

CALIFORNIA COASTAL COMMISSION

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W12b

A-4-STB-22-0065 (Pat and Maire Radis)

FEBRUARY 8, 2023

EXHIBIT 7 - Applicant's Response

Exhibit 7 – Applicant's Response

From: [Dennis Bozanich](#)
To: [Deppe, Walt@Coastal](#)
Cc: [Harmon, Meagan@Coastal](#); [Patrick Radis](#); [maire radis](#); [luis](#); [Joe Armendariz](#)
Subject: Applicant response to Appeal - Coastal Commission Appeal # A-4-STB-22-0065
Date: Wednesday, January 4, 2023 4:05:22 PM
Attachments: [Applicant response to California Coastal Commission Appeal.pdf](#)
[Response Attachment - Summary of Appellant Errors of Fact.pdf](#)

Dear Mr. Deppe:

We are submitting the attached Applicant response document for your consideration in making a substantial issue determination on Commission Appeal # A-4-STB-22-0065. The project applicant feels strongly that the administrative record, particularly the County staff's reports, presents all the facts needed for the Commission to uphold the County's approval of the Coastal Development Permit for this project, the chaotic nature of the appeal submission would demand a highly summarized set of responses.

The Coastal Commission certified the County of Santa Barbara cannabis amendments to the coastal zoning ordinance (Article II) in 2018. Included in those certified amendments was zoning and development standards for cannabis retail in the coastal zone. We know that Commission staff reviewed thoroughly those amendments including for cannabis retail because they made simple edits to clarify the permit requirements. At that time, the Commission staff offered no further recommendations to restrict, reduce, limit or prohibit cannabis retail permits in the coastal zone of the unincorporated area of Santa Barbara County. The zoning and development standards certified by the Coastal Commission in 2018 are in full effect on this project.

Given the administrative record of County staff analysis and recommendations followed by approval by multiple discretionary decision makers, including the coastal zoning ordinance amendments certified by the Coastal Commission in 2018 and the lack of credible evidence of substantial issues raised by the appellant, the Project applicant requests a determination of no significant issues.

The Project team recognizes that 90 years of cannabis prohibition has led to public confusion and angst about efforts to permit cannabis facilities and license cannabis operators. Overcoming the racial and economic biases associated with cannabis businesses will take time. The best way to help overcome that 90 years of bias driven prohibition and to begin to eliminate the unsafe illegal cannabis market is to allow great operators the opportunity to receive land use permits, state and local business licenses and then allow them to prove their ability to contribute to their community.

Thank you for your consideration of our response to this appeal. At your earliest convenience, please confirm receipt of this email and the two attached documents.

Dennis Bozanich
Representative, The Roots Carpinteria
805-403-1386 - cell

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Exhibit 7
A-4-STB-22-0065 (Pat and Maire Radis)
Applicant's Response

APPLICANT RESPONSE TO CALIFORNIA COASTAL COMMISSION APPEAL

SUMMARY

On November 15, 2022, an appeal was received by the California Coastal Commission for The Roots Carpinteria cannabis storefront retail project (hereafter, “the Project”) in the unincorporated area of Santa Barbara County near Carpinteria. The Project was approved by the County’s Zoning Administrator on May 23, 2022, and had appeals denied at the Planning Commission on September 7, 2022, and Board of Supervisors on November 1, 2022.

At each step of the discretionary Coastal Development Permit (CDP) process, the appellant has sought to undermine the Project and the County’s discretionary permit process by making assertions not supported by facts. These unsubstantiated assertions have been rebutted time and again as is clear from the administrative record particularly the County staff reports for each of the appeals. The appellant’s repeated failure to provide adequate basis for their appeal, the use of erroneous assumptions, as well as production of false statements to the Coastal Commission is irresponsible. As a result of these failures and actions, the applicant believes this appeal should be viewed as an attempt to use the California Coastal Commission to overturn a legal discretionary permit action by the County of Santa Barbara resulting in a deprivation of the applicant’s property rights. The applicant values the coastal resource protection role of the Commission and partner jurisdictions. The applicant considers this appeal to be yet another attempt to devalue the role of the Coastal Commission.

This response record will review the appeal of the Project considering the Commission’s five-factor test to determine whether a substantial issue exists, sufficient for any further consideration by the Coastal Commission. The 23-page appeal attempts to lead Commission staff to determine a “substantial issue” under California Code of Regulations (CCR) § 13115(c),

but the appeal fails to provide a sufficient basis for a substantial issue determination. Additionally, this response record and attached Summary of Appellant's Factual Errors and Erroneous Assumptions will demonstrate the appellant's repeated failure to support their appeal with verifiable facts even though months of public hearings in the administrative record demonstrates this repeated failure.

