR-00000-00003 (Attachment 3) was considered along with the Project, which is an activity within the scope of the PEIR. Staff prepared a written checklist in compliance with State CEQA Guidelines § 15168(c)(4) to document the evaluation of the site and the activity to determine that the environmental effects of the operation are covered in the PEIR (Attachment 4). As shown in the written checklist, the Project is within the scope of the PEIR and the effects of the Project were examined in the PEIR. Therefore, on the basis of the whole record, including the written checklist and the previously certified PEIR, there is evidence to support the Board finding that the Project will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment, and there is no new information of substantial importance under State CEQA Guidelines Section 15162 warranting the preparation of a new environmental document for the Project.

Specific impacts cited by the Appellant as triggering the requirement for subsequent environmental review are discussed in detail in the appeal issues and staff's responses provided below.

Appeal Issue No. 2.B – Uniform Rules Amendment:

Following certification of the PEIR, the Board adopted amendments to the Uniform Rules that classify cannabis as a principle use rather than a compatible use. The Appellant asserts that the PEIR relied on the Agricultural Preserve Advisory Committee's (APAC's) review of proposed cannabis projects under the Uniform Rules to prevent conflicts with neighboring agricultural operations and other Williamson Act preserve lands that could lead to conversion of farmland to non-agricultural use. As such, the Appellant asserts that the amendment to the Uniform Rules, after certification of the PEIR, undermines the PEIR's adequacy and allows for new and substantially increased impacts to agriculture, triggering the requirement for subsequent environmental review under CEQA.

Staff Response:

The amendments to the Uniform Rules do not undermine the adequacy of the PEIR or constitute a substantial unanticipated change to the circumstances under which the Project will be undertaken.

The subject property has historically been farmed with row crops, berries, cannabis, and hemp, and is subject to a Williamson Act agricultural preserve (Contract No. 69-AP-88). On May 3, 2019, APAC reviewed the proposed Project and voted to find the proposed Project consistent with the Uniform Rules. However, proposed cannabis projects were not and are not limited to contracted parcels. The PEIR did not rely on APAC review under the Uniform Rules to ensure compatibility with existing agricultural uses because not all proposed cannabis projects would have been subject to APAC review.

[3] *Latinos Unidos de Napa v. City of Napa* (2013) 221Cal.App.4th 192, 204

The Uniform Rules are used to implement the Williamson Act and administer the Agricultural Preserve program in Santa Barbara County. APAC is only responsible for reviewing land use applications for consistency with the Uniform Rules and the Williamson Act. APAC does not make decisions on land use permits or consider consistency with the Comprehensive Plan. Project-specific evaluation of Comprehensive Plan consistency by the decision-maker on the permit is the means by which it is ensured proposed projects are compatible with surrounding land uses in the zone in which they are proposed. The Project does not conflict with surrounding agricultural land uses in the vicinity. The Project proposes the cultivation of cannabis crop on an agriculturally zoned property. Additionally, Section 3.9 (Land Use Section) of the PEIR anticipated that amendments to the Uniform Rules would take place based on adoption of the Cannabis Program. The Board-adopted amendment to the Uniform Rules to classify cannabis as a principle use rather than a compatible use does not constitute a substantial unanticipated change to the circumstances under which the Project will be undertaken or new information requiring subsequent environmental review.

Appeal Issue No. 2.C – New Information Regarding the Severity of Agricultural Conflicts:

The Appellant asserts that new information of substantial importance, which was not known and could not have been known with exercise of reasonable diligence at the time the PEIR was certified, has become available showing that the Project will have substantially increased impacts to adjacent agriculture. The Appellant identifies three specific points under this appeal issue involving (1) new information regarding the severity of odor impacts, (2) new information regarding terpene taint, and (3) new information regarding conflicts involving pesticide application. Each of the three points are further outlined in Staff's responses 2.C.1 through 2.C.3 below.

