



# Appeal Application

County Use Only

Appeal Case No.:

## STEP 1: SUBJECT PROPERTY

063-172-004

ASSESSOR'S PARCEL NUMBER(S)

4295 Mariposa Drive, Santa Barbara, CA 93110

PROPERTY ADDRESS (IF APPLICABLE)

BUSINESS/ESTABLISHMENT NAME (IF APPLICABLE)

## STEP 2: PROJECT DETAILS

CDP for New Water Well and Grading

PROJECT TITLE

22CDP-00000-00035 / 23APL-00036

CASE NO(S).

County Planning Commis: March 6, 2024

DECISION MAKER

DATE OF ACTION

Is the appeal related to cannabis activities?

☐ Yes

☒ No

## STEP 3: APPEAL CONTACTS

### APPELLANT

Geraldine Bidwell

NAME (if LLC or other legal entity, must provide documentation)

4385 Llano Drive

STREET ADDRESS

Santa Barbara

CA

93110

CITY,

STATE

ZIP

503-680-0756

geraldine@bidwell.com

PHONE

EMAIL

### AGENT

NAME (if LLC or other legal entity, must provide documentation)

STREET ADDRESS

CITY,

STATE

ZIP

PHONE

EMAIL

### ATTORNEY

Ernest Guadiana, Elkins Kalt Weintraub Reuben Gartside LLP

NAME (if LLC or other legal entity, must provide documentation)

10345 W. Olympic Boulevard

STREET ADDRESS

Los Angeles

CA

90064

CITY,

STATE

ZIP

310-746-4425

eguadiana@elkinskalt.com

PHONE

EMAIL

## STEP 4: APPEAL DETAILS

Is the Appellant the project Applicant? ☐ Yes ☒ No

If not, please provide an explanation of how you are an "aggrieved party", as defined in Step 5 on page 2 of this application form:

Appellant owns the property adjacent to the Project and is impacted by the Project's effects.

Please provide a clear, complete, and concise statement of the reasons or ground for appeal:

- Why the decision or determination is consistent/inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law;
- There was error or abuse of discretion;
- The decision is not supported by the evidence presented for consideration;
- There was a lack of a fair and impartial hearing; or
- There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- Coastal Zone – Accessory Dwelling Unit appeals: Appellant must demonstrate that the project is inconsistent with the applicable provisions and policies of the certified Local Coastal Program or that the development does not conform to the public access policies set forth in the Coastal Act.

See attachment.

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PLANNING AND DEVELOPMENT DEPARTMENT


## STEP 5: APPELLANT, AGENT, AND ATTORNEY ACKNOWLEDGEMENTS

I hereby certify under penalty of perjury that I have read the information below and that:

1. I have carefully reviewed and prepared the appeal application in accordance with the instructions; and
2. I provided information in this appeal application, including all attachments, which are accurate and correct; and
3. I understand that the submittal of inaccurate or incomplete information or plans, or failure to comply with the instructions may result in processing delays and/or denial of my application; and
4. I understand that it is the responsibility of the applicant/appellant to substantiate the request through the requirements of the appeal application; and
5. I understand that upon further evaluation, additional information/documents/reports/entitlements may be required; and
6. I understand that all materials submitted in connection with this appeal application shall become public record subject to inspection by the public. I acknowledge and understand that the public may inspect these materials and that some or all of the materials may be posted on the Department's website; and
7. I understand that denials will result in no refunds; and
8. I understand that Department staff is not permitted to assist the applicant, appellant, or proponents and opponents of a project in preparing arguments for or against the project; and
9. I understand that there is no guarantee – expressed or implied – that an approval will be granted. I understand that such application must be carefully evaluated and after the evaluation has been conducted, that staff's recommendation or decision may change during the course of the review based on the information presented; and
10. I understand an aggrieved party is defined as any person who in person, or through a representative, appears at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either; and
11. Pursuant to California Civil Code Section 1633.5(b), the parties hereby agree that where this Agreement requires a party signature, an electronic signature, as that term is defined at California Civil Code Section 1633.2(h), shall have the full force and effect of an original ("wet") signature. A responsible officer of each party has read and understands the contents of this Agreement and is empowered and duly authorized on behalf of that party to execute it; and
12. I understand that applicants, appellants, contractors, agents or any financially interested participant who actively oppose this project who have made campaign contributions totaling more than \$250 to a member of the Planning Commission or Board of Supervisors since January 1, 2023, are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount and date of the campaign contribution and identify the recipient Board member and may be made either in writing as part of this appeal, in writing to the Clerk of the legislative body before the hearing, or by verbal disclosure at the time of the hearing; and
13. If the approval of a Land Use Permit required by a previously approved discretionary permit is appealed, the applicant shall identify:
  - How the Land Use Permit is inconsistent with the previously approved discretionary permit;
  - How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed;
  - How the approval is inconsistent with Section 35.106 (Noticing).