The Project applicants strongly support the professional work of County Planning & Development in providing clear responses to the appellant's failed attempts to raise objections. The robust administrative record provides evidentiary support for the County's approval of the CDP as well as evidence necessary to make all required findings of approval subject to the conditions of approval. **Based on that same robust administrative record, the Project applicant requests that Coastal Commission staff finds no substantial issue with the approved permit, or coastal land use process, and deny any request for a de novo hearing and allow the project to proceed as allowed under CCR § 13115(b).**

THE PROJECT DESCRIPTION

The Project will allow a cannabis storefront retail operation, called The Roots Carpinteria, within an existing 3,546 square foot commercial unit that is currently vacant. The Project includes interior building improvements and minor changes to the exterior of the building, including the relocation of doors and windows. No new square footage or any other significant exterior changes are proposed. The Project parcel does not have vertical beach access. It is separated from the beach by the Union Pacific Railroad right of way, a private road and private residences. The nearest beach access point is an informal crossing over Union Pacific Railroad tracks and rock revetment that is over 1,550 feet to the west. The property is 0.33 acres, known as APN 005-450-012, zoned Limited Commercial (C-1), and located at 3823 Santa Claus Lane in Carpinteria, within the Toro Canyon Plan area.

The property includes 26 on-site paved parking spaces in the rear of the building. Under formulas found in the Local Coastal Plan (LCP), twelve (12) on-site parking spaces are required for employees and customers of all commercial uses on the property. Six parking spaces will be dedicated (by signage posted on site) to on-site Roots employees and customers, as required in

the County's Conditions of Approval. The remaining six spaces of the total required spaces for all uses on-site plus the other fourteen parking spaces can be shared by Roots delivery drivers and patrons, and employees and patrons of the other commercial uses on site. Hours of operation will be from 9 am to 9 pm, seven days a week. Delivery hours will be from 9 am to 9 pm. There will be approximately 8-10 employees working per day, with a maximum of five staff members on-site at any given time.

The existing commercial building will continue to be served by the Carpinteria Valley Water District, Carpinteria Sanitary District, Carpinteria-Summerland Fire Protection District, and Sheriff's Department for law enforcement. Vehicular and pedestrian access to the existing building will continue to be provided from Santa Claus Lane. The site has historically been utilized for various commercial retail businesses. All existing development was legally permitted and constructed in 1964 under zoning and building permits (Land Use Riders #30680, #31541, and #65229). The most recent use of the existing tenant space is an art gallery. The other leased spaces within the existing building are currently occupied by architect's offices and a recently vacant space used by a retail clothing store.

SUBSTANTIAL ISSUE DETERMINATION

In accordance with the Coastal Commission's regulations at CCR § 13115(c), the applicant understands and supports the policy that following local permit approval, the Commission may consider various factors when determining if a local action raises a substantial issue, including but not limited to the following five factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and, where applicable, the public access and recreation provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its local coastal program; and

5. Whether the appeal raises only local issues as opposed to those of regional or statewide significance.

The **first factor** in evaluating whether the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the Coastal Act and certified LCP. The administrative record provided by the County has substantial factual support for its conclusion that the Project is consistent with the development standards and regulations for cannabis operations set forth in Santa Barbara County Code Article II Section 35-144U. Throughout the permit approval process, including appeals, County decisionmakers, consistent with their legislative role and discretionary authority, were able to make the required findings for approval of the CDP. The County record also includes substantial factual evidence and legal support for the Project consistency with all applicable coastal access policies, standards and provisions of the LCP and the Toro Canyon Community Plan. The applicant recommends a review of the County staff reports for the Zoning Administrator, Planning Commission and Board of Supervisors hearings. The applicant requests that the Commission find that the County had substantial factual support for its conclusion that the Project is consistent with the requirements of the California Environmental Quality Act (CEQA), Article II (LCP) and the Comprehensive Plan, including the Coastal Land Use Plan and the Toro Canyon Plan and, as such, the substantial factual support for plan consistency weighs heavily against finding substantial issue.

The **second factor** is the extent and scope of the development as approved. As detailed in the Program Description above, the scope of the approved development includes use of an existing 3,546 square foot lease space for the cannabis storefront retail operation. The entire existing commercial building totals 5,342 square feet. The property owners are also the super-majority owners (70%) of the planned cannabis retail store. The 0.33-acre property is zoned C-1, and the property has sufficient on-site parking to meet the parking standards of the County and will provide fourteen additional on-site parking spaces through an auto-renewing lease with the Union Pacific Railroad. The County-approved development occurs on a property that is on the ocean side of the first public roadway but is cut off from any vertical beach access by the railroad right of way and significant residential development, including private roadways. The nearest beach access point is 1,500 feet to the west. The applicant requests that the

Commission find that the extent and scope of development subject to this Coastal Development Permit is not substantial and, as such, weighs heavily against finding substantial issue.