2.C.1 – New Information Regarding the Severity of Odor Impacts:

The Appellant asserts that the PEIR did not address how cannabis odors would negatively impact tourism and sales generated at local wine tasting rooms or the long-term impacts this would have on agricultural viability in the region.

Staff Response:

The Project will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment, and there is no new information of substantial importance under State CEQA Guidelines Section 15162 warranting the preparation of a new environmental document for the Project. The PEIR considered odor impacts from cannabis cultivation and anticipated that the implementation of the Cannabis Program would expand cannabis operations throughout the County and create the potential for nuisance odor impacts to neighboring receptors. The PEIR acknowledges that visitors come to Santa Barbara County for the purposes of "tourism, wine-tasting, beach-going, bicycling, hiking, equestrian, cultural events and other recreational activities." The presence of wine tasting rooms in the County was plainly known at the time the PEIR was certified. The PEIR anticipated potential impacts to these activities as well as a variety of other land uses and receptors. Additionally, the PEIR acknowledged that odors may not be controlled in all instances due to the range of potential cultivation locations, types of cultivation operations, surrounding land uses, wind patterns, and other variables. The PEIR concluded that unavoidable and significant (Class I) impacts would result from the Cannabis Program with regard to Air Quality and malodors. The Board of Supervisors adopted a Statement of Overriding Considerations for Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR expired without legal challenge.

2.C.2 – New Information Regarding Terpene Taint:

The Appellant asserts that new information of substantial importance, which was not known and could not have been known with exercise of reasonable diligence at the time the PEIR was certified, has become available showing that the Project will have substantially increased impacts to adjacent agriculture as a consequence of terpene contamination.

Staff Response:

The Project will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment, and there is no new information of substantial importance under State CEQA Guidelines Section 15162 warranting the preparation of a new environmental document for the Project. As discussed above, there continues to be a lack of evidence that terpenes from cannabis cultivation result in detrimental impacts to agriculture. Terpenes from cannabis plants are considered to be biogenic volatile organic compounds (VOCs). As explained by Dr. William Vizuete, professor of environmental sciences and engineering at the University of North Carolina during the Planning Commission hearing of June 5, 2019[4] (Attachment 12), and incorporated by reference, all living things emit biogenic VOCs. Therefore, biogenic VOCs are ubiquitous. Cannabis plants primarily produce a kind of biogenic VOC called monoterpenes, which are aromatic oils that provide cannabis varieties with distinctive flavors like citrus, berry, mint, and pine. These are the same kind of terpenes that are found in other plants such as roses, orange trees, rosemary, and pine trees. Santa Barbara native oak and pine trees are also significant VOC emitters. Additionally, as discussed by Dr. William Vizuete during the Planning Commission Hearing of December 11, 2019[5], a study conducted to estimate emissions, concentrations, and deposition of monoterpenes from a similar proposed outdoor cannabis farm within Santa Barbara County (Attachment 14) demonstrated gas phase (VOC) transport of monoterpenes to grape tissue is not a significant route to wine taint as it would require greater exposure time at greater sustained concentrations than you would find in practice.

VOCs and terpenes are discussed in the PEIR and were considered as part of the analysis of air quality impacts. Their existence and alleged impacts are not new information. Moreover, to require subsequent CEQA review, the new information must show that the Project would have one or more significant effects on the environment that were not discussed in the PEIR or that significant effects on the environment would be substantially more severe than shown in the PEIR. The Appellant has not produced substantial evidence to demonstrate that terpenes from cannabis cultivation can cause detrimental impacts to surrounding vineyards and, if such impacts were shown to exist, that they would result in the conversion of vineyards to a non-agricultural use. The Appellant states, "if the Appellant's vineyard is impacted by terpene taint, the grapes sourced from its vineyard could be labeled as inferior within the premium wine market due to terpene taint, ultimately impacting the Appellant's own wines and grape sales to other wineries." However, even if there were evidence to support this, such an effect would not be an environmental impact under CEQA. Social and economic effects are not considered a significant environment impact and need be considered only to the extent that they are relevant to an anticipated physical change in the environment or, on the basis of substantial evidence, are reasonably likely to result in physical change to the environment.