**REQUIRED SIGNATURES:** All aggrieved parties must sign the appeal application prior to the appeal deadline in order to be considered an aggrieved party. Please attach additional signature pages, as needed.

I have read and understand the above acknowledgements and consent to the submittal of this application.

	<b>Geraldine Bidwell</b>	<b>3/15/24</b>
SIGNATURE – APPELLANT	PRINT NAME	DATE

	<b>Ernest Guadiana</b>	<b>3/15/24</b>
SIGNATURE – AGENT	PRINT NAME	DATE
	<b>Ernest Guadiana</b>	<b>3/15/24</b>
SIGNATURE – ATTORNEY	PRINT NAME	DATE

**Appeals to the Planning Commission.** Appeals to the Planning Commission must be filed with Planning and Development no later than 10 days following the date of the decision, along with the appropriate fees. Please contact P&D staff below for submittal instructions and to determine the appropriate fee.

South County projects: [front@countyofsb.org](mailto:front@countyofsb.org) or (805) 568-2090

North County projects: [nczoning@countyofsb.org](mailto:nczoning@countyofsb.org) or (805) 934-6251

**Appeals to the Board of Supervisors.** Appeals to the Board of Supervisors must be filed with the Clerk of the Board and must be filed no later than 10 days following the date of the decision, along with the appropriate fees. Appeal instructions are located online at the Clerk of the Board website: <https://www.countyofsb.org/2837/Filing-Land-Use-Appeals-Claims>

**Attachment to Santa Barbara County Planning  
and Development Department Appeal Application**

Appellant Geraldine Bidwell (“Appellant” or “Ms. Bidwell”) appeals the decision of the Santa Barbara County (the “County”) Planning Commission (the “Planning Commission”) to deny Case No. 23APL-00036 and approve Case No. 22CDP-00000-00035 (the “CDP”) to allow for the installation of an agricultural water well to irrigate existing and future fruit trees (orchard) and approximately 100 cubic yards of grading for the installation of additional fruit trees, landscaping, and improvements to the existing driveway (the “Project”) at the real property commonly known as 4295 Mariposa Drive (the “Site”) on the following basis:

- The decision of the Planning Commission is inconsistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law;
- There was error or abuse of discretion;
- The decision is not supported by the evidence presented for consideration; and
- There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

The reasoning for the aforementioned basis of the appeal follows.

**I. The Site’s Septic System is Failing and Should Be Functional Prior to the County Approving the Project**

Immediately after the Planning Commission’s decision to deny the appeal and approve the Project, new evidence was uncovered that shows that the septic system on the Site is failing and, thus, is allowing sewage to migrate onto Appellant’s property. The unpermitted seepage appears to have resulted in the loss of numerous oak trees on Appellant’s property. Appellant believes several factors are causing this seepage, which factors remain under investigation.

The County’s Environmental Health and Safety Department currently is investigating the septic issues at the Site. In the event the County determines that the septic system must be replaced, the septic system potentially will need to be relocated to another area on the Site. Since water wells require a 100-foot setback from a septic system leach field or seepage pit, the County should delay any approval of the CDP until the septic system is fully functional.

**II. The CDP Application Failed to Include a Plot Plan Indicating All Wells within a 1,000-Foot Radius of the Proposed Well**

Section 34A-25(a)(5) of the Santa Barbara County Code (the “County Code”) requires any application for a new well construction permit to include “a plot plan indicating all nearby wells within 1,000 feet of the proposed new well ....” Additionally, to the extent a water well is located within 1,000 feet of the proposed new well, Section 34A-25(b) of the County

Code requires a hydrogeological and well extraction study demonstrating that the proposed new well will not likely interfere with the existing well.