The **third factor** is the significance of coastal resources affected by the decision. Recreational access is a significant coastal resource that is accorded maximum protection and equal priority to other resources under the County's LCP. The nearest beach access point is 1,500 feet to the west. However, the County correctly found with evidence presented in the administrative record that the Project will not result in traffic or parking impacts that will result in a consistent or overwhelming disruption of recreational access as identified in the policies and provisions of the LCP. As such, the applicant requests that the Commission find that the Project will not have a negative impact on recreational access to the beach and, as such, this factor weighs heavily against finding substantial issue.

The **fourth factor** is the precedential value of the local government's decision for the future interpretation of its LCP. In this case, the County applied the LCP policies properly in finding that the Project will not adversely impact coastal resources and is therefore consistent with the applicable policies. The County's analysis does not otherwise create new precedent in how its LCP is interpreted. One other cannabis retail store has been permitted and licensed by the County in the coastal zone. It was not appealed. Under the County's cannabis ordinances, no other cannabis retail stores can be permitted or licensed in the coastal zone of the unincorporated area of Santa Barbara County. The applicant requests that the Commission find that the County's decision to approve the CDP for the Project will not have a large precedential effect on future interpretation of the County's LCP and, as such, this factor weighs heavily against finding substantial issue.

The **final factor** is whether the appeal raises issues of regional or statewide significance. This Project is for a single local cannabis retail operation and does not raise any regional or statewide issues of any significance. Thus, the applicant requests that the Commission finds that the County's decision to approve the CDP for the Project will not have state or region wide effects and therefore, this factor also weighs heavily against finding substantial issue for this Project.

In conclusion, the applicant requests that the Commission find that, taken together, the above factors do not support a finding that a substantial issue exists. The significant evidence in the administrative record regarding the first factor weighs so heavily against finding substantial issue that it outweighs by itself any possibility of the other factor being considered substantial. **Therefore, the applicant asks that the Commission finds that the appeal raises no substantial issue with respect to the consistency of the approved development with the policies of the County’s certified LCP, including the cannabis provisions of the LCP.**

REBUTTAL OF THE GROUNDS FOR APPEAL

The appeal of the Coastal Development Permit issued for the subject project should be denied. It fails to identify substantial evidence in the administrative record that the applicant or the County failed to meet all permitting requirements including CEQA, the Local Coastal Plan, Toro Canyon Community Plan and the Comprehensive Plan. In these circumstances, it is not sufficient to say evidence exists when it doesn’t. The appellant provides multiple conflicting lists of grounds for the appeal. The Project applicant is unclear which grounds for appeal will be considered by the Commission, so we attempt to address some grounds here in narrative form and then summarize a greater number of the errors of fact or erroneous assumptions in the attached Summary of Appellant’s Factual Errors and Erroneous Assumptions.

Page 4 list of grounds for appeal	Page 8 list of grounds for appeal
<ul style="list-style-type: none"> Failed to apply the Local Coastal Plan as the standard of review for “site selection” 	<ul style="list-style-type: none"> County found the project exempt from CEQA
<ul style="list-style-type: none"> Failed to analyze the increased intensity of use of the property 	<ul style="list-style-type: none"> Project violates LCP public access provisions Project incompatible with C-1 zone
<ul style="list-style-type: none"> Failed to analyze the parking, traffic, circulation and safety conflicts with the coastal access and recreation, and the Coastal Trail 	

<ul style="list-style-type: none"> Failed to recognize Santa Claus Lane as a unique community under PRC Section 30253(e) 	<ul style="list-style-type: none"> Project incompatible with “special neighborhood”
<ul style="list-style-type: none"> Failed to exclude the site as adjacent to a sensitive receptor 	<ul style="list-style-type: none"> Project adjacent to a “youth camp” County unlawfully amended the LCP without Coastal Commission review or certification
<ul style="list-style-type: none"> Failed to protect the existing developed rural neighborhoods EDRN. 	
	<ul style="list-style-type: none"> County failed to consider alternative sites County failed to consider environmental justice principles
	<ul style="list-style-type: none"> County denied appellants a “fair hearing”

The Project was not exempted from CEQA, rather it was found in compliance with CEQA by the Zoning Administrator, Planning Commission and the Board of Supervisors and a Coastal Development Permit was approved.

The Project has been thoroughly reviewed under CEQA, and all approved CEQA findings are supported by evidence in the administrative record. All environmental impacts, as analyzed in the PEIR for the Cannabis Land Use Ordinance and Licensing Program, 17EIR00000-00003, will be fully mitigated to the extent feasible through enforcement of all development standards in the approved and Commission-certified LCP. Further, County staff prepared a written site-specific checklist in compliance with State CEQA Guidelines §15168(c)(4) to document the environmental impact analysis of the project site and the activity to determine that the environmental impacts of the operation are covered in the PEIR. Following the completion of the CEQA checklist, County staff determined that the PEIR adequately and directly addressed potential environmental impacts from the Project.