[4] Dr. William Vizuete Presentation at the Planning Commission Hearing of June 5, 2019 at 5:02:10 http://sbcounty.granicus.com/player/clip/3544?view_id=3&redirect=true

[5] Dr. William Vizuete Presentation at the Planning Commission Hearing of December 11, 2019 at 2:29:25 http://sbcounty.granicus.com/player/clip/3663?view_id=3&redirect=true

2.C.3 – New Information Regarding Conflicts Over Pesticide Application:

The Appellant asserts that new information of substantial importance, which was not known and could not have been known with exercise of reasonable diligence at the time the PEIR was certified, has become available showing that the Project will have substantially increased impacts to adjacent agriculture as a consequence of pesticide migration.

Staff Response:

The Project will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment, and there is no new information of substantial importance under State CEQA Guidelines Section 15162 warranting the preparation of a new environmental document for the Project. The Appellant cites testimony of the Grower-Shipper Association of Santa Barbara-San Luis Obispo Counties, regarding a pesticide application conflict between a cannabis cultivator and adjacent agricultural operation, as evidence of new and substantially increased impacts to agriculture. However, as discussed in response to Appeal Issue 1 above, the California Department of Pesticide Regulation does not allow substantial pesticide drift onto non-target crops or non-target private property (California Code of Regulations 6600 and 6614). The regulatory framework governing pesticide drift and the requirement for all agricultural operators to comply with those regulations is not limited to areas adjacent to cannabis cultivation and is the same now as when the PEIR was certified. Therefore, there is no new information pertaining to pesticide application, and subsequent environmental review is not required pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2). Additionally, CEQA requires a lead agency to evaluate the effect of a project on the environment, not the effect of the environment on a project. Environmental analysis of potential pesticide drift from neighboring agricultural operations, an activity which is not allowed and which is regulated under existing and unchanged state and federal laws, is not required under CEQA.

The design of the Project further limits any potential for conflicts to arise from pesticide applications on surrounding properties. The proposed cannabis cultivation area under the scope of the Project is sited no less than 190 feet from the Appellants nearest existing vineyards to the east, the Project includes proposed intervening landscaping between the proposed cannabis cultivation areas and the Appellant's existing vineyards, and approximately 35.95 acres of the total 46.29-acre outdoor cannabis cultivation area will be grown under hoop structures.

Appeal Issue No. 2.D – Amendments to the Right to Farm Ordinance:

The Appellant states that amendments to the Right to Farm Act after PEIR certification have made odor mitigation on AG-II zoned parcels now feasible and, as such, additional environmental review is required pursuant to CEQA Guidelines Section 15162(a)(3)(c).

Staff Response:

Amendments to the Right to Farm Ordinance did not introduce new or previously infeasible mitigation techniques that were not available and considered under the PEIR. CEQA Guidelines Section 15162(a)(3)(c) requires subsequent environmental review when new information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified, shows mitigation measures or alternatives previously found not to be infeasible would in fact be feasible, and would substantially reduce one or more significant effects of the Project. However, methods and techniques for odor abatement including carbon filtration and vapor phase systems were available and feasible at the time the PEIR was prepared.

The Right to Farm Ordinance did not previously preclude odor abatement regulations on AG-II zoned areas, as is evidenced by the fact that Odor Abatement Plans, which can include a variety of odor abatement systems, are required for cannabis projects in AG-I and in AG-II areas where Conditional Use Permits are required. The PEIR did not assert that odor abatement mitigation for cannabis grown in AG-II zoned parcels was infeasible at the time the PEIR was prepared. Section 3.3 of the PEIR (Air Quality and Greenhouse Gas Emissions) considered odor abatement measures and determined that cannabis activity sites within the AG-II zone districts should be exempt from the odor abatement plan requirement. This is due to the absence of urban, inner-rural, or Existing Developed Rural Neighborhood areas with associated residential uses and the prevalence of more intensive agricultural practices within this zoning district. Nevertheless, the Board of Supervisors identified odor impacts as significant and unavoidable (Class I) even with mitigation. Therefore, the PEIR together with the CEQA Checklist included as Attachment 4 provides adequate analysis of the environmental impacts of the Project and additional environmental review is not required pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2).