Ms. Bidwell submitted a Permit Compliance Review Report from Kear Groundwater, dated February 22, 2024 (the “Kear Report”), which included a plot plan indicating three wells within the vicinity of the new well proposed by the Project (the “Proposed Well”). Specifically, one well was located on 4225 Cresta Avenue (the “4225 Cresta Well”), one well was located on 4340 Llano Avenue (the “4343 Llano Well”), and one was located on 4385 Llano Avenue (the “4385 Llano Well”). Admittedly, the 4385 Llano Well is located just outside the Proposed Well’s 1,000-foot radius. However, both the 4225 Cresta Well and the 4340 Llano Well are located within this 1,000-foot radius.

Although two wells are located within 1,000 feet of the Proposed Well, the CDP application only indicated one of these wells as being within 1,000 feet of the Proposed Well: the 4225 Cresta Well. It specifically omitted any mention of the 4340 Llano Well. Accordingly, the hydrogeological and well extraction analysis prepared by Adam Simmons Consulting Geologist, dated May 29, 2022 (the “May 2022 Simmons Report”), only analyzed the Proposed Well’s impact on the 4225 Cresta Well – not its impact on the 4340 Llano Well. Moreover, although the Applicant submitted an additional report from Adam Simmons Consulting Geologist, dated March 4, 2024 (the “March 2024 Simmons Report”), which responded to the Kear Report and specifically noted that the 4385 Llano Well is located outside the Proposed Well’s 1,000-foot radius, this May 2024 Simmons Report again omits any mention of the 4340 Llano Well.

Consequently, the Project fails to comply with County Code § 34A-25, subsections (a)(5) and (b), since (1) the CDP application failed to include a plot plan indicating all wells within the 1,000 feet of the Proposed Well, and (2) the CDP application failed to include a hydrogeological and well extraction study analyzing the impact of the Proposed Well on the 4340 Llano Well.

For this reason, the CDP should be denied.

### **III. The Proposed Orchard is within the Oak Tree Canopy**

The purpose of the Proposed Well is to irrigate an orchard proposed by the Applicant. However, several trees in the proposed orchard are within the canopy of several oak trees straddling the Appellant’s property and the Site. Several of Applicant’s proposed trees will severely impact the protected oak trees. Accordingly, until the Applicant can show that the proposed orchard is sufficiently set back from the oak trees, the CDP should be denied.

### **IV. Commercial Water Wells Are Not Permitted on the Property**

The CDP relies on the May 2022 Simmons Report, which specifically states that the “Current Orchard is 21 fruit trees with a proposed attach plan to add 79 more fruit trees the parcel for commercial use .... The 100 tree orchard’s output of approximately 7,500 to 8,000 pounds per year, is planned to be sold for commercial purposes, which is why expansion of the orchard is so important along with well water to offset the expensive watering costs”. Accordingly, the May 2022 Simmons Report specifically notes that the purpose of the Proposed

Well is to obtain cost savings for a *commercial* orchard. Such use is not allowed on the Property.

In this regard, the Property is located within the Hope Ranch Parks Homes Association (“Hope Ranch”). As noted in the operative Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Hope Ranch (the “CC&Rs”), Hope Ranch prohibits non-residential uses. See CC&Rs, § 5.01. Since the purpose of the Proposed Well is to irrigate a commercial orchard, and since commercial orchards are prohibited under the CC&Rs, the County may not issue the CDP for the Proposed Well.

For this reason, the CDP should be denied.

**V. The Project Is Not Exempt from CEQA**

The Planning Commission approved the CDP on the grounds that the Project was determined to be exempt from environmental review pursuant to CEQA Guidelines Section 15303 [New Construction or Conversion of Small Structures] and Section 15304 [Minor Alterations to Land]. However, these exemptions do not apply because, among other things, (1) water wells are not addressed by either of these exemptions, and (2) the Project will damage oak trees. Accordingly, a negative declaration or EIR should be prepared.