The cannabis retail selection process and limitations on number of sites pursuant to County Code Chapter 50 were adopted after certification of the PEIR. Thus, the PEIR studied a retail program that was much more expansive and where cannabis retail sites could have been located throughout the County, including as many as four in the coastal zone. The limitations made to Chapter 50 in 2019, reduced the total number of cannabis retail stores by 25% and reduced possible cannabis retail in the coastal zone by 50%. It is not uncommon for local jurisdictions to use limits on business licenses to reduce impacts while maintaining land use and zoning standards separately.

The PEIR considered impacts on parking, safety, and traffic circulation from cannabis projects, including retail. Impact LU-2 was a Class II impact and stated that cannabis retail (among other cannabis uses) could result in adverse quality of life impacts to existing communities due to increases in traffic (among other physical environmental impacts). Impact TRA-1 was a Class I impact and stated that cannabis activities may result in increases of traffic and daily vehicle miles of travel that affect the performance of the existing and planned circulation system. Impact TRA-2 was also a Class I impact and stated that cannabis activity operations may result in adverse changes to the traffic safety environment. The PEIR also looked at nearby projects and references the Santa Claus Lane Beach Access and Streetscape Improvements projects. These projects (currently underway) include a beach access plan, Class I Coastal Trail, and a streetscape improvements plan. These improvement plans implement goals, policies, and actions in the Toro Canyon Plan and Coastal Land Use Plan that are intended to increase public access to the beach, improve circulation, and revitalize the Santa Claus Lane commercial area.

To require subsequent CEQA review, new information must show that the Project would have one or more significant impacts not discussed in the PEIR or that significant impacts would be substantially more severe than shown in the PEIR. The Project will not create any new or substantial increase in the severity of previously identified significant impacts on the environment, and there is no new information in the administrative record of substantial importance under State CEQA Guidelines §15162 warranting the preparation of a new environmental document for the Proposed Project. 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 PEIR anticipated potential impacts to these activities as well as a variety of other land uses and receptors. The PEIR concluded that implementation of the cannabis land use and licensing program would result in significant and unavoidable impacts to traffic and circulation. The Board of Supervisors adopted a Statement of Overriding Considerations for Class I impacts, and the 30-day statute of limitations to legally challenge the adequacy of the PEIR has expired.

The CEQA checklist included in the administrative record demonstrates that the Project falls squarely within the scope of the PEIR, and all the potential impacts of the Project were examined in the PEIR. The Project also incorporates all applicable mitigation measures from the PEIR related to parking, safety, and circulation. With integration of MM AQ3, Cannabis Site Transportation Demand Management, and MM TRA-1, Payment of Transportation Impact Fees, the physical environmental impacts are mitigated to the furthest extent feasible, and all feasible measures are integrated to reduce the potential effects of the Project. The Project includes implementation of a Site Transportation Demand Management Plan (STDMP) which provides incentives for both customers and employees. The Project was reviewed by Public Works Transportation Division staff and no conflicts were found between the Project as designed and the beach access plan.

Since the Project was adequately reviewed under the PEIR and site-specific impacts validated using a CEQA checklist, the County is not required to consider project alternatives, including alternative locations. Therefore, on the basis of the whole administrative record, including the written CEQA checklist and the previously certified PEIR, there is overwhelming evidence to support the finding that the Project will not create any new significant impacts or a substantial increase in the severity of previously identified significant impacts on the environment, and there is no new information of substantial importance under State CEQA Guidelines §15162 warranting the preparation of a new environmental document for the Project. No public benefit exists in, and much confusion would be generated by, the Coastal Commission making its own CEQA findings in conjunction with any future de novo permit approval by the Commission.

The Coastal Development Permit issued for the Project fully conforms with the Commission-certified Local Coastal Plan, which is the standard of review, including

public access provisions, the purposes of the C-1 zoning and consideration of “unique communities” provisions of the Public Resource Code.

Chapter 50-7 (f) 1-4 clearly states that all applications under the cannabis retail criteria-based selection process for a cannabis business license is completely subject to and subordinate of a land use entitlement, in this case a Coastal Development Permit subject to an appeal hearing with the Coastal Commission. The certified Local Coastal Plan is the standard of review for this Project as clearly stated in Article II Section 35-144U.A.2 and Article II Section 35-144U.B.1. There is no confusion for the applicant or the County on this point.