Appeal Issue No. 2.E – New Information Regarding Site-Specific Air Quality Impacts:

The Appellant asserts that the PEIR did not adequately address Project-specific odor impacts and states the Project will result in the release of significant odors and is located near numerous residential areas and tasting rooms. Additionally, the Appellant cites air quality impacts associated with terpenes, and their contribution to the formation of ground level ozone and other secondary chemicals. As such, the Appellant asserts that the County is required, pursuant to CEQA, to develop a tiered EIR for this Project to analyze and, if necessary, mitigate such impacts.

Staff Response:

The PEIR considered odor impacts from cannabis cultivation and anticipated that the implementation of the Cannabis Program would expand cannabis operations throughout the County and create the potential for nuisance odor impacts to neighboring receptors. The Appellant specifically cites odor impacts to wine-tasting rooms including the Appellant's wine tasting room on the adjacent property to the east. The PEIR acknowledges that visitors come to Santa Barbara County for purposes of "tourism, wine-tasting, beach-going, bicycling, hiking, equestrian, cultural events and other recreational activities." The presence of wine tasting rooms in the County was known at the time the PEIR was certified. Additionally, the Appellant cites impacts to residential areas and references the residences on the Appellant's adjacent properties. However, the residences on the Appellant's adjacent properties are within the agricultural zone district, not within a residential area. The Project property is bounded on the west, south, and east by parcels zoned AG-II-100 and on the north by agricultural land within San Luis Obispo County. The nearest residential zone relative to the property, known as the town of Garey (zoned 7-R-1), is approximately 1,300 feet from the nearest property line and approximately 3,700 feet from the proposed cannabis premise. Additionally, the North Garey Existing Developed Rural Neighborhood (zoned AG-I-10) is located approximately 60 feet from the nearest property line and approximately 2,650 feet from the proposed cannabis premise. The PEIR anticipated potential impacts to residential land uses and wine-tasting rooms as well as a variety of other land uses and receptors. Additionally, the PEIR acknowledged that odors may not be controlled in all instances due to the range of potential cultivation locations, types of cultivation operations, surrounding land uses, wind patterns, and other variables. The PEIR concluded that unavoidable and significant (Class I) impacts would result from the Cannabis Program with regard to Air Quality and malodors. The Board of Supervisors adopted a Statement of Overriding Considerations for Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR expired without legal challenge.

The Appellant also cites air quality impacts associated with terpenes, and their contribution to the formation of ground level ozone and other secondary chemicals. Ground level ozone is a photochemical pollutant, and is formed from complex chemical reactions involving VOCs, nitrogen oxides (NOx), and sunlight; therefore, VOCs and NOx are ozone precursors. VOCs and NOx are emitted from various sources throughout the County. The formation of ground level ozone was discussed in the PEIR and the PEIR found that: "Emissions from operations of cannabis activities could potentially violate an air quality standard or substantially contribute to an air quality violation, and result in a cumulatively considerable net increase of a criteria pollutant [including ozone] for which the County is in nonattainment." As discussed above, this was determined to be a significant and unavoidable (Class I) air quality impact. The Board of Supervisors adopted a Statement of Overriding Considerations for the Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR expired without legal challenge.

To require subsequent CEQA review, new information must show that the Project would have one or more significant effects not discussed in the PEIR or that significant effects would be substantially more severe than shown in the PEIR. BVOCs and terpenes are discussed in the PEIR and were considered as part of the analysis of air quality impacts. Their existence and alleged impacts are not new information. Additionally, the fact that VOCs and NOx are precursors to ozone was known and discussed in the PEIR. However, the Appellant has not produced substantial evidence to demonstrate that potential air quality impacts associated with the proposed Project are substantially more severe than those discussed in the PEIR or that BVOCs generated by outdoor cultivation of cannabis in rural areas (such as that of the Project site) can generate a significant air quality impact by contributing to the formation of ground level ozone or other secondary chemicals. This topic if further discussed in section C.2 below.

Appeal Issue No. 3 – Failure to Comply with the Williamson Act:

The Appellant states that the Project does not comply with the Williamson Act due to APAC's lack of a compatibility analysis with other surrounding agricultural uses.

Staff Response:

As discussed in response to Appeal Issue No. 2.B above, on May 3, 2019, the Santa Barbara County Agricultural Preserve Advisory Committee (APAC) reviewed the proposed Project and voted to find the Project consistent with the Uniform Rules and compliant with the Williamson Act. The Uniform Rules are used to implement the Williamson Act and administer the Agricultural Preserve Program in Santa Barbara County. APAC is responsible for reviewing land use applications for consistency with the Uniform Rules and the Williamson Act when a land use application involves a parcel(s) enrolled in the Agricultural Preserve Program. The Appellant has failed to provide evidence that the Project will significantly displace or impair current or reasonably foreseeable agricultural operations on the Project parcel or on other contracted lands in agricultural preserves, to negate APAC's finding. In addition, the statute of limitations has passed to challenge APAC's decision. APAC found the Project to be compatible with the Uniform Rules on May 3, 2019. The County does not provide for an administrative appeal of APAC decisions. The County Code provides that Code of Civil Procedure section 1094.6 shall be applicable to the judicial review of any decision of the County of Santa Barbara or of any commission, board, officer or agent thereof. Section 1094.6 provides for a 90-day statute of limitations. The statute of limitations for challenging APAC's decision expired on August 1, 2019.

Appeal Issue No. 4 – Expansion Beyond Legal Non-Conforming Status:

The Appellant asserts that the Applicant expanded beyond the legal non-conforming boundaries of the site. As such, the Appellant asserts that the Project site is not in compliance with all laws, regulations, and rules pertaining to uses, and therefore, the required findings for approval cannot be made.

Staff Response:

As identified in Attachment 1, required findings for approval of the Project can be made. An affidavit was submitted on December 21, 2017, stating that the operation located at 4651 Santa Maria Mesa Road was in compliance with Santa Barbara County Code Section 35-1003.A.2 (Legal Nonconforming Uses Exemption). On April 1, 2019, Canna Rios, LLC submitted a LUP application (Case No. 19LUP-00000-00116) to Planning and Development to permit a cannabis cultivation operation. Planning and Development never received a complaint regarding current cannabis cultivation activities on the subject property, so no formal enforcement investigation has been conducted and no Notice of Violation exists on the property.

Nevertheless, any potential violation associated with expansion of legal non-conforming use would be abated by approval of the LUP and the Project site will be in full compliance with all laws, rules, and regulations pertaining to zoning uses, setbacks, and all other applicable provisions of the LUDC for cannabis cultivation within the AG-II zone district.

Appeal Issue No. 5 – Unlawful Modification of the Cuyama River:

The Appellant asserts that the Applicant (or previous property owner) unlawfully modified the Cuyama River to allow for a low river crossing to an adjacent parcel to the north. As such, the Appellant asserts that the Project site is not in compliance with all laws, regulations, and rules pertaining to uses, and therefore, the required findings for approval cannot be made.

Staff Response:

As identified in Attachment 1, required findings for approval of the Project can be made. The purported diversion/unlawful modification is a bridge located north of the Project site, which provides access to the separate property to the north. The bridge is not within the boundaries of the Project parcel, not within the boundaries of Santa Barbara County, nor does the bridge support access to the Project site. The Appellant failed to provide any evidence to substantiate the claim that the Applicant (or previous property owner of the same site) unlawfully modified the Cuyama River. Nevertheless, Planning and Development staff reviewed available aerial imagery and corresponded with the California Department of Fish and Wildlife and Regional Water Quality Control Board in an attempt to gather any information pertaining to the Appellant's claim. To date, Planning and Development has not found evidence to substantiate the Appellant's claim or received any confirmation from the Resource Agencies to support the validity of such a claim.