This Project will not result in traffic impacts or impact coastal access. The appellant’s assertion regarding conflicts with numerous policies within the Toro Canyon Plan, Local Coastal Plan and Coastal Act is erroneous and are focused on traffic and circulation policies and coastal access. The County reasonably relied on substantial evidence in the administrative record of a traffic study by Nelson/Nygaard (N/N), as well as a supplemental traffic analysis by Associated Traffic Engineers (ATE), both of which indicate that the Project will not create significant amounts of traffic or public parking impacts that reduce roadway and intersection capacity below acceptable levels, as specified in the Coastal Land Use Plan and the Toro Canyon Community Plan. Significantly, the N/N traffic study indicated that currently all roadways and intersections in the study area are operating at acceptable levels and furthermore, the Project, when operational, will not create significant amounts of traffic that will reduce roadway and intersection capacity below acceptable levels.

Additionally, traffic experts from the County Public Works Department reviewed the Project and determined that no traffic study is required because the Project is a change in use of an existing commercial retail site. As noted above, traffic studies and analysis were conducted by the Project applicant. The determination by Public Works is consistent with other commercial projects requesting a change in use, and the appellant has not provided any corroborated evidence of bias in the County staff’s review of the Project.

In direct testimony to the County Planning Commission, the applicant provided un-rebutted evidence on traffic impacts using available 2016 data from the International Traffic Engineers Association and further 2022 local traffic data from 2022 in and around Santa Barbara County

(see ATE report.) To summarize that data already in the record, using the highest traffic estimates and the lowest traffic estimates, the total traffic impacts of this Project on Santa Claus Lane on a weekend day would be a range between 1 car per minute and 1 car every 1.3 minutes. In considering this data it is important to note that this is total traffic impact for the site, and it is not net from previous commercial businesses (baseline) at this same location. If reviewed as a change above the baseline traffic impacts, the net number of new cars would be as much as 1/3 lower than the figures cited above.

Public Resource Code § 30212 requires new development projects to provide public access from the nearest public roadway to the shoreline and along the coast unless certain exceptions apply. The Project site is located on Santa Claus Lane, which is the nearest public roadway to the shoreline, however, the subject property is cut off from direct vertical access to the shoreline by the UPRR property and several private residential properties to the south. The nearest public access to the shoreline is approximately 1,500 feet to the west from the subject. Additionally, the on-site commercial parking spots are to serve the on-site commercial uses and are not for beach visitors. Therefore, the Project does not significantly impact coastal access.

With respect to Public Resource Code § 30253, item (e) requires that new development should protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. The appellant did not provide any specific evidence that the Project will alter the unique characteristics of the area. The Coastal Land Use Plan allows Commercial Cannabis uses within certain zones as certified by the Coastal Commission in 2018. The Project site is zoned C-1, which allows Cannabis Retail as a principally permitted use. Both the amendment to the Coastal Land Use Plan and the Project were reviewed under CEQA through the PEIR and a PEIR checklist, respectively. PEIR Section 3.9.4.2 (Land Use) analyzed potential land use impacts associated with cannabis cultivation, manufacturing, testing, distribution, and retail. Impact LU-2 was identified as a less than significant impact with mitigation. Mitigation measures were incorporated into the Programmatic Environmental Impact Report (PEIR) and development standards were added to Article II to reduce the impacts of future cannabis Projects to a less than significant level. The Project includes a Site Transportation Demand Management Plan (STDMP) which will implement

incentives to reduce traffic demand associated with The Roots employees and customers. The Project was reviewed under CEQA utilizing a PEIR Checklist, which determined that no new impacts would occur as part of the Project.

The property adjacent to the Project is not a school, childcare center or youth center. It is a retail store selling surfing equipment and supplies. The retail store does not have vertical coastal access. Its recreational program does not occur at the retail store but on the beach over 1,000 feet to the west; more than the required buffer distance.

The business referenced in this appeal do not meet the State Health and Safety Code definition of a “youth center”. The surf shop website indicate that their surf programs serve customers of all ages and that surf instruction activities are provided on public beaches. As such, the surf programs do not take place at a “facility” and instead are held at an undefined, general area on the public beach. The programs do not hold rights to any portion of the public beach. The distance between the westernmost Project boundary and the edge of the easternmost area of the public beach generally used by the surf camps is more than 1,000 feet.

Finally, the surf shop is located within the C-1 Zone District, which does not allow “youth centers”, schools, or similar uses as a permitted use. In Planning and Development’s review of the permit history for the surf shop, it has not obtained a Coastal Development Permit to allow a “youth center”, school, or similar use. Additionally, the business has been in operation since 2000. The permitted uses for the C-1 Zone District were established in Article II prior to 1999 and have not included “youth centers”, schools, or similar uses. Therefore, the surf shop would be considered non-conforming as to use if ~~it were~~ operating as a youth center.

The approved Coastal Development Permit and the County met all its statutory, policy and procedural requirements and standards.

The statement that the Deputy CEO decided on Santa Claus Lane is false because it is only a partial quote and lacks the context and is without evidence in the record of the entire comment made. The Deputy CEO had no power to “designate” or authority over what any private property owner could or would do (or not do) when considering participation in a criteria-based review process, nor did the Deputy CEO play any role in determining the rankings in the criteria-based review process. The appellants err in the concept of “site selection.” The selection process in

2021 was the selection of the most highly ranked potential “licensee” that had secured a location. The highest ranked potential future licensee was then required to complete the entire permitting review process, and with this site a CDP within the coastal appeals zone. Again, for clarity, the highest ranked applicant was simply allowed to be the first to submit a Coastal Development Permit application. If top ranked potential licensee failed to receive the necessary land use entitlement, the County could allow the next ranked potential licensee to start the land use permit process.

The appellant and the public were provided all required opportunities to engage in the general cannabis policy development process and the Project’s CDP approval process. The appellant made full use of appealing the outcome of the discretionary CDP process, including this appeal to the Coastal Commission. It is therefore difficult to understand how the appellant makes the case that the permit process was, or is, flawed. The appellant also fully utilized the California Public Records Act requesting a broad array of government records in an attempt to bolster their case. These records provide no evidence to support a substantial issues determination by the Coastal Commission. The appellant also failed to participate in, or appeal cannabis regulatory discussions or decisions held in 2017, 2018, 2019, 2020, 2021 and 2022 by the County Planning Commission, Montecito Planning Commission, Board of Supervisors and the Coastal Commission that allowed cannabis retail in the coastal zone.

Additionally, the failure to achieve their intended results has thus far been directly related to a lack of “evidence” and a plethora of misinformed “arguments” they have proffered, not as the result of due process limitations imposed by any county staff past and present, appointed and elected discretionary permit decisionmakers, nor any other source. The applicant for the Project made many attempts to engage directly with the appellants to reduce misinformation, discuss concerns and identify reasonable remedies to actual problems. Each of those attempts were ignored or denied by the appellant, including the County’s offer to facilitate a meeting prior to the appeal hearing with the Board of Supervisors. That attempt at facilitation generated a draft set of terms for a ‘settlement agreement.’ The applicant rejected the appellant’s disingenuous offer that had nothing to do with the relevant development standards.

CONCLUSION

This project is very simple and straightforward, contrary to the wild assertions by the appellant. Here are the facts:

- In October 2018, the Coastal Commission certified zoning and development standards amendments to the Santa Barbara County Local Coastal Plan (Article II) to allow various commercial cannabis operations within the unincorporated area of the county;
 - Included in the Commission-certified cannabis amendments was the allowance of cannabis storefront retail in the coastal zone with a coastal development permit with a required “750-foot setback from a K-12 school, day care center or youth center” and compliance with general and specific use commercial cannabis development standards (Section 35-144U);
 - In certifying the commercial cannabis amendments to the local coastal plan, the Coastal Commission relied on their own CEQA equivalent analysis and the County’s certified Programmatic Environmental Impact Report (PEIR);
- On July 27, 2021, the applicant, 3823 SLC, LLC, submitted a coastal development permit application to the County’s Planning & Development Department. (21CDH-00000-00029) The property owners (Patrick and Maire Radis) of the project site are majority owners (70%) of the applicant LLC;
 - On May 23, 2022, in keeping with local coastal plan requirements, the County Zoning Administrator conducted a legally noticed public hearing on the project application. At the conclusion of public comment, the Zoning Administrator approved the coastal development permit, along with all required coastal land use plan and Coastal Act consistency determinations, as well as, environmental review and coastal development permit findings, as recommended by staff. The Zoning Administrator’s approval was appealed to the Planning Commission;
 - On September 7, 2022, in keeping with local coastal plan requirements, the County Planning Commission conducted a legally noticed public appeal hearing of the project’s coastal development permit approval. At the conclusion of public comment, the Planning Commission voted (4-1) to deny the appeal and grant *de*

- novo* approval of the project. The Planning Commission also made all required coastal land use plan and Coastal Act consistency determinations, as well as, environmental review and coastal development permit findings, as recommended by staff. The Commission's approval was appealed to the Board of Supervisors;
- On November 1, 2022, in keeping with local coastal plan requirements, the County Board of Supervisors conducted a legally noticed public appeal hearing of the project's coastal development permit approval. At the conclusion of public comment, the Board of Supervisors unanimously voted to deny the appeal and grant *de novo* approval of the project. The Board also made all required coastal land use plan and Coastal Act consistency determinations, as well as, environmental review and coastal development permit findings, as recommended by staff. The Board's approval was appealed to the Coastal Commission;
 - The administrative record is clear. A coastal development permit application was submitted for a cannabis retail project within the appeals jurisdiction of the coastal zone consistent with County Code Article II § 35-169. The project application was reviewed and analyzed for consistency with the zoning and development standards of the Commission-certified amendments to the local coastal plan, the Coastal Act, the County's Comprehensive Plan and the California Environmental Quality Act. In support of consistent recommendations made by County staff, the Zoning Administrator, County Planning Commission and the Board of Supervisors each voted to approve a coastal development permit for the project and made all required CEQA and Coastal Development Permit Findings of Approval.
 - These are the simple facts. Unfortunately, the Commission staff, as well as the full Commission is being subjected to an appeal that is based on misinformation, poor understanding of the local and state cannabis regulatory systems, and driven largely by unfair and unwarranted personal animosity directed at a small number of decisionmakers and project support team members.
 - The commission should determine that no significant issue exists for this appeal.