Additionally, with regard to the Project's compliance with all laws, regulations, and rule pertaining to uses, the Appellant states: *"The SWRCB Cannabis Policy prohibits trespass (Cannabis Policy 1.18). Trespass of terpenes and other particulates from the Project onto neighboring property is inevitable in violation of SWRCB Cannabis Policies."* The SWRCB Cannabis Cultivation Policy 1.18 states in full:

> *"Cannabis cultivators shall not commit trespass. Nothing in this Policy or any program implementing this Policy shall be construed to authorize cannabis cultivation: (a) on land not owned by the cannabis cultivator without the express written permission of the landowner; or (b)*

inconsistent with a conservation easement, open space easement, or greenway easement. This includes, but is not limited to, land owned by the United States or any department thereof, the State of California or any department thereof, any local agency, or any other person who is not the cannabis cultivator. This includes, but is not limited to, any land owned by a California Native American tribe, as defined in section 21073 of the Public Resources Code, whether or not the land meets the definition of tribal lands and includes lands owned for the purposes of preserving or protecting Native American cultural resources of the kinds listed in Public Resources Code section 5097.9 and 5097.993. This includes, but is not limited to, conservation easements held by a qualifying California Native American tribe pursuant to Civil Code section 815.3 and greenway easements held by a qualifying California Native American tribe pursuant to Civil Code section 816.56."

Neither Policy 1.18, nor any other general requirement or prohibition within the SWRCB Cannabis Cultivation Policy, makes any mention of terpenes or VOCs. The Applicant submitted a letter from the Central Coast Regional Water Quality Control Board (RWQCB) dated August 30, 2018, indicating compliance with the SWRCB Cannabis Cultivation Policy. Staff followed up with the RWQCB on December 21, 2020 and confirmed that, to date, the Project Applicant had submitted the required technical documents and annual reports in compliance with the Cannabis Cultivation Policy.

Appeal Issue No. 6 – Applicant's Water Source is Shared with the Appellant:

The existing onsite groundwater well that is proposed to serve the Project is subject to a Well Sharing Agreement (Attachment 8) by and between the Project property owner and the Appellant, West Bay Company, LLC (part of Bien Nacido Vineyards et al.). The Appellant claims that the Applicant has not obtained the Appellant's consent or approval for the use of the shared water for the cultivation of cannabis or other related operations at the Project site and that the Project will deprive the Appellant of its share of the water. The Appellant also asserts that the Applicant should be required to obtain a public water system permit for the Project prior to approval of the LUP.

Staff Response:

As explained below, the Well Sharing Agreement does not require the Applicant to obtain consent or approval from the Appellant for use of the subject wells, and the Applicant demonstrated adequate water service for the Project.

The Site Plan Set (Attachment 7) and the Project Description (Condition 1 of the Conditions of Approval, Attachment 2) identify the existing onsite groundwater well that will provide agricultural water for the Project. The Project does not include any proposed domestic water connections and the well does not serve any existing domestic water connections, therefore, as confirmed with Environmental Health Services, a Public Water System is not required.

The existing onsite groundwater well that will provide agricultural-use water for the Project is identified as "Well # 1" on the Project Plans (Attachment 7) and "Well # 4" in the Well Sharing Agreement (Attachment 8). "Well # 1" on the Project plans and "Well # 4" in the Well Sharing Agreement are one and the same. The Well Sharing Agreement states: "[The property owner] and West Bay Company, LLC shall each have the right to take, extract and use the water produced from the Water Wells or from any replacement well or wells. [The property owner] shall have the right to use eighty-three percent (83%) of the water, and West Bay Company, LLC shall have the right to use seventeen percent (17%) of the water." The Agreement further provides that the two parties shall split the costs of operating, maintaining, and

repairing the shared wells, pumps, meters, and pipelines on a pro rata basis. The Agreement does not require the Appellant's consent or approval for the use of the shared water for the cultivation of cannabis or other related operations at the Project site. Additionally, the Applicant has stated that the Appellant failed to meet their obligation to split the costs of operating, maintaining, and repairing the shared wells, and, as such, the pipeline serving the Appellant's property was severed in 2015. Any dispute over the rights or requirements in the Well Sharing Agreement is a civil matter and outside the purview of the County.

The subject property has historically been used for row crop, berry, and cannabis cultivation as well as industrial hemp cultivation for research purposes. The existing groundwater well on the property has supplied adequate water to support the historic use. As shown in the attached Water Analysis Memorandum (Attachment 9), the portion of the subject property east of the Sisquoc River has been historically farmed with industrial hemp (approximately 96 acres in 2018 and 2019) and broccoli (approximately 115 acres between 2010 and 2014 and approximately 100 acres between 2015 and 2017). With implementation of the Project, this area east of the Sisquoc River will see an overall reduction in total cultivation area due to the proposed 200-foot setback from top-of-bank. With the reduction in total cultivation area, the property will also see a 168.2 acre-feet per year reduction in water use for irrigation. As stated above, according to the Applicant, the pipeline serving the Appellant's property was severed. But, even if it was not, the Water Analysis Memorandum demonstrates that 83% of the well's historic yield is more than adequate to serve the demand of the proposed Project. The Appellant has not presented substantial evidence that the well is not supplying sufficient water to support the historic use.

C.2 Supplemental Appeal Issues and Staff Responses

On September 24, 2021, the Appellant submitted a Supplemental Appeal Letter (Attachment 10) containing both additional appeal issues and further discussion on appeal issues identified in the original appeal application. Staff reviewed the supplemental appeal issues and found they are without merit. The supplemental appeal issues and staff's responses are discussed in detail below.

Supplemental Appeal Issue No. 1 – New Information Regarding Air Quality Impacts (Ozone):

The Appellant asserts that new information of substantial importance that was not available at the time of the PEIR's certification has become available that shows that the Project's air quality impacts will be significantly greater and more severe than those considered by the PEIR including: (i) new scientific studies indicating that biogenic VOCs from cannabis cultivation contribute to ozone pollution; (ii) the fact that San Luis Obispo County, has since been designated as nonattainment for the more stringent federal ozone standard; and (iii) the fact that Santa Barbara County has since been downgraded back to nonattainment with the state ozone standard.

Staff Response:

Ground level ozone is a photochemical pollutant, and is formed from complex chemical reactions involving VOCs, nitrogen oxides (NOx), and sunlight; therefore, VOCs and NOx are ozone precursors. VOCs and NOx are emitted from various sources throughout the County. The formation of ground level ozone was discussed in the PEIR and the PEIR found that: "Emissions from operations of cannabis activities could potentially violate an air quality standard or substantially contribute to an air quality violation, and result in a cumulatively considerable net increase of a criteria pollutant [including ozone] for which the County is in nonattainment." As discussed above, this was determined to be a significant and unavoidable (Class I) air quality impact. The Board of Supervisors adopted a Statement of Overriding

Considerations for the Class I impacts, and the 30-day statute of limitations to challenge the adequacy of the PEIR, 17EIR-00000-00003, expired without legal challenge.