Attached: Summary of Appellant's Factual Errors and Erroneous Assumptions

Summary of Appellant’s Factual Errors and Erroneous Assumptions The Roots Carpinteria Cannabis Retail Project

PDF Page #	Appellant’s Mis/Disinformation	Facts
3	Illegally converted commercial structure	FACTUAL ERROR. No illegal conversion has occurred. No substantiated evidence of illegal/unpermitted construction activities exist in the record.
4, 10, 12, 16	Failed to apply Local Coastal Plan (LCP) as the standard of review, allowing licensing ordinance to dictate site; County misapplied the Coastal Act Chapter 3 Codes, LCP and Toro Canyon Community Plan; Project site would “violate numerous provisions of the LCP intended to protect public access”	FACTUAL ERROR. The LCP, in conjunction with the Coastal Act provisions of the Public Resource Code, Toro Canyon Community Plan, as well as the Comprehensive Plan, was the standard of review applied to the application by the zoning administrator, planning commission and the Board of Supervisors. The appellants err in the concept of “site selection.” The Chapter 50 criteria-based selection process policy was to allow a single well-qualified “potential licensee” to then complete the required CDP process.
4, 10, 16	Failed to analyze the increased intensity of use of the property	FACTUAL ERROR. Intensity of use and related parking, traffic, circulation and safety were thoroughly analyzed and found to be in keeping with the PEIR based on a completed CEQA Checklist.
4	Failed to analyze the parking, traffic, circulation and safety conflicts with the coastal access and recreation, and the Coastal Trail	FACTUAL ERROR. Coastal access, recreation and Coastal Trail were considered as part of the analysis. Adopted Findings by discretionary decision makers, including upon appeal were all upheld. The appellant failed to note that on Page 3.12-16 of the County’s December 2017 Programmatic Cannabis EIR did collect and examine transportation and traffic Level of Service (LOS) data for the nearby (0.6 miles from 3823 Santa Claus Lane) Padaro Lane and Via Real intersection. This intersection is used by many local residents to access the beach at Santa Claus Lane. This intersection was identified as having a LOS C category with an existing delay of 17.5 seconds during the morning commute and a 16.1 second delay for the afternoon commute. The LOS data is then presented following the buildout of a 31-unit housing development on Cravens Lane (1.0 miles from the intersection) which showed a 0.3 second increase in the delay in the morning and a 0.1 second delay in the afternoon. Still in the LOS C range. - Emphasis added

4, 8, 11	Failed to recognize Santa Claus Lane (SCL) as a unique community under PRC Section 30253(e)	ERRONEOUS ASSUMPTION. No evidence has been entered into the record on the standards or criteria for recognizing a unique community under the PRC or County LCP.
4, 8, 18	Failed to exclude the site as adjacent to a sensitive receptor	FACTUAL ERROR. Adjacent to the Project is an existing allowed commercial retail surf shop. The owners of the surf shop also organize “surf camps” for young people as well as surf classes for adults. The camps and classes are not conducted in their retail store, but rather occur at the SCL beach access point more than 1,000 feet to the west; well beyond the 750’ buffer in the LCP.
4, 19	Failed to protect the existing developed rural neighborhoods (EDRN)	ERRONEOUS ASSUMPTION. The properties within the neighboring EDRN do not require protection from cannabis retail impacts beyond the Project site as other EDRNs might from cannabis cultivation or processing.
7	County disregarded Coastal Commission (CCC) certified amendments to the LCP to subvert the coastal development permit review process	ERRONEOUS ASSUMPTION. The permit applicant was allowed to submit a Coastal Development Permit application for the project site under all requirements of the certified LCP. The County decisionmakers executed the required discretion and approved the required Findings for Approval, when applying the required development standards to the Project.
7, 10, 11, 18	County Deputy CEO decided location for cannabis retail on SCL; Planning Commission was prevented from exercising its authority because of decision made by the County Executive Office; County erroneously assumed they had no discretion on issuing a permit after the criteria-based selection process results	FACTUAL ERROR. The statement that Deputy CEO decided on Santa Claus Lane is false and without evidence in the record of the entire comment made. The Deputy CEO had no power over any private property owner could or would do when considering participation in a criteria-based review process, nor did the Deputy CEO play any role in determining the rankings in the criteria-based review process.
7, 8, 10, 17	No site-specific environmental impact, zoning or LCP consistency review was conducted; County found the Project exempt from CEQA; County failed to consider site-specific impacts and failed to impose mitigation measures	FACTUAL ERROR. In addition to the County’s reliance on a certified Programmatic EIR and the inclusion of recommended mitigation measures in the County’s coastal land use (certified by the Coastal Commission) and business licensing ordinances, Planning and Development requires the completion of a project specific checklist in alignment with CEQA Guidelines #15168(c)(4) to determine if a specific project’s environmental effects are within the scope of the Programmatic EIR. County did consider site-specific impacts and recommended a Site Transportation Demand Plan, which was included in the Conditions of Approval, to address expressed concerns about traffic and parking

8	Project violates LCP public access provisions; Project incompatible with C-1 zoning	ERRONEOUS ASSUMPTION. The Coastal Zoning Ordinance reviewed, modified and accepted by the Coastal Commission, includes cannabis storefront retail on C-1 and C-2 zoned properties and includes clear development standards. The Coastal Commission even made minor modifications to that specific zoning table which were accepted by the County. The author seems to assume that the Coastal Commission staff did not know what they were doing when making these minor modifications. No public testimony or Commission member questions to staff or deliberation discussion were made that provides any evidence about cannabis storefront retail restricting beach access, requirements to mitigate specific impacts or the need to ensure a level of beach access.
8	County unlawfully amended the LCP without CCC review or certification	FACTUAL ERROR. No evidence is provided to support the claim. The Coastal Zoning Ordinance sections pertaining to cannabis land uses have not been amended or modified since the end of 2018. This project must receive due consideration under the certified Coastal Zoning Ordinance.
8, 11, 20	County failed to consider alternative sites	ERRONEOUS ASSUMPTION. Alternative site consideration is not required for a CDP application, only for purposes of environmental review.
8, 11, 20	County failed to consider environmental justice principles	ERRONEOUS ASSUMPTION. The appellant provides no evidence that the County's action to approve the Project in any way fails to meet the equitable access, clean and healthy environment and inclusive leadership principles found in the 2019 Commission Environmental Justice Policy statement. Rather, opposition to the Project may raise other critical justice issues given the 90-years of bias-driven cannabis prohibition.
8, 11	County denied appellants and public a "fair hearing"	FACTUAL ERROR. The County of Santa Barbara County held dozens of meetings and took hundreds of hours of public comment during the development and subsequent amending of land use and business license ordinances. Each project approval under the ordinances can be appealed, and many have been appealed with full public participation. There is absolutely no basis for the Board not being able to conduct a fair hearing. The appellant has previously suggested summarily denying the project would deprive the applicant of their right to a fair hearing and public participation.
9, 13	Former Deputy CEO transmitted direction ("data points") from Board members to staff	FACTUAL ERROR. No direction was transmitted, only information regarding the final day in office for a county

		supervisor. That information was unimportant at the end because the hearing date selected by the appellant was a month prior to that final day in office.
17	Project “will or may receive delivery of products from up to 370 licensees in the Carpinteria Valley alone.”	FACTUAL ERROR. Appellant does not understand cannabis licensing or the cannabis supply chain in the State of California. There may be a couple of hundred licenses in the Carpinteria Valley, but only about 30 operators. One operator may need to have multiple licenses to operate their cultivation and processing site. Additionally, cultivators/processors can only sell their product to a distributor and are prohibited by law from selling it directly to a cannabis retail store or delivery service. This is the same as is required for the sale of alcohol from a producer to a distributor to a retail store. A typical cannabis retail store would receive all of their products from a several distributors; not 370 cultivation licenses.
19	Project will constitute a “re-zone back to Highway Commercial zoning.”	ERRONEOUS ASSUMPTION. It is very unclear what “effectively rezoned” means. That is an undefined phrase. The purpose of C-1 zone, as stated in the Coastal Zoning Ordinance Section 35-771.1, includes the following: “...including both retail businesses and service commercial activities, that serve the traveling public as well as the local community.”
21	Failed to consider “Coastal Commission’s 2019 Cannabis Guidance document which recommends an access plan.”	ERRONEOUS ASSUMPTION. The Commission’s Cannabis Guidance document spends the first 9 (of 15) pages addressing the concerns related solely to cannabis cultivation. The access plan noted by the appellant is on Page 12 is directly related to cannabis retail. The Project does not have vertical coastal access, beach access is more than 1,000 to the west of the Project site and the administrative record shows that sufficient parking is off the public right of way with traffic may have one more car per minute on Santa Claus Lane, the Project has already considered the Coastal Commission Guidance document standards. Additionally, the Project includes a Site Transportation Demand Plan that addresses coastal access issues by providing staff and customers with incentives to reduce vehicle trips.