To require subsequent CEQA review, new information must show that the Project would have one or more significant effects not discussed in the PEIR or that significant effects would be substantially more severe than shown in the PEIR. BVOCs and terpenes are discussed in the PEIR and were considered as part of the analysis of air quality impacts. Their existence and alleged impacts are not new information. Additionally, the fact that VOCs and NOx are precursors to ozone was known and discussed in the PEIR. However, the Appellant has not produced substantial evidence to demonstrate that potential air quality impacts associated with the proposed Project are substantially more severe than those discussed in the PEIR or that BVOCs generated by outdoor cultivation of cannabis in rural areas (such as that of the Project site) can generate a significant air quality impact by contributing to the formation of ground level ozone or other secondary chemicals. As explained by Dr. William Vizuete during the August 20, 2019 Board of Supervisors Hearing[6] (Attachment 13), the same model which demonstrated cannabis BVOCs can contribute to the substantial formation of ozone in the city of Denver, also demonstrated that, by incorporating meteorological variables and atmospheric conditions specific to Santa Barbara County, cannabis BVOCs are not expected to contribute to the substantial formation of ozone.

Additionally, fluctuations in attainment classifications in this County or a neighboring County, do not constitute new information showing that this Project will have different or more significant effects on the environment than those examined in the PEIR. Weather and air pollutant emissions vary, leading to different pollutant concentration outcomes from one year to the next. When the PEIR was certified, it listed Santa Barbara County in non-attainment transition status for state 8-hour ozone standard and noted that the California Air Resources Board had recommended that the County be designated A (Attainment). (PEIR, pp. 3.3-5.) However, the PEIR's conclusion that "the Project's contribution to cumulative air quality would be significant and unavoidable (Class I)" did not hinge on air quality classifications at any single point in time; instead the PEIR anticipated that the County would "remain in non-attainment." (PEIR, pp. 3.3-23.) The Appellant has not provided substantial evidence that the proposed Project, will result in regional ozone increases.

Supplemental Appeal Issue No. 2 – Inadequate Consideration of Hydrofluorocarbon (HFC) Emissions:
The Appellant asserts that the PEIR fails to adequately consider hydrofluorocarbon ("HFC") emissions associated with the Project's freezing operations.

Staff Response:
As discussed in the summary text above, the Project has been revised to remove the proposed flash freezer component of the Project. The Project no longer includes freezing operations and thus will not cause any HFC emissions.

Conclusion:
For the reasons discussed above, staff finds that the appeal issues raised are without merit. Planning and Development staff recommends that the Board approve the revised Project *de novo* based on the findings provided as Attachment 1.

[6] Dr. William Vizuete Presentation at the Board of Supervisors Hearing of August 20, 2019 at 6:43:13 http://sbcounty.granicus.com/player/clip/3591?view_id=3&redirect=true

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately $23,000 (90 hours of staff time). The costs for processing cannabis project appeals are partially offset by a fixed appeal fee and cannabis tax revenues. The fixed appeal fee was paid by the Appellant in the amount of $701.06. Funding for this appeal is budgeted in the Planning and Development Department's Permitting Budget Program on page D-301 of the County of Santa Barbara Fiscal Year (FY) 2021-22 adopted budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice in the *Santa Maria Times* at least 10 days prior to the hearing on December 14, 2021. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing, as well as a copy of the mailed notice and proof of publication, to the Planning and Development Department, Attention: Alia Vosburg. The Clerk of the Board shall return one printed copy of the Cannabis PEIR to the Planning and Development Department, Attention: Hearing Support.

Attachments:

1. Revised Findings
2. Revised Conditions of Approval
3. Link to the Program Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program, 17EIR-00000-00003
4. Revised CEQA Guidelines § 15168(c)(4) Environmental Checklist
5. 21APL-00000-00027 Appeal Package
6. Planning Commission Staff Report, dated April 27, 2021
7. Revised Site Plan Set
8. Well Sharing Agreement (2001-0049097)
9. Water Analysis Memorandum
10. Supplemental Appeal Letter, dated September 23, 2021
11. Supplemental Appeal Letter, dated November 24, 2021
12. Vizuete Presentation, dated June 5, 2019
13. Vizuete Presentation, dated August 20, 2019
14. Vizuete Report for Hacienda, dated December 6, 2019
15. County Counsel Facilitation Memorandum

Authored by:

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Development Review Division, Planning and Development Department